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Chapter 883: DESIGNATION OF THE CHEMICAL CLASS NONYLPHENOL AND NONYLPHENOL ETHOXYLATES AS A PRIORITY CHEMICAL

SUMMARY: This rule designates the chemical class nonylphenol and nonylphenol ethoxylates as a priority chemical and requires reporting for certain product categories that contain a chemical compound in the class.

1. **Applicability.** This chapter applies to manufacturers of children's products containing intentionally-added nonylphenol or nonylphenol ethoxylates that are manufactured, sold, offered for sale or distributed for sale in Maine.

2. **Definitions.** For terms not defined in this rule, the definitions found in 06-096 CMR Chapter 880, *Regulation of Chemical Use in Children's Products*, section 1, apply. The following terms, as used in this rule, have the following meanings:

   A. **Cosmetics and personal care products.** "Cosmetics and personal care products" means articles intended to be rubbed, poured, sprinkled, or sprayed on, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of any such articles.

   B. **Household and commercial cleaning products.** "Household and commercial cleaning products" means soaps, detergents and other chemically formulated consumer products designed for fabric care, dish and other ware washing and/or surface cleaning in residential, institutional or commercial establishments.

   C. **Exposure or exposed.** "Exposure or exposed" in reference to a priority chemical means that a person is subjected in the course of daily life to a priority chemical from a product that enters the body in any quantity from any route of entry, including inhalation, ingestion, skin contact or absorption.

   D. **Home maintenance products.** "Home maintenance products" means products used for the repair or maintenance of the inside or outside of a home, including, but not limited to, adhesives, caulking, grouts, fillers, sealants, paints and other surface finishes.

   E. **Nonylphenol (NP) and nonylphenol ethoxylates (NPE).** "Nonylphenol (NP) and nonylphenol ethoxylates (NPE)" means nonionic surfactants in the alkylphenol and alkylphenol ethoxylate group of chemical compounds. Nonylphenol has a chemical formula of C15-H24-O and may be linear (Phenol, nonyl-), with a Chemical Abstract Service Registry Number (CAS RN) of 25154-52-3, or branched (phenol, 4-nonyl-, branched), with a CAS RN of 84852-15-3. The formula for chemicals in the nonylphenol ethoxylate group is (C2-H4-O)mult-C15-H24-O, and commercially-relevant CAS RNs include, but are not limited to: 9016-45-9, 26027-38-3, 37205-87-1, 68412-54-4, and 127087-87-0.

3. **Designation of the chemical class nonylphenol and nonylphenol ethoxylates as a priority chemical**

   A. **Presence on chemicals of high concern list.** The chemical class nonylphenol and nonylphenol ethoxylates is on the list of chemicals of high concern published by the department under 38 MRSA §1693.

   NOTE: To view the full list, go to: www.maine.gov/dep/oc/safechem/highconcern/

   B. **Criteria for designation.** The following criteria for designation of the chemical class nonylphenol and nonylphenol ethoxylates as a priority chemical, as set forth under 38 MRSA §1694, have been met as documented in the basis statement accompanying this chapter:

(1) Chemicals from the class or their metabolites have been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine or other bodily tissues or fluids;

(2) Chemicals from the class or their breakdown products have been found through sampling and analysis to be present in household dust, indoor air, drinking water or elsewhere in the home environment;

(3) Chemicals from the class or their breakdown products have been found through monitoring to be present in fish, wildlife and the natural environment;

(4) Chemicals from the class are present in a consumer product used and present in the home; and

(5) Nonylphenol and nonylphenol ethoxylates have been identified as a high production volume chemical by the federal Environmental Protection Agency.

4. **Information submission required.**

A. **Product categories.** Manufacturers of the following products that contain intentionally-added nonylphenol or nonylphenol ethoxylates must submit information to the department pursuant to section 4(B) of this chapter:

(1) Household and commercial cleaning products,

(2) Cosmetics and personal care products, and

(3) Home maintenance products sold, marketed to or intended for use by consumers.

B. **Information required.** No later than 180 days after the effective date of this rule, the manufacturer of a consumer product listed in section 4(A) of this chapter that contains intentionally-added nonylphenol or nonylphenol ethoxylates, shall report to the department the following information:

(1) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer;

(2) A description of the manufacturer's product or products containing nonylphenol, nonylphenol ethoxylates or related substances;

(3) The amount of nonylphenol, nonylphenol ethoxylates or related substances in each unit of the product;

(4) The function of nonylphenol, nonylphenol ethoxylates or related substances in the product;

(5) The number of product units sold or distributed in Maine or nationally, expressed as a range;

(6) Any assessment that has already been performed by the manufacturer of the availability, cost, feasibility and/or performance, including potential for harm to human health and the environment, of alternatives to nonylphenol, nonylphenol ethoxylates or related substances

and the reason nonylphenol, nonylphenol ethoxylates or related substances are used in the manufacture of the children's product in lieu of identified alternatives; and

(7) Other information the manufacturer deems relevant to the reporting of the chemical.

NOTE: Upon review of information submitted pursuant to this chapter, the commissioner may request that a manufacturer clarify the submittal, supplement incomplete information or provide additional information not specified in this chapter if the commissioner determines that the information is needed for the department to complete its evaluation of the priority chemical. See department rules, 06-096 CMR 880(3)(D); see also 38 MRSA §1695(2).

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5. **Department Address**. Information submissions may be made by regular or electronic mail. The department may provide electronic or paper reporting forms. Use the following address to send all non-electronic correspondence to the department:

Maine Department of Environmental Protection
Bureau of Remediation and Waste Management, Safer Chemicals Program
17 State House Station
Augusta, ME 04333

NOTE: Electronic reporting forms and/or email addresses for reporting will be provided at: www.maine.gov/dep/oc/safechem/index.htm

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