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GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

TO: Board of Environmental Protection
FROM: Andrea Lani, Bureau of Remediation and Waste Management
DATE: October 7, 2010
RE: Workshop on Chapter 882, Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children’s Products

Background

The Board of Environmental Protection held a public hearing on the department’s proposed Chapter 882, Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children’s Products on August 19, 2010. During that hearing and the public comment period that followed, the department received comments from numerous parties. The comments ranged from complete opposition to designation of bisphenol A as a priority chemical to expansion of the sales prohibition to additional products, including infant food and formula packaging.

The Process

Given the public policy issues raised during this rulemaking, the department believes that it would be appropriate to meet with the Board discuss the full spectrum of issues and options.

The department has provided preliminary drafts of the summary of the comments received, responses to those comments, and proposed revisions to the rule for purposes of discussion with the Board. These draft documents do not represent final decisions by the department and have not been approved as to legality by the Attorney General’s Office. They are meant only as a starting place for discussion of the more significant policy questions with the Board.

The Maine Administrative Procedures Act requires that, “Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, the agency shall prepare an economic impact statement document...” [see Title 5 §8052]. The intent of this requirement is to “reduce any economic burdens through flexible or simplified reporting requirements and may seek to reduce burdens through flexible or simplified timetables.” The department is unaware of any small businesses in Maine that manufacture any of the products to which the rule applies, and retailers are exempt from the requirements of the rule, unless they knowingly sell products which fall under the sales prohibition. However, because a commenter specifically referenced and requested this document, the department has appended it to the supplemental basis statement.

In addition, the department and Maine CDC have selected a number of studies and reports to help provide additional background on the department’s response to comments, particularly in regard to the health effects of bisphenol A. The Department is hopeful that the Board will find these documents useful in outlining the various issues related to this rulemaking and your role of providing policy guidance to the department.

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