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An Act To Amend the Process for Prioritizing Toxic Chemicals in Children's Products

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1693-A is enacted to read:

§ 1693-A. Candidates for designation as priority chemical

1. Candidate list. By January 1, 2012, the department, with input from interested persons and with the concurrence of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, shall publish a list of chemicals that are candidates for designation as priority chemicals pursuant to section 1694. This list must include chemicals that have been identified as chemicals of high concern pursuant to section 1693 and that meet one or more of the criteria in subsection 2. The initial list of candidates, which must be published no later than January 1, 2012, must include at least 10 and no more than 50 chemicals identified as chemicals of high concern pursuant to section 1693.

2. Criteria. A chemical of high concern identified pursuant to section 1693 may be included in the list published pursuant to subsection 1 if it meets at least one of the following criteria:

A. A chemical action plan has been developed for that chemical by the United States Environmental Protection Agency under its chemicals management program;

B. The chemical is on the candidate list of substances of very high concern published by the European Chemicals Agency;

C. The chemical has been nominated for review under the Stockholm Convention on Persistent Organic Pollutants; or

D. The potential for exposure of children to the chemical from the use or disposal of children's products containing that chemical has been demonstrated by another state or federal agency or in the peer-reviewed scientific literature, to the satisfaction of the department and the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

3. Updates. The commissioner shall review the candidate list published pursuant to subsection 1 at least every 3 years. The commissioner shall remove any chemical from the candidate list that has been designated as a priority chemical pursuant to section 1694 or that no longer meets any of the criteria of subsection 2. The commissioner may add additional chemicals to the candidate list according to the criteria and requirements of this section. The candidate list may not consist of more than 50 or fewer than 10 chemicals of high concern, unless fewer than 10 chemicals of high concern meet any of the criteria under subsection 2.

Sec. 2. 38 MRSA §1694, sub-§1, as enacted by PL 2007, c. 643, §2, is amended to read:

1. Designation. The commissioner may designate a chemical of high concern as a priority chemical if the commissioner finds, in concurrence with the Department of Health and Human Services, Maine Center for Disease Control and Prevention:

- A. The chemical has been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine or other bodily tissues or fluids;
- B. The chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water or elsewhere in the home environment;
- C. The chemical has been found through monitoring to be present in fish, wildlife or the natural environment;
- D. The chemical is present in a consumer product used or present in the home;
- E. The chemical has been identified as a high production volume chemical by the federal Environmental Protection Agency; or
- F. The sale or use of the chemical or a product containing the chemical has been banned in another state within the United States.

After January 1, 2012, a chemical may be designated as a priority chemical only if it is included on the candidate list published pursuant to section 1693-A.

The commissioner shall designate at least 2 priority chemicals by January 1, 2011 and at least 2 additional priority chemicals by January 1, 2013.

SUMMARY

The bill amends the law to require the Commissioner of Environmental Protection by January 1, 2012 to establish a list of chemicals that are candidates for designation as a priority chemical based on similar listings of other authoritative agencies or demonstrated potential to exposure children to that chemical from its use in children's products. Under the bill, the candidate list is a subset of the list of chemicals of high concern, which is already established under existing law. The bill further requires that, after January 1, 2012, a chemical may be designated as a priority chemical only if it is included on the candidate list and requires that at least 2 additional priority chemicals be designated by January 1, 2013.