

August 5, 2016

Secretary, Canadian Section
International Joint Commission
234 Laurier Avenue West, 22nd Floor
Ottawa, Ontario
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Canada

Transmission by email: Commission@ottawa.ijc.org

Dear Secretary,

Re: The International Joint Commission Water Quality Board Report on Polybrominated Diphenyl Ethers (PBDEs) in the Great Lakes

The Canadian Environmental Law Association (CELA) is writing to commend the work of the International Joint Commission's Water Quality Board (IJC WQB) in the release of its report and recommendations on Polybrominated Diphenyl Ethers (PBDEs) in the Great Lakes. CELA expresses its support for the five recommendations outlined for binational efforts to address growing concerns associated with PBDEs in the Great Lakes.

The IJC WQB report together with the technical report (Appendix A), *Polybrominated Diphenyl Ethers in the Great Lakes: Final Report* (October 30, 2015) submitted by Duncan Bury Consulting effectively outline the environmental and health impacts associated with PBDEs in the Great Lakes and reaffirm the measures necessary for the governments of Canada and the US to achieve reductions in levels of PBDEs in the Great Lakes. In particular, the technical report effectively articulates the evidence demonstrating that PBDEs are toxic and persistent and that they bioaccumulate in the Great Lakes basin. It is particularly important to highlight health impacts associated with PBDEs including a range of chronic effects such as endocrine disruption, cancer, and developmental neurotoxicity that can undermine brain development in children. US and Canadian monitoring programs have demonstrated detectable levels and show the extent of exposure to specific PBDE congeners in the human population

The IJC WQB report represents an essential contribution to the binational work necessary to achieve the goals of the Great Lakes Water Quality Agreement and, more specifically, to address PBDEs as a chemical of mutual concern under Annex 3 of the GLWQA, confirmed by US and Canada in May 2016.

While we support the full list of recommendations, we provide herein brief comments on the following issues in support of the recommendations:

Consideration of lifecycle approach to PBDEs necessary to stop its impact on the environment

In totality, the recommendations set out by the IJC WQB report recognizes the importance of addressing potential sources of PBDEs throughout their lifecycle from consideration of use in design and manufacturing of products through to potential impacts at end of life including methods to dispose or manage products that may contain PBDEs. The recommendations set out in Recommendations 2 and 3 emphasize the need for greater attention to how PBDEs are released from products and processes throughout the lifecycle of these chemicals.

Importance of Extended Producer Responsibility Regime

Recommendation 3B highlights the need for Extended Producer Responsibility programs. This recommendation provides a significant opportunity for the US and Canadian governments to shift away from use of PBDEs in key products (e.g. electronics, appliances, carpets, construction material, and renovation waste). It appropriately focuses on the need for industry to take greater responsibility for their products and ensure that recycling programs and disposal methods associated with their products do not result in on-going release and use of PBDEs.

It is particularly important to highlight the increasing global concerns associated with recycling of products containing toxic chemicals including PBDEs, notably through the Stockholm Convention on Persistent Organic Pollutants. Developing effective EPR programs has the potential to address concerns associated with recycling of products containing PBDEs and the potential re-release of PBDEs from finished products relying on recycled material.

Full Regulatory measures to address PBDEs unrealized

We are pleased with Recommendation 2, which recognizes that the two governments' approach to manage PBDEs currently relies on both voluntary and regulatory measures and are not focused specifically on the protection of the Great Lakes. In Canada, the long delay in regulating PBDEs in products, despite a government commitment, is a significant barrier to adequately addressing PBDEs in the Great Lakes basin. Substantial binational work to ensure the regulatory regime on PBDEs provides full protection across the Great Lakes basin is necessary.

Implementation of Informed Substitution through Alternatives Assessment

Recommendations 4A and 4B will advance efforts to find and assess safe substitutes for PBDEs. A requirement to assess potential substitutes to PBDEs should include non-chemical alternatives to PBDEs. Despite the move away from use of PBDEs, triggered, in part, from the regulatory measures taken in North America, some industries continue to rely on other chemical flame retardants as alternatives to PBDEs. To address the on-going problems associated with PBDEs and avoid situations where the chemical flame retardant substitutes themselves are found to be toxic, greater attention should be given to investigating non-chemical alternatives to PBDEs.

This approach may require greater attention be given to the use and design of products and careful consideration of flammability requirements. Furniture manufacturers have indicated that use of PBDEs and other chemical flame retardants can be avoided while continuing to meet fire safety requirements. We are pleased to see these items in the WQB's recommendations.

Annex 3 (Chemicals of Mutual Concern) under GLWQA

CELA has extensive experience in promoting virtual elimination of persistent toxic chemicals in the Great Lakes and is a current member of the Extended Subcommittee of Annex 3 (Chemicals of Mutual Concern) under the GLWQA. The workplan to address PBDEs as chemicals of mutual concern under Annex 3 is not expected to be completed until 2019. However, the WQB report and the technical report (Appendix A) together build on the evaluation completed by the Identification Task Team on PBDEs in 2015. These documents provide a comprehensive inventory of the current regulatory and non regulatory measures taken on PBDEs in the Great Lakes. Therefore, CELA urges the Parties to adopt the recommendations set out in the WQB report and advance the development of a binational action plan on PBDEs in the Great Lakes as soon as possible.

We look forward to future efforts that advance the IJC WQB recommendations on PBDEs in the Great Lakes.

If you have questions, please do not hesitate to contact me at 416-960-2284 ext 7223.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Fe de Leon, MPH
Researcher