



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

Memorandum

To: Board of Environmental Protection
From: George MacDonald, DEP Sustainability Director
Date: January 24, 2013
Re: Chapter 882 Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products / Amendments

Background:

The Department received a citizen petition in July 2012 to initiate rulemaking to amend Chapter 882 to require safer alternatives to Bisphenol A in the packaging of infant formula, baby food and toddler food. The Board and Commissioner held a joint public hearing on the petitioners' proposed amendments to Chapter 882 on September 6, 2012. The written comment period closed on September 28, 2012. The Board and Commissioner held deliberative sessions on December 6, 2012, December 20, 2012, January 3, 2013, and January 17, 2013.

Revised Rule:

In response to direction from the Board at the January 17, 2013 meeting, staff has revised the petitioners' proposed rule to:

- Include a prohibition on the sale of infant formula packaging containing intentionally added BPA in an amount greater than a de minimis level;
- Include a prohibition on the sale of baby food packaging containing intentionally added BPA in an amount greater than a de minimis level;
- Establish an effective date of March 1, 2014; and
- Not include a prohibition on toddler food packaging.

Additionally, staff has revised a routine technical part of petitioners' proposed rule in Section 5(B) and has proposed that the Commissioner not adopt a definition of toddler food or the modification to the definition of intentionally-added.

The language proposed for adoption and a draft Basis Statement, which includes a Response to Comments, is attached.

Requested Action: Decision.

At the meeting on January 24, 2013, the Board and Commissioner will consider the proposed revisions to the rule and the Basis Statement and Response to Comments. Major substantive provisions must be provisionally adopted by the Board and presented to the Legislature. Routine technical amendments will be decided by the Commissioner.

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