



July 11, 2022

The Honourable Steven Guilbeault, PC, MP
Minister of Environment and Climate Change
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

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:

Whirlpool generally supports the regulatory proposal published in Canada's Gazette on May 14, 2022, that includes certain provisions for appliances and their replacement parts that may provide an overall timeline for us to transition our products within North America. The purpose of this letter is to express our formal objection to two specific areas of concern of the above-referenced regulatory proposal. As provided for by section 332(2) of CEPA 1999, Whirlpool is filing this Notice of Objection and respectfully request that a Board of Review be established, pursuant to section 333 of CEPA 1999, to address our specific concerns listed below.

1. 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. Our company is concerned this misalignment will further deleverage the global supply base and entrench more uncertainty and inconsistency of supply of critical electrical and electronic parts and components for products sold in Canada.
2. Whirlpool seeks a review of approved alternative substances to DBDPE/DP. The review should investigate the global commercial availability, technical performance, drop-in capabilities and confirm global regulatory alignment on long-term approved use of these alternative substances in consumer products. We noted that Environment and Climate Change Canada (ECCC) validated our concerns in the Gazette notification with the following statement:

"Alternative products containing compliant substances exist for most substances; however, the availability of alternatives remains unknown for products containing DP and DBDPE. Therefore, parties subject to the proposed Regulations may choose to cease manufacturing, using, selling, and importing non-compliant substances and products and replace them with compliant substances and products, which may be more expensive."

Our ability to transition away from the substances in the notice (especially DBDPE/DP efficiently) within the timelines and exceptions detailed in the Gazette notice are severely constrained with this level of uncertainty regarding DBDPE/DP alternatives.

In general, Whirlpool supports the comments submitted under separate cover by the Association of Home Appliance Manufacturers (AHAM), The American Chemistry Council (ACC), the North American Flame Retardant Alliance (NAFRA) and the Canadian Chamber of Commerce.

Concentration thresholds are not aligned with International and CUSMA/USMCA trading partners

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) 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 EU's RoHS requires electrical and electronic products to contain less than 1,000 ppm or 0.1% of PBDEs. Although five PBDEs are listed as POPs by the Stockholm Convention, all of them still have some specific exemptions on a time-limited basis further illustrating the complexity in finding alternatives for some substances. The United States (US) EPA is also considering additional risk management measures for decaBDE, with a proposal for a new rulemaking expected in the spring of 2023.

We recommend that any risk management measures for the substances, especially DBDPE/DP need to align with other national and international regulatory bodies and international trade agreements to avoid any potential unintended consequences that could negatively affect Canadian consumers and businesses operating in Canada.

Alternatives to DBDPE/DP require further review and certainty for global manufacturers

Significant efforts have been undertaken by Whirlpool, its suppliers, and raw material suppliers to understand the performance of potential substitutes relative to components and assemblies currently utilizing DBDPE/DP. In fact, trade-offs between the performance of the proposed materials and other regulatory requirements are extremely complex. As a company, we must accommodate for North American safety standards, internal safety requirements as well as for other regulatory authority material compliance limitations and sustained commercial availability of the alternative solutions. [REDACTED]

[REDACTED] Based on the development work done to-date, Whirlpool and its suppliers remain concerned with the ability to phase out DBDPE/DP within the parameters of the proposed regulation and prescribed period outlined by ECCC. We believe that once reasonable solutions have been put forward, it will add confidence to more fully assess a timeline that can be confirmed by the entire supply chain.

Our process

Whirlpool is constantly advancing the capabilities of its Materials Management Process. The global Critical Materials Management (CMM) team coordinates and monitors our Restricted Material List (RML). Furthermore, suppliers have to adhere to our RML and report on banned, restricted and monitored substances of concern. The RML is woven into all in-scope supplier contracts and parts approval processes and is updated annually to reflect new regulations and customer requirements. We are expanding and improving the capabilities of this framework across the company. More details on our initial rollout in Europe can be found in our [2021 Sustainability Report](#).

Whirlpool formed a project team to conduct an extensive review of our use of the proposed list of substances in cooperation with our global supply base in response to ECCC's original proposal and consultations prior to the publication in Gazette 1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DBDPE is a widely used alternative for decaBDE. We emphasize that DBDPE is not restricted by RoHS in the EU. While it is considered a substance of extremely high concern under EU REACH, its use is allowed by every other industrialized country because it performs a valuable and essential function by reducing the flammability of the products. In the absence of alternatives, the proposed prohibitions pose challenges for the global supply base and could impede our ability to design, reengineer, test and certify our products efficiently and cost effectively for the Canadian market.

Uncertainty and misalignment should be avoided

The ongoing repercussions of the COVID-19 pandemic and other geopolitical and macroeconomic disruptions continue to negatively impact a recovering global supply chain. We are experiencing unprecedented, accelerated, and noticeable levels of inflation notably within the areas of raw materials, energy and planning. We are also amid an unprecedented number of proposed changes to US and Canada energy test procedures, efficiency standards and ENERGY STAR® certified product levels. All these proposed changes will require reengineering and redesign of the majority of energy-using equipment entering the North American market between late 2025 -2027¹. Thus, ECCC's proposal to ban an already approved alternative substance to decaBDE by its other G7/20 partners concurrently during this period requires a thoughtful alignment and certainty to enable the global supply base to react efficiently. We respectfully request that a Board of Review undertake to provide the highest level of consideration for the misalignment and uncertainty we have detailed in our comments.

Respectfully submitted,

Whirlpool Canada LP

¹ Canada - Amendment [17](#), 18, 19 USA - U.S. DOE rulemaking [schedule](#), U.S/CAD ENERGY [STAR](#)

ABOUT WHIRLPOOL

Whirlpool's history of operations in Canada dates back over 150 years. Whirlpool is the home appliance leader in Canada with approximately \$1 billion in revenue. We have 230 employees with an annual payroll of \$25 million and are headquartered in Mississauga ON. We have warehouse facilities across North America with a 754,000 sq. ft. warehouse in Milton ON and a 425,000 sq. ft. warehouse in Rock View County, Alberta. We purchase approximately \$110 million in Canadian services per year. We supply 1,100 retailers in over 3,500 locations across Canada. We have 1,150 authorized technicians and 525 service companies performing over 230,000 consumer repairs per year.



ABOUT WHIRLPOOL CORPORATION

Whirlpool Corporation (NYSE: WHR) is committed to being the best global kitchen and laundry company, in constant pursuit of improving life at home. In an increasingly digital world, the company is driving purposeful innovation to meet the evolving needs of consumers through its iconic brand portfolio, including *Whirlpool*, *KitchenAid*, *Maytag*, *Consul*, *Brastemp*, *Amana*, *Bauknecht*, *JennAir*, *Indesit* and *Yummly*. In 2021, the company reported approximately \$22 billion in annual sales, 69,000 employees and fifty-four manufacturing and technology research centers. Additional information about the company can be found at [WhirlpoolCorp.com](https://www.whirlpoolcorp.com).