STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection

FROM: Andrea Lani, Bureau of Remediation and Waste Management

DATE: December 16, 2010

RE: Adoption of Chapter 883, Designation of the Chemical Class Nonylphenol and Nonylphenol Ethoxylates as a Priority Chemical

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Statutory and Regulatory Reference:

A. **Statutory authority:** 38 MRSA §§1691 through 1699-B [PL 2007, c. 643]

B. **Specific legal mandates requiring adoption:** 38 MRSA §1695 requires the commissioner to designate at least two priority chemicals by January 1, 2011. The department's regulation 06-096 Chapter 880, Regulation of Chemical Use in Children's Products section 2(D) requires that designation of a priority chemical be done through the adoption of a rule. This rulemaking constitutes the second of the two required designations.

Location/Applicability:

The proposed regulation will apply statewide.

Description:

The proposed regulation will:

- Designate the chemical class nonylphenol and nonylphenol ethoxylates as a priority chemical; and
- Require manufacturers of certain consumer products that contain nonylphenol or nonylphenol ethoxylates to submit information to the department on the extent to which these chemicals are used in those products and the likelihood that children will be exposed to them as a result of its presence in those products.

The board held a public hearing on the proposed rule on October 7, 2010. During the hearing and public comment period that followed, the department received 14 comments in support of the designation of the chemical class nonylphenol and nonylphenol ethoxylates as a priority chemical and 10 comments in opposition. The department does not propose to make any changes to the rule in response to comments received, but has made some corrections of minor typos and errors in numeration. The supplemental basis statement includes all of the comments received in a summarized form and the department's responses, including our reasons for not accepting the recommended changes to the rule.[1]

[1] Some comments were received one day later than the comment deadline due to an email malfunction on the Department's end. Interested parites were notified of the problem and comments were accepted for one additional day.

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Environmental Issues:

Nonylphenol and nonylphenol ethoxylates have been detected in the natural environment, including ambient air, sewage treatment plant effluent, sediment, soil and surface waters, as well as in wildlife, household dust and human tissues. Nonylphenol and nonylphenol ethoxylates are toxic to aquatic organisms, and the breakdown products of nonylphenol ethoxylates (NP and shorter-chained ethoxylates) are more toxic and more persistent than their parent chemicals.

Nonylphenol has been shown to mimic natural hormones by interacting with the estrogen receptor. Estrogenic effects have been demonstrated in a number of aquatic organisms, rats and in human breast tumor cells.

Departmental Recommendation:

The Department recommends that the Board adopt the proposed rule as revised.

Estimated Time of Presentation:

30 minutes.