

Prepared statement for meeting with the Office of Management and Budget

February 2nd 2012

My name is Marshall Moore. I am Director of Technology and Advocacy for Great Lakes Solutions, a business within Chemtura Corporation. I am responsible for leading Research and Development of new flame retardant technologies and Brominated performance products, and for government relations pertaining to regulation of flame retardant products.

I would like to thank the OMB for granting me this opportunity to share our perspectives and concerns regarding the delay in EPA's proposed Significant New Use Rule titled: "Certain Polybrominated Diphenyl Ethers; Significant New Use Rule (SNUR) and Test Rule". The prolonged review of this proposed new rule has already and continues to hinder our company's ability to convert applications away from the current commercial Decabromodiphenyl ether to newer and improved FRs. This delay is hurting American plastics companies that want to transition to DecaBDE alternatives and helping producers and users of DecaBDE in China and elsewhere.

Before going into the details about proposed new rule, I would first like to tell you a bit about the company I represent. Chemtura Corporation is a US-based global specialty chemicals company with leading positions in diversified markets. We build the chemistry that makes other products more durable, safer, cleaner and more efficient. Major industries served include agriculture, building & construction, electrical & electronics, consumer, and transportation.

With a global headquarters in Philadelphia, Pennsylvania, USA, we employ over 4000 people worldwide, manufacturing our products in 31 countries and selling them in over 100 countries. Within the United States, we have manufacturing, research or business facilities in Alabama, Arkansas, California, Connecticut, Georgia, Illinois, Indiana, Louisiana, Michigan, New Jersey, North Carolina, Pennsylvania, and West Virginia.

Great Lakes Solutions, headquartered in West Lafayette, Indiana, has approximately 550 employees in R&D, business management, sales and manufacturing. We are the flame

retardants, brominated performance products and fumigants business of Chemtura – providing materials and services for use in electronics, electrical, building and construction, fine chemicals, agriculture, power generation, transportation, water treatment, oil refining and more. Our primary US manufacturing facility in Eldorado Arkansas provides jobs for 450 people and indirectly adds another 1500 jobs to the local economy in this region of southern Arkansas. At this facility we convert natural resources into high value products, much of which are exported for sale in Asian and European markets, resulting in a positive trade balance on the order of hundreds of millions of dollars.

Great Lakes Solution has a proven track record of Greener Innovation in flame retardants. To us Greener Innovation means continually developing and introducing products with characteristics which reduce potential environmental impact while maintaining the same or improved fire safety performance. We embrace the principals of green chemistry and engineering, and seek to design products which have reduced hazard profiles.

As described in the abstract of EPA proposed rule, the Great Lakes Chemical Corporation, predecessor to Great Lakes Solutions, voluntarily phased out Pentabromodiphenyl ether in 2004. In the years leading to this voluntary action, concern had developed at EPA over the persistence and bioaccumulation potential PentaBDE. Although the detected levels of PentaBDE in the environment is orders of magnitude below levels that would be considered a risk to human health and the environment, we proactively developed new, greener, products and withdrew our commercial PentaBDE from the marketplace. Subsequently, in 2006 EPA promulgated a SNUR designating manufacture or import of PentaBDE a significant new use. This deterred other potential suppliers from backfilling the void with PentaBDE from other sources. This is an example of proactive cooperation between US industry and EPA which should be encouraged.

In December 2009, Chemtura made another commitment to EPA to voluntarily phase out the sale of Decabromodiphenyl Ether, aka DecaBDE. This commitment was made after considering the potential impact on our customer and our company and with a commitment to introduce

an innovative new alternative to DecaBDE to help fill the gap from the phase out of the production and sale of DecaBDE.

The decision to join in EPA's voluntary DecaBDE phase-out program was made after extended discussions with EPA about potential future regulations on DecaBDE, which were subsequently described in EPA's proposed Chemical Action Plan on PBDEs published on Dec. 30, 2009. Within that action plan EPA stated its' intent to initiate rulemaking to propose a significant new use rule (SNUR) requiring notice to the Agency prior to the manufacture or import of new uses of DecaBDE or articles containing DecaBDE.

