

Konrad Jackson

From: Lauren Heine [lauren@cleanproduction.org]
Sent: Monday, March 14, 2011 8:02 PM
To: Mike Coumbe; Konrad Jackson
Subject: Clarifying information on phase out of PBDEs vs products containing PBDEs

Follow Up Flag: FollowUp
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This is from the USEPA Action Plan and I think is very clear: **MY COMMENTS IN RED**
I WOULD BE GRATEFUL IF YOU WOULD MAKE SURE THAT REPRESENTATIVE HOLMES AND THE REST OF THE COMMITTEE GET THIS CLARIFYING INFORMATION
EPA'S POTENTIAL REGULATORY ACTION WOULD APPLY TO SIGNIFICANT NEW USES ONLY (SNUR) AND NOT FOR EXISTING PRODUCTS/ARTICLES. THE AK LEGISLATION WOULD KEEP PBDES OUT OF PRODUCTS SOLD IN AK. EPA IS ADDRESSING THE MANUFACTURE OF THE FLAME RETARDANT; STATES (EG MAINE AND WA) ARE ADDRESSING THE IMPORT OF THE CHEMICAL IN PRODUCTS AND ARTICLES. THE FEDERAL WORK DOES NOT ADDRESS PBDES IN PRODUCTS UNLESS IT IS FOR A COMPLETELY NEW APPLICATION THAT HAS NOT BEEN SEEN BEFORE. THEN THE MANUFACTURER WOULD HAVE TO DO TESTING ON THE CHEMICAL.

See: http://www.epa.gov/opptintr/existingchemicals/pubs/pbdes_ap_2009_1230_final.pdf (bottom of p 9 and top of p 10)

PentaBDE and OctaBDE

c-PentaBDE and c-octaBDE are no longer produced or imported in the United States. The sole domestic producer, Great Lakes Chemical (now Chemtura), voluntarily terminated their production in 2004. In 2006, EPA issued a SNUR (74 FR 34015, June 13, 2006) that requires anyone who intends to manufacture or import any of the PBDE congeners found in c-pentaBDE and c-octaBDE to notify the Agency at least 90 days in advance. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit the activity before it occurs. **(THIS IS FOR NEW USES ONLY) However, the SNUR did not address the import of articles containing penta- or octa-BDEs. (THIS DOES NOT AFFECT PRODUCTS MANUFACTURED ELSEWHERE CONTAINING PBDES; THEREFORE A BAN IN AK WOULD PREVENT THE IMPORT OF PRODUCTS CONTAINING PBDES THAT IS NOT COVERED BY PHASING OUT THE MANUFACTURE OF THE CHEMICALS THEMSELVES)**

Several states including California, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, New York, Rhode Island, Oregon and Washington have banned c-pentaBDE and c-octaBDE.

AND ON P 10

DecaBDE

In the United States, decaBDE remains available for all uses and no federal action has been taken to restrict its use. DecaBDE was included in OPPT's Voluntary Children's Chemical Evaluation program (VCCEP) which identified a number of environmental fate testing needs. The c-decaBDE manufacturers did not adequately address these testing needs within VCCEP. Consequently, EPA announced its intention to proceed with a test rule under TSCA section 4.

The principal manufacturers and importer of c-decaBDE have committed to phase out the manufacture, import and sales of c-decaBDE starting in 2010. Ordinary production, import and sales of c-decaBDE would cease no later than December 31, 2012. Certain uses such as transportation uses or military applications may require an additional year to phase out. In any case the companies would cease sales for these uses no later than December 31, 2013. EPA intends to encourage other importers of c-decaBDE to join this effort. **The commitment under discussion would not affect articles made with decaBDE.** Recycling of materials containing decaBDE would also not be affected by the commitment.

Washington State banned the use of decaBDE in mattresses as of January 2008, and starting in January 2011, decaBDE will be prohibited from use in televisions, computers and upholstered furniture. Maine also banned decaBDE in mattresses and upholstered furniture as of January 2008 and will extend that ban to televisions and other plastic encased electronics by January 2010. Washington State and Maine conducted studies which concluded that adequate substitutes for decaBDE exist. Other states, such as Maryland and Oregon, have introduced similar legislation to ban the sale of products containing this flame retardant (Buckley, 2009).

(IT WOULD BE THE SAME SITUATION. ARTICLES MADE WITH DECA WOULD NOT BE PHASED OUT - JUST THE MANUFACTURE OF THE CHEMICAL IN THE US)

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