



DEC 29 2025

Mr. Greg Hall
Director of Regulatory Affairs and Standards
Association of Home Appliance Manufacturers Canada
ghall@ahamcanada.ca

Dear Mr. Hall:

This letter is in response to your Notice of Objection and request to establish a board of review to the publication of the proposed Prohibition of Certain Toxic Substances Regulations, 2022 (proposed Regulations), which was received by Environment and Climate Change Canada on July 13, 2022. The proposed Regulations were published in the *Canada Gazette*, Part I, on May 14, 2022.

I have carefully considered all the issues in your Notice of Objection, including those dealing with the nature and extent of the danger posed by decabromodiphenyl ethane (DBDPE) and the other questions and considerations that you brought to my attention. In my opinion, your Notice of Objection does not raise sufficient uncertainty or doubt in the science underlying the proposed Regulations that would warrant the establishment of a board of review under subsection 333(1) of the *Canadian Environmental Protection Act, 1999*. Therefore, I am denying your request, and I will not establish a board of review. The reasons for my decision are explained below and in the Annex to this letter.

Responses to comments in your Notice of Objection related to the outcomes of the screening assessment for DBDPE, which concluded that there is a risk of harm to the environment due to the persistence and widespread occurrence of DBDPE in the environment along with the potential for bioaccumulation and toxicity of its transformation products, are provided in the Annex.

The comments in your Notice of Objection regarding the development of the proposed Regulations have been considered alongside other comments received on these regulations. The specific points you have raised on the proposed Regulations and how they will be addressed are also summarized in the Annex to this letter. Your Notice of Objection raised specific concerns on the proposed exemptions for DBDPE, and to address these concerns, the proposed timeline of

.../2

the DBDPE exemptions will be extended by an additional 10 years (i.e. extended from 5 years to 15 years for new products and from 20 years to 30 years for replacement parts) and the scope of these exemptions will be broadened to include all manufactured items and additional intermediate materials. This extended timeline will allow all stakeholders additional time for the research and development of alternatives, testing and certification, and transitioning their manufacturing and supply chains. Broadening the scope of the DBDPE exemptions will help to reduce the risk of prohibiting critical components, reduce the need to apply for permits under the proposed Regulations for non-exempted parts, and reduce compliance burden of stakeholders throughout the supply chain.

Please note that the comments on the proposed Regulations will be summarized in the Regulatory Impact Analysis Statement that will be published with the final *Prohibition of Certain Toxic Substances Regulations, 2025* (2025 Regulations) in the *Canada Gazette*, Part II, which describe how these matters have been addressed.

I appreciate your bringing your concerns to my attention. Please accept my best regards.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Julie Dabrusin', with a stylized flourish at the end.

The Honourable Julie Dabrusin, P.C., M.P.

Att.

Annex

Minister of Environment and Climate Change Canada
Detailed Responses to Notice of Objection Comments

- 1) The following provides a summary of comments related to **“Proposed Risk Management Measures May Lead to Severe Risk to Public Health and Safety”** as set out in your Notice of Objection and the analysis of the information you have provided:

- 1A) In your Notice of Objection, you commented that DBDPE is used as a flame retardant to meet critical flammability standards and safety requirements in products and that DBDPE was used as a substitute for decaBDE, which was phased out. In addition, you commented that a transition plan is required to identify safe and available alternatives and reduce risk of regrettable substitution.

Flame retardant substances are generally used to meet performance-based flammability requirements. These requirements do not specify what chemical flame retardants need to be used; rather they may require a product or component to pass a laboratory test such as a cigarette smolder or open flame ignition test (ASTM 2014). Using chemical flame retardants such as DBDPE in products is one of the ways by which companies can meet flammability requirements for their products. Alternate substances as well as non-chemical-based alternatives may also be used to replace the use of DBDPE as a flame retardant in various applications.

