FRAGRANCE CREATORS ASSOCIATION®

September 16, 2026

<u>Submitted Electronically</u>

Svetlana Burdeynik
New York City Department of Health and Mental Hygiene
42-09 28th Street, 14th Floor, CN 30
Long Island City, NY 11101-4132

RE: New York City Department of Health and Mental Hygiene Proposed Rule on Restricted Substances in Personal Care Products

Dear Ms. Burdeynik,

Fragrance Creators Association ("FCA")[1] is writing to respectfully encourage the New York City Department of Health and Mental Hygiene ("Department") to align its proposed rule on Restricted Substances in Personal Care Products with New York State's recently enacted Chapter 31[2] governing menstrual products.

The State Legislature, through the chapter amendment process, adopted a balanced framework that protects consumers while providing regulatory clarity for manufacturers and retailers. In doing so, the State removed provisions that would have prohibited fragrance in products and eliminated regulatory mechanisms authorizing future thresholds for incidental chemical presence, recognizing the practical and legal challenges those provisions would create. New York now has a clear, workable statewide standard.

---

[1] Fragrance Creators Association is the principal trade association representing the fragrance industry. The organization's almost 70 member companies create and manufacture fragrances and scents for home care, personal care, home design, fine fragrance, and industrial and institutional products. Fragrance Creators also represents companies that market finished products containing fragrance as well as those that supply fragrance ingredients, including natural extracts and other raw materials that are used in perfumery and fragrance mixtures. Learn more about Fragrance Creators at www.fragrancecreators.org.
[2] https://www.nysenate.gov/legislation/bills/2025/S1548

The protections the State retained are substantial. New York already requires ingredient disclosure on menstrual products through the Menstrual Products Right to Know Act. To the extent the underlying concern is that consumers should be able to know what is in these products, that protection is already law statewide and applies in New York City today.

The Department's proposed rule departs from that framework in several important respects. It extends beyond menstrual products to cover a broad range of intimate care products, prohibits intentionally added fragrance, and relies on regulatory concepts that were ultimately removed from State law. These differences create an inconsistent regulatory landscape in which manufacturers, retailers, and consumers are subject to conflicting requirements within the same state.

This inconsistency is more than a compliance challenge. Manufacturers have already invested substantial resources to comply with the State law, and supply chains are not designed to produce products exclusively for a single city. As a practical matter, retailers cannot segregate inventory for New York City alone. The result is likely to be reduced consumer access to safe and widely used intimate care and menstrual products, unnecessary costs throughout the supply chain, and confusion for retailers and consumers alike.

Additionally, in menstrual, intimate care, and incontinence products, fragrance is not a nice-to-have but a need-to-have. Fragrance is essential in these products and used primarily to manage odor. For many users — particularly those managing heavy flow, postpartum recovery, or incontinence — that function is about dignity and confidence in public and professional settings, not cosmetic preference.

Practical Consequences of a City-Specific Prohibition

Supply chains are regional, not municipal. Retail distribution serving New York City runs through regional centers that also serve the rest of the State and the surrounding region. There is no practical mechanism to produce, label, route, and stock a distinct portion of products for only the five boroughs.

Costs land on consumers. Reduced assortment and separate compliance handling raise costs for manufacturers and retailers, and those costs reach shelf prices for products that many households cannot readily substitute or forgo.

Importantly, aligning the Department's proposed rule with Chapter 31 would not diminish consumer protections. Rather, it would preserve the comprehensive safeguards adopted by the

State while establishing a consistent regulatory framework across New York. A uniform statewide approach provides greater certainty for businesses, facilitates compliance, and ensures that consumers continue to have access to safe and effective products.

Consumers already have the choice the proposed rule seeks to create. Fragrance-free menstrual and intimate care products are widely available today at every price point, and many manufacturers offer scented and fragrance-free versions of the same product line. Additionally, unscented products would also likely be prohibited under this regulation, as unscented products often still contain fragrance to counteract the natural scent of a product, reducing yet another option for consumers. A prohibition does not add a choice consumers lack; it removes one they currently have.

The users most affected are not those most able to absorb the change. Scented options are common in value and multipack formats. Narrowing what may be sold in the City reduces assortment first in the stores where price sensitivity is highest, and complicates sourcing for menstrual equity programs that distribute product in schools, shelters, and community settings.

How the Safety of These Ingredients Is Managed Today

FCA and the fragrance industry are strongly committed to ensuring the safety of fragrance ingredients, including those that go into menstrual and intimate care products. FCA's members adhere to standards developed by the Research Institute for Fragrance Materials[3] (RIFM), whose scientists review fragrance ingredients and set safe use limits that are reviewed by an independent Expert Panel for Fragrance Safety. Fragrance also serves an important functional purpose in personal care and hygiene products through masking unpleasant odors, improving the user experience, and encouraging the proper use of products that support cleanliness.

Binding limits are set by exposure route, including this one specifically. The IFRA Standards translate RIFM's science into prohibitions, maximum use levels, and purity specifications, applied through the IFRA Code of Practice. The Standards set limits by product category based on how a consumer is actually exposed, and Category 8 is defined as products with significant anogenital exposure. It expressly covers feminine hygiene pads, liners, interlabial pads, and tampons, as well as incontinence products and baby diapers and wipes. These products are not an afterthought in the framework; they have their own category, with limits set accordingly.

[3] More information available at https://rifm.org/.

Federal product oversight applies as well. The U.S. Food and Drug Administration regulates these products as medical devices under 21 C.F.R. Part 884, and its classification scheme addresses fragrance directly: separate regulations exist for scented and unscented menstrual tampons (§§ 884.5460 and 884.5470) and for scented and unscented menstrual pads (§§ 884.5425 and 884.5435).

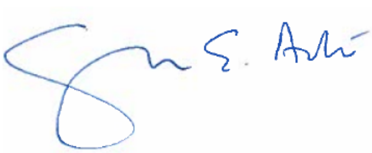
This science is not static. The IFRA Standards are revised on a continuing amendment cycle — the 51st Amendment is current, and consultation on the 52nd closed in June 2026 — so limits tighten as new data emerges, without waiting for legislation.

Our Request

For these reasons, we respectfully urge the Department to remove fragrance from the scope of this proposed rule, mirroring New York State Chapter 31. Doing so would advance the shared goals of protecting public health, providing regulatory certainty, and avoiding unnecessary disruption to consumers and businesses.

Thank you for your consideration. We would welcome the opportunity to discuss this issue further and serve as a resource as the Department considers this important proposed rule. If you have any questions pertaining to our position, please do not hesitate to contact me at (571) 317-1506 or sandre@fragrancecreators.org. You may also reach our New York consultant, Patrick Zlogar, at (518) 222-1280 or patrick@roffegroup.com.

Respectfully submitted,



Sarah Erickson André
Vice President, General Counsel
Fragrance Creators Association
1655 Fort Myer Drive, Suite 875
Arlington, VA 22209

Cc: Chloe Beaumont-Smith, Manager, Government Affairs
Fragrance Creators Association