



Mr. Warrington Ellacott
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Dear Mr. Ellacott:

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 11, 2022. The proposed Regulations were published in the **Canada Gazette**, Part I, on May 14, 2022.

Thank you for your support of the proposed Regulations. 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.

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 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

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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 long horizontal stroke extending to the right.

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

Att.

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1. In your Notice of Objection, you requested the Minister to appoint a Board of Review to address your specific concerns: a) Concentration thresholds for PBDE, PFOS, PFOA, LC-PFCAs and DBDPE/DP are misaligned with other countries that are parties to the Stockholm Convention that align limits with the European Union (EU) Restriction on Hazardous Substances (RoHS) or EU REACH frameworks; and, b) a review of approved alternative substances to DBDPE/DP.

Please refer to the responses to points 2 and 3 below, outlining concentration thresholds for these six substances and in regard to alternative substances to DBDPE and DP.

2. The following provides a summary of comments related to “Concentration thresholds are not aligned with International and CUSMA/USMCA trading partners” as set out in your Notice of Objection and the analysis of the information you have provided:

In your Notice of Objection, provided comments that the proposed concentration thresholds for PBDE, PFOS, PFOA, LC-PFCAs and DBDPE/DP are misaligned with the Canada-United States-Mexico Agreement (CUSMA), and with other countries that align limits with the European Union (EU) Restriction on Hazardous Substances (RoHS) or EU Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) frameworks.

The incidental presence concentration threshold values in Schedule 3 of the proposed Regulations endeavored to align with those of other jurisdictions.

Polybrominated Diphenyl Ethers (PBDEs)

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).

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PFOS, PFOA, LC-PFCAs

The proposed concentration thresholds of 1 ppm each for PFOA, its salts and precursors, and LC-PFCAs, their salts and precursors, are essentially aligned with or less restrictive than the general thresholds in force in the EU's POPs Regulation (2019/1021) and the EU's [Regulation on the registration, evaluation, authorisation and restriction of chemicals \(REACH\)](#), when applied to finished products. However, they are more restrictive than those in the EU for certain key fluoropolymers applications and for the recycling of material containing PFOA, its salts and precursors. For PFOS, its salts and precursors, the proposed concentration threshold of 1 ppm is not aligned with those in force in the EU [under the EU's POP regulation]. Therefore, 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 disrupting the supply of certain products to Canada and creating a disadvantage for Canadian companies on the recycling market. Further consultations for future amendments will help better inform the inclusion of concentration limits for the incidental presence of these substances.

DBDPE and DP

No specific concentration thresholds for the incidental presence of DBDPE or DP were proposed in Schedule 3 of the proposed Regulations.

3. The following provides a summary of comments related to “*Alternatives to DBDPE/DP require further review and certainty for global manufacturers*” as provided in your Notice of Objection and the analysis of the information you have provided:

3A. 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. Furthermore, you indicated that complex trade-offs between the performance of the proposed materials and other regulatory requirements need to be considered when assessing the performance of potential alternative flame retardants have concerns with the ability of the supply chain to phase out DBDPE and DP within the proposed timelines.

DBDPE

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

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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.

DP

In addition to the comments for DP 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, new exemptions for DP in additional product and part categories will be included, and references to specific types of parts containing DP will be removed in the 2025 Regulations. The new exemptions for additional product categories will address the global supply chain concerns you raised by aligning with the exemptions adopted at the (SC COP-11), held from May 1 to 12, 2023, where DP was listed to Annex A (elimination). However, it is noted that the exemption for EEE parts and replacement parts in the 2025 Regulations is broader than the equivalent EEE exemptions under the Stockholm Convention for DP. Removing the references to specific types of parts that contain DP in the exemptions will help to reduce 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.

3B. In your Notice of Objection, you commented that DP and DBDPE are used as flame retardants to meet critical flammability standards and safety requirements in products such as appliances and their replacement parts,

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. You further commented that DBDPE was used as a substitute to support the global phase-out of decaBDE.

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

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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.

Please refer to the response to point 3A (above) respecting the extended timeline for, and broadened scope of the DBDPE exemptions and DP exemptions.

3C. In your Notice of Objection, you noted that there is no prohibition of DBDPE in other world-wide jurisdictions and that international alignment on risk management for DP and DBDPE is needed to avoid unintended impacts in Canada. Furthermore, you commented that DBDPE is not restricted by the EU RoHS Directive.

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.

DP

At the [eleventh meeting of the Conference of the Parties to the Stockholm Convention](#) (SC COP-11), held from 1 - 12 May 2023, DP was listed to Annex A (elimination) with specific time-limited exemptions for use in aerospace, space and defence applications; medical imaging and radiotherapy devices and installations; and in replacement parts for and repair of articles in applications such as aerospace, motor vehicles, stationary industrial machines, etc. The 2025 Regulations are closely aligned with the specific time-limited exemptions provided for DP in the Stockholm Convention listing; however, the exemption for EEE parts and replacement parts under the 2025 Regulations is broader than the equivalent EEE exemptions under the Stockholm Convention for DP.

The European Union has identified DP as very persistent and very bioaccumulative and recently published a [proposal to restrict the manufacture, use and sale of DP](#) (whether alone as a substance, in a mixture or in an article).

DBDPE

DBDPE is not restricted by the EU RoHS Directive; however, in March 2023, the European Union (EU), under the [European Chemicals Agency \(ECHA\)](#) published

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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 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 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](#).

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

4. The following provides a summary of comments related to “Uncertainty and misalignment should be avoided” as provided in your Notice of Objection and the analysis of the information you have provided:

In your Notice of Objection, you provided comments highlighting that supply chain challenges, inflation, changes to energy testing certifications requiring reengineering and redesign of energy using equipment, in conjunction with the concurrent proposal to ban an already approved alternative substance to decaBDE requires a thoughtful alignment and certainty to enable the global supply base to react efficiently.

Environment and Climate Change Canada does not specify which alternatives industry should transition to. It is contingent upon industry to identify and transition to appropriate alternatives. The Government of Canada is working to

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support industry and stakeholders in their transition to safer alternatives. Specifically for flame retardants, the Government of Canada has published a [summary of flame retardant assessments and management conducted under the Canadian Environmental Protection Act, 1999](#).

DBDPE

Please refer to the response to point 3A (above) respecting the extended timeline for, and broadened scope of the DBDPE exemptions.

DP

Please refer to the response to point 3A (above) respecting the additional product and part categories for the DP exemptions.