



**The Commonwealth of Massachusetts**  
**Department of Environmental Protection**

**Address:** 100 Cambridge Street, Suite 900, Boston, MA 02114  
**Phone:** 617-292-5500

### **310 CMR 78.00: Ban of Covered Products Containing Certain Flame Retardants**

On May 5, 2025, the Massachusetts Department of Environmental Protection (MassDEP) promulgated 310 CMR 78.00: Ban of Covered Products Containing Certain Flame Retardants (Regulation). The Regulation was promulgated pursuant to Massachusetts General Laws, Chapter 21A, Section 28, [AN ACT TO PROTECT CHILDREN, FAMILIES, AND FIREFIGHTERS FROM HARMFUL FLAME RETARDANTS](#). The [Regulation and Response to Public Comments can be viewed here](#).

#### **Flame Retardant**

*Flame retardant* refers to a diverse set of chemicals added to various products to decrease ignitability and inhibit the combustion process. Studies have shown that certain flame-retardant chemicals can persist in the environment, bioaccumulate in people and animals, and have been shown to cause adverse developmental effects in animals.

#### **Manufacturer and Retailer Requirements**

The Regulation requires that: *a manufacturer or retailer shall not sell, offer or manufacture for sale, distribute in commerce or import into the Commonwealth a covered product that contains any chemical flame retardants or chemical analogues listed [below] the combined total of which exceeds 1,000 parts per million for any component part of the covered product except for inventory manufactured prior to **December 31, 2021**.*

Covered Products are defined under the Regulation as: *bedding, carpeting, children's products, residential upholstered furniture, or window treatments. Please refer to the Regulation for definitions of each of these Covered Products.*

MassDEP recommends retailers that sell Covered Products contact their suppliers, distributors, wholesalers, and manufacturers to ensure that Covered Products are in compliance with the Regulation.

#### **Exemptions**

The Regulation does not apply to the following: motor vehicles, watercraft, aircraft, all-terrain vehicles, off-highway motorcycles or any component parts, the sale or purchase of any previously owned product containing a chemical flame retardant prohibited under this

Regulation, electronic devices, and electronic components of Covered Products. In addition, the Regulation does not apply to Covered Products that contain prohibited chemicals due to the presence of recycled materials used during the manufacture of the product covered.

#### **List of Flame Retardants Chemicals Covered Under the Regulation**

1. *Tris(1,3-dichloro-2-propyl)phosphate (TDCPP) (Chemical Abstracts Service number 13674-87-8);*
2. *Tris(2-chloroethyl)phosphate (TCEP) (Chemical Abstracts Service number 115-96-8);*
3. *Antimony trioxide (Chemical Abstracts Service number 1309-64-4);*
4. *Hexabromocyclododecane (HBCD) (Chemical Abstracts Service number 25637-99-4);*
5. *Bis(2-Ethylhexyl)-3,4,5,6- tetrabromophthalate (TBPH) (Chemical Abstracts Service number 26040-51-7);*
6. *2-Ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB) (Chemical Abstracts Service number 183658- 27-7);*
7. *Chlorinated paraffins (Chemical Abstracts Service number 85535-84-8);*
8. *Tris (1-chloro-2-propyl) phosphate (TCPP) (Chemical Abstracts Service number 13674-84-5);*
9. *PentaBDE (Chemical Abstracts Service number 32534-81-9);*
10. *OctaBDE (Chemical Abstracts Service number 32536-52-0);*
11. *Tetrabromobisphenol A (TBBPA) (Chemical Abstracts Service number 79-94-7).*

#### **Addition of Flame Retardant Chemicals**

The Regulation instructs MassDEP to review, identify and recommend, if applicable, other chemical flame retardants that should be prohibited based on a determination that the flame retardant is anticipated to present a toxic hazard to people. This review is required to take place not less than every three years.

#### **Penalties**

A manufacturer or retailer who violates the regulations shall be subject to the following civil penalties:

For the first violation, a fine of not more than \$100 per Covered Product, not to exceed a total of \$5,000;

For the second violation, a fine of not more than \$250 per Covered Product, not to exceed a total of \$25,000; and

For the third or subsequent violation, a fine of not more than \$1,000 per Covered Product, not to exceed a total of \$50,000.

For purposes of calculating a penalty under the Regulation a collection of Covered Products that are sold as a set shall constitute 1 Covered Product.

A manufacturer or retailer who knowingly violates the Regulation shall be subject to a civil penalty equal to 3 times the amount of the fine imposed for such violation.

A civil penalty for a violation shall be waived if MassDEP determines that a manufacturer or retailer acted in good faith to be in compliance, pursued compliance with due diligence and promptly corrected any noncompliance after discovery of the violation.

#### **Questions for MassDEP**

Questions regarding the Regulation or MassDEP's administration of the Regulation can be directed to [flame.retardants@mass.gov](mailto:flame.retardants@mass.gov).