It is not specified which alternatives industry should transition to as it is contingent upon industry to identify and transition to appropriate alternatives. To support industry and stakeholders in their transition to safer alternatives, a [summary of flame retardant assessments and management conducted under the Canadian Environmental Protection Act, 1999](#) has been published.

Risk management options take into consideration risks to be managed and may include the use of existing or new risk management instruments. Risk management tools are selected to best address the risk and existing risk management instruments can be used, such as the proposed *Prohibition of Certain Toxic Substances Regulations, 2022*, to minimize regulatory duplication in instruments.

In addition to the concerns you have raised in your Notice of Objection, a number of similar comments were received during the public comment period for the proposed Regulations. To address these concerns, the proposed timeline of the DBDPE exemptions will be extended by an additional 10 years (i.e. extended from 5 years to 15 years for new products and from 20 years to 30 years for replacement parts) and the scope of the DBDPE exemptions will be broadened to include all manufactured items and additional intermediate materials. This extended timeline will allow all stakeholders additional time for the research and development of alternatives, testing and certification, and transitioning their manufacturing and supply chains. Broadening the scope of the DBDPE exemptions will help to reduce the risk of prohibiting critical components, reduce the

Annex

Minister of Environment and Climate Change Canada Detailed Responses to Notice of Objection Comments

need to apply for permits under the Regulations for non-exempted parts, and reduce compliance burden of stakeholders throughout the supply chain.

- 1B) In your Notice of Objection, you provided comments that flame retardants are used to meet mandatory fire safety standards and there is no way to meet the standards with flame retardants. In addition, you commented that there is not viable substitute for DBDPE available in some applications and that substituting flame retardants is not a simple process and modified components require re-certification for fire safety standards. In addition, you noted that product performance must be maintained and compatibility testing with other substances is required.**

Please refer to the response to point 1A (above) respecting the extended timeline for, and broadened scope of the DBDPE exemptions.

- 2) The following provides a summary of comments related to “Proposed Risk Management Measures for DBDPE are Not Aligned with Other Regulatory Agencies or Agreements” as provided in your Notice of Objection and the analysis of the information you have provided:**

- 2A) In your Notice of Objection, you noted that the prohibition of DBDPE is abrupt and “unique to Canada” that do not align internationally with our major trading partners, particularly the United States, that a global approach to chemicals management is critical to industry and Canada should not attempt to move faster or more stringently.**

Canada has been one of the first countries to lead action on flame retardants and was the first country to complete a risk assessment and propose risk management of DBDPE; however, Canada is not alone and since then international action for DBDPE has been underway or has been finalized.

In March 2023, the European Union (EU), under the [European Chemicals Agency \(ECHA\)](#) published their [Regulatory strategy for flame retardants](#), which has a focus on brominated flame retardants and their prioritization for restriction, including DBDPE. This document noted that:

For decabromodiphenyl ethane (EC 284-366-9, DBDPE) data was requested regarding potential bioaccumulation under substance evaluation and has been assessed by the PBT expert group. The available data, including field studies, appear to confirm the Persistent, bioaccumulative and toxic (PBT) properties of the substance.

Furthermore, on October 31, 2024, ECHA updated the [substance evaluation status for DBDPE](#) as ‘Concluded’ and published a [Substance Evaluation Conclusion and Evaluation Report](#) that considers DBDPE to meet the [Regulation on the registration, evaluation,](#)

Annex

Minister of Environment and Climate Change Canada
Detailed Responses to Notice of Objection Comments

[authorisation and restriction of chemicals \(REACH\)](#), Annex XIII very persistent and very bioaccumulative criteria, wide dispersive use and high aggregated tonnage concerns and the need for follow-up regulatory action at the EU level. The report notes the restriction of aromatic brominated flame retardants as proposed in ECHA's Regulatory strategy for flame retardants appears as a logical continuation following a formal hazard identification as very persistent and very bioaccumulative for DBDPE.