Great Lakes Solutions has met our targets for annual reductions in both production and sales of DecaBDE and we are working closely with our customers to replace it with a new, more sustainable product, our own Emerald® 1000.

Based on our discussions with customers and our own look at import statistics, it is clear that while the US producers of DecaBDE have been diligent in meeting their commitments to both reduce the amount of DecaBDE and introduce alternatives, Asian suppliers and users of DecaBDE have not made any significant adjustments in the availability of DecaBDE to the US or in products sold to the US.

Commercialization of improved FR technologies, produced in US manufacturing facilities, by America workers has required a major investment by Chemtura Corporation. Likewise participants of the voluntary phase-out program have announced their own DecaBDE alternatives. So in a situation where there is resistance to change, combined with the availability of material from overseas, US producers of DecaBDE are being disadvantaged by their voluntary phase out commitment to the EPA.

For our US industry to live up to their commitments and continue to act proactively regarding the phase out of DecaBDE, it is equally important that the EPA be allowed to live up to their commitment and take regulatory action. Failure to do so penalizes companies that are striving to cooperate with EPA and rewards those are not. It also decelerates, rather than accelerates



the transition from old technology, to newer, more sustainable alternatives. In tough economic times, we need more creativity and more incentives for innovation to be successful.

This brings me to the proposed SNUR currently being considered by OMB.

The proposed new rule was to be published in 2010, but has been delayed due to an extended review at OMB. As we have indicated OMB's prolonged review of this proposed rule is having an immediate significant negative impact on US industry by allowing foreign producers to replace the demand for DecaBDE which was previously supplied by US producers. This not only has a negative impact on US producers of flame retardants, but also on downstream producers of plastics and articles produced in the US which contain DecaBDE.

DecaBDE has been widely used in electronics, textile, transportation, and building materials. We are aware that the OMB has been approached by some industry representative stating that the timeline of the phase-out program is not sufficient to allow for re-engineering of parts which contain DecaBDE. We understand the perspective of manufacturers who seek extra time to implement changes in their supply chain, but delaying the publication of the proposed SNUR is not the right way to address their concerns, nor is it necessary to ensure that they will have sufficient supply of DecaBDE during reformulation of materials containing DecaBDE.

I can offer the OMB at least three reasons to release the proposed rule for publication:

- 1) Delaying publication of the proposed SNUR only delays resolution of the concerns of downstream industries having critical uses. As the OMB is aware, the publication of the proposed SNUR is the beginning of the public comment period. During this period all segments of the supply chain can raise their issues with the EPA and other stakeholders and allow for development of a rule that addresses legitimate concerns.
- 2) The quantity of DecaBDE required for production of parts for the most critical transportation applications, such aircraft, other public transportation vehicles, is small compared to the overall supply of DecaBDE. For the remainder of 2012, and throughout 2013 for transportation applications, sufficient supplies of DecaBDE exist to allow manufacturers of small, critical uses to procure and store enough DecaBDE

to allow for continued production of critical parts for a number of years. This will allow for time to re-engineer and test critical parts without requiring continued production of DecaBDE or use in applications which can be converted within the timing of the phase-out.

- 3) As stated earlier, continued delay in the rule making procedures leaves the door to a dramatic increase in the importation of DecaBDE produced in foreign countries. If foreign producers (mainly from China), are allowed to replace the supply of DecaBDE previously supplied by US producers, the objectives of EPA to remove DecaBDE from US commerce will fail, and the conversion of applications to innovative, greener new products, will stall. Ultimately, delaying implementation of the SNUR – the last step in EPA’s DecaBDE phase out plan - will provide foreign producers the opportunity to fill the void and will result in a further shift in the trade balance with China, and jeopardize US jobs.

Some downstream users have called for us to re-consider our phase out commitment. But this is an option that we do not want to consider at this time. We made a commitment to EPA and we stick by our commitments. We expect our government to do the same, and to no disadvantage US industry.

Thank you for your time and attention. I ask that you carefully consider these perspectives, and allow EPA to issue the proposed SNUR for public comment as soon as possible.

