



DEC 29 2025

Mr. Thomas J. Hmiel
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Dear Mr. Hmiel:

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

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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". The signature is fluid and cursive, with a prominent loop at the end.

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

Att.

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- 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 including consumer devices, appliances and motor vehicles, as well as thermoplastic elastomer compounds used in used in automotive and wire coating industries.

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.

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 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 due to the lack of available alternatives for DBDPE in some products and that without suitable alternatives, increased flammability of products will create health and safety risks. In addition, you commented that existing alternatives cannot match the performance of DBDPE and result in the use of formulations that do not perform as well in harsh environments.

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

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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 proposed risk management measures as set out in the proposed *Prohibition of Certain Toxic Substances Regulations, 2022* (the “draft Regulation”) for DBDPE are an outlier globally.**

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, 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](#)

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[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 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 that neither rationale justifies the proposed risk management measures.**

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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 commented that the U.S.-Mexico-Canada Agreement (USMCA) requires a risk-based approach to chemical regulations.

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

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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 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.

Furthermore, there is nothing in the 2025 Regulations that contravenes the USMCA Agreement given that the addition of DBDPE to the Regulations reflects a risk-based approach based on the conclusion of the screening assessment of DBDPE.

- 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 global product manufacturers take into consideration regulatory, design, and performance requirements which are addressed through a complex global supply chain for components and subcomponents and significant time and costs are associated with switching to alternatives which require research and development, prototyping, performance testing, manufacturing retooling, and regulatory compliance certification. Furthermore, you commented that the prohibition of DBDPE proposed in Canada poses a challenge to global supply chains and that you disagree with the RIAS that the proposed permits and exemptions are sufficient for stakeholders due to the lack of available alternatives for DBDPE in some products and unknown costs throughout the global supply chain.

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

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With respect to the estimated cost for transitioning to alternatives, it is acknowledged that the analysis does not monetize the full impact of the 2025 Regulations due to the limited information available on these substances and their possible alternatives. In response to these comments, a sensitivity analysis was done in the RIAS accompanying the 2025 Regulations to consider higher costs based on available information.

- 4) The following provides a summary of comments related to **“Final Screening Assessment for DBDPE Ignores the Weight of the Evidence”** as provided in your Notice of Objection and the analysis of the information you have provided:

In your Notice of Objection, you comment that the conclusion reached in the Final Screening Assessment that DBDPE has the potential to transform into lower brominated products that could pose a risk to aquatic organisms conflicts with the proper application of the weight of evidence approach and that appropriate application of the precautionary principle has not been substantiated.

The assessment of DBDPE draws on the available empirical, modelling, and scientific information for DBDPE. In the absence of certain data on DBDPE, information on its close analogue, decaBDE was used to evaluate certain properties of DBDPE and its potential to cause adverse effects in the environment including breaking down to lower brominated products. A weight of evidence approach is applied with consideration of multiple lines of evidence, and some uncertainty associated with data gaps in the assessment warranted application of precaution. Thus, weight of evidence, precaution and impact of uncertainty have all been considered in decision-making.

- 5) The following provides a summary of comments related to **“Proposed Risk Management Measures for Polybrominated Diphenyl Ethers (PBDEs) do not Align with Global Regulations and Restrictions”** as provided in your Notice of Objection and the analysis of the information you have provided:

In your Notice of Objection, you commented that the proposed concentration thresholds for incidental presence of PBDEs could put Canada at odds with some of its largest trading partners and consideration should be given to global regulatory alignment.

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

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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).