On June 27, 2025, ECHA published a [proposal](#) for identification of DBDPE as a substance of very high concern (SVHC) on the basis of the criteria set out in REACH Article 57. A [REACH Annex XV report](#) was prepared by Sweden to support the proposal for identification of DBDPE as a SVHC.

In the United States (US), DBDPE is listed as a new chemical and is subject to a [Significant New Use Rule](#), which requires manufacturers and processors to notify the US [Environmental Protection Agency \(EPA\)](#) before a new use for the manufacture, import or processing of DBDPE begins. In June 2021, the EPA made [DBDPE subject to a Final Health and Safety Data Reporting rule](#) pursuant to the [Toxic Substances Control Act \(TSCA\)](#) as part of a grouping of 30 organohalogen flame retardants being evaluated for risks by the [Consumer Product Safety Commission \(CPSC\)](#). In January 2024, the CPSC published [Organohalogen Flame Retardant Scope Document: Polyhalogenated Benzene Aliphatic and Functionalized Subclass](#) report (the PHBzAF subclass, which includes DBDPE) which concludes that "the PHBzAF subclass has sufficient data to proceed with risk assessment". Furthermore, DBDPE is restricted in some consumer products under general flame retardant restrictions in some states, such as [California](#), [Maine](#), and [New Hampshire](#).

In August of 2021, Australia published their [assessment of DBDPE](#) and found that DBDPE:

meets the persistence, bioaccumulation, adverse effects in aquatic and terrestrial organisms and long-range transport criteria of Annex D of the Stockholm Convention on Persistent Organic Pollutants. Therefore, on the basis of the current hazard information available, the assessed chemical could pose an unreasonable risk to the environment.

The Australian report also recommended control measures be developed under the [Industrial Chemicals Environmental Management \(Register\) Act 2021](#).

On June 26, 2025, the Australian government finalized its risk management for DBDPE after publishing a statutory public consultation on the proposed risk management for DBDPE in April 2025. The [Industrial Chemicals Environmental Management Standard for decabromodiphenyl ethane \(DBDPE\)](#) is a final scheduling decision to list DBDPE to

Annex

Minister of Environment and Climate Change Canada
Detailed Responses to Notice of Objection Comments

Schedule 6 of the [Industrial Chemicals Environmental Management \(Register\) Instrument 2022](#). Schedule 6 of this instrument lists “Relevant industrial chemicals that are likely to cause serious or irreversible harm with essential uses” and specifies the risk management measures, including prohibitions and restrictions, that apply to the relevant industrial chemical or a mixture or article containing such a chemical (Australia, 2025).

Canadian risk management for DBDPE takes into consideration actions taken in jurisdictions, including the EU and the US, with the possibility of aligning where appropriate.

- 2B) In your Notice of Objection, you noted that DBDPE is listed as neither a Persistent Organic Pollutant under the Stockholm Convention, nor a Chemical of Mutual Concern (CMC) under the Canada-U.S. Great Lakes Water Quality Agreement (GLWQA) and neither justifies the proposed risk management measures.**

The Regulatory Impact Analysis Statement (RIAS) published with the proposed Regulations did not indicate that DBDPE was listed to the Stockholm Convention. The RIAS also noted that not all substances that are prohibited under the current Regulations are listed to the Stockholm Convention. With respect to the GLWQA, the RIAS stated that “the parties have currently designated PFOS, PFOA, LC-PFCAs, HBCD and PBDEs, among other substances, as CMCs”. It was not stated in the RIAS that DBDPE is listed as a CMC under the GLWQA.

Instead, the drivers to regulate DBDPE are the conclusion of the DBDPE screening assessment, and the related risk management objective outlined in the [risk management approach for DBDPE](#): to achieve the lowest level of release of the substance into the Canadian environment, taking into account social, economic and technical matters.

- 2C) In your Notice of Objection, you provided comments that an exemption must be allowed for DBDPE in legacy products and spare and replacement parts for products already in the marketplace.**

Please refer to the response to point 1A (above) respecting the extended timeline for, and broadened scope of the DBDPE exemptions.

