

BASIS STATEMENT

Chapter 889 Designation of Two Flame Retardants as Priority Chemicals December 2016

The Department proposed this new rule chapter to establish the Department's authority to compel manufacturers to report the use of two flame retardant chemicals in specified categories of children's products. The rule applies to manufacturers or distributors of specified product categories that contain intentionally added amounts of decabromodiphenyl ether (deca BDE) or hexabromocyclododecane (HBCD), which are used in the non-polymeric, additive form as flame retardants.

As provided by Maine law at 38 M.R.S. § 1694, the Department has the authority to promote chemicals on Maine's chemicals of high concern list to priority status through routine technical rulemaking. If a chemical meets certain statutory criteria it may be designated as a priority chemical by the Commissioner, with concurrence by the Department of Health and Human Service, Maine Center for Disease Control ("Maine CDC"). Once classified as a priority chemical, the Department has the authority to require manufactures of specified product categories to report their use of a priority chemical above de minimis levels.

The Department published notice to this routine technical rule on October 18, 2016 and provided a 30-day public comment period, which closed at 5:00 p.m. on November 14, 2016. A public hearing on the rule was held on November 1, 2016. The Department's final rule does not include language revisions and required no amendments based on comments received during the public hearing or written comment period.

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Commenters

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| 1) Emma Halas-O'Connor
Environmental Health Strategy
Center565 Congress Street
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Portland, Maine 04101 | 2) John Martell
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Comment in Support

1) *Comment:* While both commenters spoke in support of the rule during the public hearing, only one of the commenters provided a written statement. Both commenters highlighted the strong scientific evidence of health hazards associated with the two chemicals in the proposed rule and noted that other state, federal, and international authorities have also moved to regulate these two compounds. While commenting in support of the Department's proposed rule to regulate the two flame retardants, each commenter also suggested additional chemicals to be similarly regulated by first adding them to Maine's Chemicals of High Concern list; however, this is not within the scope of this rulemaking and, therefore, not relevant.

Response: No change to the rule.