

The Honourable Steven Guilbeault
Minister of the Environment
c/o Christina Paradiso
Executive Director Chemicals Management, Environmental Protection Branch
Department of the Environment
351 Saint-Joseph Boulevard, Gatineau, Quebec K1A 0H3
Email: ec.interdiction-prohibition.ec@ec.gc.ca

Tiffauges, July 07, 2022

Re: Notice of Objection and Request for Board of Review in relation to proposed regulations prohibiting the manufacture, use, sale and import of decabromodiphenyl ethane (DBDPE, CAS Registry Number 84852-53-9) and polybrominated diphenyl ethers (PBDEs) while providing exemptions to the prohibitions, *Canada Gazette*, Part I, Volume 156, Number 20 – May 14, 2022: Prohibition of Certain Toxic Substances Regulations, 2022.

Dear Minister Guilbeault:

Our company/organization writes to express our formal objection to the above-referenced regulatory proposal. We, MCPP FRANCE, are producer of TPE compounds for automotive application cables. This project of regulation for prohibition of DBDPE would impact 90% of our cable business. DBDPE is used in our formulation as flame retardant. It can not be substituted by another substance without degrading final product properties and performances.

As provided for by section 332(2) of CEPA 1999, MCPP FRANCE is filing this Notice of Objection and respectfully request that a Board of Review be established, pursuant to section 333 of CEPA 1999, to “inquire into the nature and extent of danger” posed by DBDPE and PBDEs for the reasons set out below.

Proposed Risk Management Measures May Lead to Severe Risk to Public Health and Safety

DBDPE performs a valuable function by reducing the flammability of the products where it is used. Those products include not just consumer devices and appliances, but also include airplanes and motor vehicles. In the absence of alternatives, the prohibitions pose a genuine risk of increasing flammability of those products therefore creating a severe risk to public health and safety. DBDPE enables us to pass the international flammability tests and standards for automotive wires, in order to protect public again all fire issues in vehicles.

Proposed Risk Management Measures May Lead to Supply Chain Disruptions

Product manufacturers operate in a global regulatory environment and must take into account a broad range of product safety and design factors. This includes considerations related to product certification, performance, use and end of life, and even chemical registration. These regulatory, design, and performance requirements are addressed through a complex global supply chain for components and subcomponents.

A 2020 socioeconomic study commissioned by ECCC on DBDPE in the Canadian market noted that “at this time, effective fully tested alternatives are not currently known for many critical applications.” ECCC suggests that its consultations with industry stakeholders have helped it develop permits and exemptions to address the lack of available alternatives to DBDPE. However, these permits and exemptions are insufficient in addressing the lack of available alternatives for DBDPE. ECCC notes several times during the draft Regulation that there is a lack of data and certainty regarding cost and availability of alternatives to DBDPE for some critical applications, and consequently that compliance costs have not been estimated for proposed risk management measures affecting wire and cable, automotive products, and other applications.

The engineering and certification of products is a time-consuming process that can take years, and there are considerable financial costs involved in this effort. MCPP FRANCE design products to meet relevant safety standards and to be safe when used as intended. Given the lack of available alternatives for DBDPE and unknown costs of compliance with the regulatory proposal, ECCC must revise its approach in regulating DBDPE to avoid disruptions to an already overburdened supply chain. For our company, it takes at least two years in order to get the final approval from car maker’s.

Proposed Risk Management Measures for PBDEs do not Align with Global Regulations and Restrictions

As mentioned earlier for DBDPE, it is also important that risk management measures for other substances align with global agreements and regulations. That is true for PBDEs, a group of flame retardants which have largely been phased out in Canada and around the world and are no longer being produced. At present, Canada already prohibits the manufacture, use, sale, offer for sale, and import of PBDEs, including decaBDE, and all products that contain PBDEs except for manufactured items. Canada’s current regulations for PBDEs are largely consistent with international regulations for PBDEs.

ECCC proposes eliminating the exemption allowing the manufacture, use, sale and import of manufactured items containing PBDEs with a few exceptions. In addition, the presence of each PBDE congener (e.g., decaBDE, octaBDE, etc.) in a substance, mixture, polymer, or resin is proposed to be incidental at a concentration less than or equal to 10 parts per million (ppm). The presence of PBDE congeners in all other products is proposed to be incidental when the total concentration of all congeners is less than or equal to 500 ppm.

In contrast, the European Union’s Restriction on Hazardous Substances (RoHS) requires electrical and electronic products to contain less than 1,000 ppm or 0.1% of PBDEs. Further illustrating the complexity in finding alternatives for some substances, although five PBDEs are listed as POPs by the Stockholm Convention, all of them still have some specific exemptions on a time-limited basis. U.S. EPA is also considering additional risk management measures for decaBDE, with a proposal for a new rulemaking expected in Spring 2023.

The proposed risk management measures for PBDEs could put Canada at odds with some of its largest trading partners and consideration should be given to global regulatory alignment, circularity goals, and potential disruptions to critical sectors in the country.

Based upon the facts and arguments set out above we ask the Minister to appoint a Board of Review to “inquire into the nature and extent of danger” posed by DBDPE and PBDEs.

Sincerely,

Evelyne BARRE
Site Director

MCPP FRANCE