- 2D) In your Notice of Objection, you commented that the proposed concentration thresholds for incidental presence of *Polybrominated Diphenyl Ethers (PBDEs)* could put Canada at odds with some of its largest trading partners and consideration should be given to global regulatory alignment, given that the proposed concentration threshold level for PBDEs will be 100x tighter than the RoHS concentration threshold**

Annex

Minister of Environment and Climate Change Canada
Detailed Responses to Notice of Objection Comments

level, which is the de-facto global benchmark. In addition, you commented that no concentration threshold was proposed for DBDPE.

PBDEs

The incidental presence concentration threshold values in Schedule 3 of the proposed Regulations endeavored to align with those of other jurisdictions. The concentration thresholds for PBDEs (10 mg/kg (0.001 percent by weight) in a product that is a commercial grade substance, mixture, polymer or resin; and 500 mg/kg (0.05 percent by weight) for all other products) are aligned with the concentration thresholds for PBDEs in Annex I of the European Union's [Regulation \(EU\) 2019/1021](#) of 20 June 2019 on persistent organic pollutants (EU's POPs Regulation). However, the EU's POPs Regulation derogates (or exempts) electrical and electronic equipment (EEE) within the scope of the European Union's [Directive 2011/65/EU](#) of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (EU RoHS Directive) which has a higher incidental presence concentration threshold of 1,000 mg/kg (0.1 percent by weight) for PBDEs.

To support international alignment with the EU RoHS Directive, the proposed incidental presence concentration threshold for PBDEs will be modified to align in specific EEE of 1,000 mg/kg (0.1 percent by weight).

DBDPE

No incidental presence limits were considered for DBDPE as there wasn't enough data provided to set an appropriate limit. Thresholds could be considered for future amendments once more information is available.

- 3) The following provides a summary of comments related to *"Proposed Risk Management Measures May Lead to Supply Chain Disruptions"* as provided in your Notice of Objection and the analysis of the information you have provided:**

In your Notice of Objection, you provided comments that Canadian home appliance industry is reliant on imports to meet domestic demand and appliances are designed for the entire North American market and that the Canadian market is approximately 1/10 the size of the US market. In addition, you noted that appliance manufacturers may limit or remove their products from the Canadian market resulting in consumer frustration and negative impacts consumers moving to higher efficiency appliances to support federal energy goals.

Please refer to the response to point 1A (above) respecting the extended timeline for, and broadened scope of the DBDPE exemptions.

Annex

Minister of Environment and Climate Change Canada
Detailed Responses to Notice of Objection Comments

4) The following provides a summary of comments related to “***Recommendations***” as provided in your Notice of Objection and the analysis of the information you have provided:

4A) In your Notice of Objection, you commented that most DBDPE releases happen during manufacturing, formulation, industrial use but home appliances are all imports and should be exempted.

The [DBDPE screening assessment](#) concludes that DBDPE is toxic, persistent and results predominantly from human activities and that DBDPE is expected to contribute to the formation of persistent, bioaccumulative and inherently toxic transformation products, such as lower brominated diphenyl ethanes, in the environment. As such, at the time the [risk management approach for DBDPE](#) was published, DBDPE met the criteria outlined in the Government of Canada’s Toxic Substances Management Policy for virtual elimination from the environment (Canada, 1995).

Upon the coming into force of the [Strengthening Environmental Protection for a Healthier Canada Act \(S.C. 2023, c. 12\)](#) in June 2023, the virtual elimination provisions of CEPA were replaced with a new regime that remains risk based. In developing a proposed regulation or instrument respecting preventive or control actions in relation to substances added to Part 1 of Schedule 1 of the Act, priority will be given to the total, partial or conditional prohibition of activities in relation to the substance or of releases of the substance into the environment. For substances added to Part 2 of Schedule 1, priority will be given to pollution prevention actions, which may include prohibition, when managing risks posed by those substances.

