

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/19/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/17/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

10 19 07 01-.03

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: April 14, 2014.
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Claire Pierson, Assistant Attorney General, (telephone #410-767-6526) on September 16, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joshua M. Sharfstein, M.D.

Title

Secretary

Telephone No.

410-767-6500

Date

September 19, 2014

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 19 DANGEROUS DEVICES AND SUBSTANCES

10.19.07 Prohibition of Child Care Products Containing TCEP or TDCPP

Authority: Health-General Article, §24-306, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01—.03 under COMAR 10.19.07 Prohibition of Child Care Products Containing TCEP or TDCPP.

Statement of Purpose

The purpose of this action is to prohibit the import, sale, or offering for sale of any child care product that contains TDCPP; and to make minor grammatical changes to align these regulations with State statute.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

This proposal will have no impact on State and local governments. However, it may have an impact on retailers that import, sell, or offer for sale child care products containing the flame-retardant chemical TDCPP because this regulation will prohibit those actions, potentially decreasing revenue.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(R+)	Indeterminable
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude

- D. On regulated industries or trade groups: (-) Minimal
- E. On other industries or trade groups: (-) Minimal
- F. Direct and indirect effects on public: (+) Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. If violations occur, civil penalties may be collected; however the exact amount is indeterminable.

D. If violations occur, civil penalties may be collected; however the exact amount is indeterminable.

E. There may be a minimal negative economic impact on industries that import, sell, or offer for sale child care products containing the flame-retardant chemical TDCPP because this regulation will prohibit those actions, potentially decreasing revenue. The child care products industry is voluntarily phasing out the chemical TDCPP, therefore, it is not expected that these regulations will have a significant impact on any regulated industry.

F. This proposal would have a positive effect on the public because it will eliminate the potential and actual exposure of children to a fire-retardant chemical with potential adverse health consequences. At the same time, it should not increase the risk of fire-related injuries.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499; TTY:800-735-2258, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through November 17, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

There may be a minimal negative economic impact on industries that import, sell, or offer for sale child care products containing the flame-retardant chemical TDCPP because this regulation will prohibit those actions, potentially decreasing revenue.

G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 19 DANGEROUS DEVICES AND SUBSTANCES

10.19.07 Prohibition of Child Care Products Containing TCEP *or* TDCPP

Authority: Health-General Article, §24-306, Annotated Code of Maryland

10.19.07.01 (4/14/14)

.01 Scope.

A. This chapter establishes regulations that prohibit the import, sale, or offering for sale of child care products containing [the flame-retardant chemical]:

(1) TCEP, also known as [TRIS (2-chloroethyl) phosphate] (*tris (2-chloroethyl) phosphate*); or

(2) TDCPP, also known as (*tris (1, 3-dichloro-2-propyl) phosphate*).

B. (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Child care [article] *product*" means a consumer product intended for use by a child under the age of 3 years, including a:

(a)—(f) (text unchanged)

(2) (text unchanged)

(3) "TCEP" means an industrial chemical also known as [TRIS (2-Chloroethyl) Phosphate] (*tris (2-chloroethyl) phosphate*).

(4) "TDCPP" means an industrial chemical also known as (*tris (1, 3-dichloro-2-propyl) phosphate*).

.03 Prohibition of TCEP *or* TDCPP in Child Care [Articles] Products.

A. [On or after October 1, 2013, a] A person may not import, [knowingly] sell, or offer for sale [in commerce a] *any* child care [article] *product* containing more than 1/10 of 1 percent of TCEP by mass.

B. *On or after October 1, 2014, a person may not import, sell, or offer for sale any child care product containing more than 1/10 of 1 percent of TDCPP by mass.*

[B.] C. The Secretary may suspend implementation of this chapter if the Secretary determines that the fire safety benefits of TCEP *or TDCPP* are greater than the known health risks associated with TCEP *or TDCPP*.

JOSHUA M. SHARFSTEIN, M.D.

Secretary of Health and Mental Hygiene