

Written Testimony of Michael Belliveau  
Executive Director, Environmental Health Strategy Center  
before the Maine Department of Environmental Protection (DEP)  
**in SUPPORT of proposed rule Chapter 888,  
Designation of Four Members of the Chemical Class Phthalates as Priority Chemicals**  
Augusta, Maine 29 July 2014

Adoption of the proposed rule offers the most logical and modest next step toward achieving the goal of the Kid Safe Products Act: “to reduce exposure of children and other vulnerable populations to chemicals of high concern ...” (38 MRSA §1692).

**1. Authoritative agencies have reached consensus that phthalates are priority chemicals of high concern, especially for pregnant women and children**

The European Chemicals Agency (ECHA) listed three of the phthalates subject to the proposed Chapter 888 rule (DEHP, BBP and DBP) as Substances of Very High Concern in 2008 and U.S. Environmental Protection Agency named them as Action Plan chemicals in 2009. (See Table 1 attached to this testimony). These phthalates were also banned in toys and child care articles in 2008 by an act of Congress; however, an expert science panel to the Consumer Product Safety Commission released a report this month that says that exposures to these phthalates are still unacceptably high. ECHA has mandated a ban on all uses of the three phthalates in the European Union effective February 2015, which will likely result in continued U.S. sales of products that can no longer be sold in Europe. The fourth phthalate subject to the proposed rule (DEP) has also been prioritized for review.

**2. No other authoritative agency action will substitute for or duplicate Maine’s proposed rule to require phthalates reporting in consumer products**

Neither European nor federal U.S. agencies are gathering specific information on which products contain phthalates. Only the State of Washington requires reporting of the use of these four phthalates, but their scope is limited to a narrow set of products made for, intended for, or marketed to children under age twelve (exempt under the proposed Maine rule). As the market continues to slowly turn away from phthalates, consumers are left in the dark as to which products contain phthalates and which are phthalate-free. This contradiction between priority concern and lack of knowledge will be heightened after the European ban takes effect in 2015. The market needs information to fully function.

**3. Now is the perfect time for Maine DEP to take a modest policy action on some phthalates, simply to gather information on their use in products**

It’s not too early for Maine to act. In the last five years, Congress has imposed a partial ban and Europe has advanced a total ban on three of the four phthalates subject to the proposed rule. Several federal agencies and states have acted on phthalates. The proposed rule places Maine in the mainstream of scientific and regulatory concern about phthalates.

It’s not too late for Maine to act. Phthalates are still widely used in products. Exposures to phthalates remain unacceptably high. The market is moving, but too slowly. U.S. regulatory restrictions won’t be forthcoming soon. Maine will contribute to the solution by adopting this reporting rule on phthalates. As Maine knows, so knows the country.

**Table 1. Phthalates are a Consensus Priority, but Regulatory Action is Too Slow**

Authoritative Agency	Status of Phthalates Proposed as Maine Priority Chemicals			
	DEHP	BBP	DBP	DEP
European Chemicals Agency (EHCA)	(2008): LISTED as Substances of Very High Concern due to being “toxic for reproduction” (February 2015): All uses BANNED, except if limited uses are authorized to continue			(2014): LISTED for EVALUATION in ECHA’s Community Rolling Action Plan
U.S. Consumer Product Safety Commission (CPSC)	(2008): BANNED in toys & child care articles, Consumer Product Safety Improvement Act			-
Chronic Hazard Advisory Panel (CHAP) to the CPSC	(July 2014): The CHAP reports that 5% to 10% of pregnant women and infants are still exposed to unsafe levels of these phthalates The CHAP recommends action to further REDUCE EXPOSURE from other sources			(2014): CHAP recommends “urgent action” by other agencies to REDUCE EXPOSURE
U.S. Environmental Protection Agency	(2009): EPA Action Plan on Phthalates calls for voluntary action and future regulation to REDUCE EXPOSURE to eight phthalates			-
California Department of Toxic Substances Control	(2013): LISTED as a Candidate Chemical on “Initial List” for possible future action under the Safer Consumer Products regulations			(2013): LISTED as a Candidate Chemical
California Office of Environmental Health Hazard Assessment	(1988, 2003, and 2005): LISTED under Proposition 65 as a “chemical known to the state to cause cancer or reproductive toxicity” and EXPOSURE WARNINGS required			-
Washington State Department of Ecology	(2011): LISTED as Chemicals of High Concern to Children (2012): Manufacturers must begin REPORTING chemical use in specific products made for or marketed to children under age 12			
Maine Department of Environmental Protection	(2009): LISTED as Chemicals of Concern (among about 1,400 total) (2012): LISTED as Chemicals of High Concern (among 49 total)			

Sources: Available upon request, and to be submitted during the public comment period.