An [Order adding DBDPE to Part 2 of Schedule 1 to the Canadian Environmental Protection Act, 1999](#) was published in the *Canada Gazette*, Part II, on February 26, 2025.

As indicated in the risk management approach for DBDPE, the environmental objective for DBDPE is to reduce its concentrations in the Canadian environment to the greatest extent practicable, and the risk management objective for DBDPE is to achieve the lowest level of release of the substance into the Canadian environment, taking into account social, economic and technical matters.

The high importation volumes of DBDPE into Canada, along with information on its uses, indicate potential for widespread release into the Canadian environment. Aquatic exposure to DBDPE is expected through activities such as formulation, either directly to receiving surface water or to a wastewater treatment system that discharges its effluent to a receiving surface water body. In addition, products containing DBDPE have the potential to release DBDPE at various stages of their lifecycle, including use (see house dust studies referred to in Section 10.1.1.2 and Appendix D of the DBDPE screening

Annex

Minister of Environment and Climate Change Canada Detailed Responses to Notice of Objection Comments

assessment) and disposal. Once released into the environment, DBDPE will be found mainly in sediment and soil, where it may persist for long periods of time, resulting in DBDPE build-up, as seen by rapid doubling times in sediment in the Great Lakes.

Given the above, a regulatory prohibition is the best approach to meet the risk management objective for DBDPE, which is to achieve the lowest level of release of the substance into the Canadian environment, taking into account social, economic and technical matters.

4B) In your Notice of Objection, you commented that substance concentration threshold levels must be included in the regulations to avoid incorrect compliance assessments due to unintentional trace amounts.

Please refer to the response to point 2D (above) respecting the concentration thresholds for PBDEs.

4C) In your Notice of Objection, you commented that substance concentration threshold levels must be established for DBDPE, and no concentration threshold limits will create future compliance issues.

Please refer to the response to point 2D (above) respecting the concentration thresholds for DBDPE.

4D) In your Notice of Objection, you recommended that work on international and North American alignment of flame retardant prohibitions to eliminate the risk of unintended negative consequences on Canada's domestic and international trade and the ability of Canadian businesses to compete.

Please refer to the responses to points 1A, 2A and 2D (above) respecting the extended timeline for, and broadened scope of the DBDPE exemptions as well as international alignment of concentration thresholds.

4E) In your Notice of Objection, you recommended that no prohibition until Canada finishes the assessment of the remaining flame retardants under CMP to ensure viable substitution is chosen.

Please refer to the response to point 1A (above) respecting the extended timeline for, and broadened scope of the DBDPE exemptions.

4F) In your Notice of Objection, you commented concentration thresholds must be practical and economical which may not be possible for PFAS.

Reputable laboratories for testing PFAS, have reporting limits for targeted PFAS chemicals in the range of 0.04 to 2 ppb for solid and of 10 to 40 ppb for aqueous film-forming foams (AFFF), so well below the 1 ppm (or 1000 ppb) proposed thresholds for

Annex

Minister of Environment and Climate Change Canada Detailed Responses to Notice of Objection Comments

each PFOS, its salts and precursors; PFOA, its salts and precursors; and LC-PFCAs, their salts and precursors. These sensitive and accurate methods have become more widely available on the market since various jurisdictions are implementing concentration thresholds for certain PFAS in products, like the European Union or certain U.S. States. The proposed quantitative incidental concentration thresholds for PFOS, PFOA, LC-PFCAs, their salts and precursors, will not be included in the 2025 Regulations, to avoid in part impeding the transition towards alternatives, disrupting the supply of certain products to Canada, impacting the fostering of a circular economy and creating a disadvantage for Canadian companies on the recycling market. My department plans to further consult on and to work towards including thresholds for PFOA and LC-PFCAs in the future, as it would help industry to further determine if products meet the regulatory requirements through testing and would allow companies to specify material compositions to suppliers.