

iGPS – OIRA Meeting Proposed Amendments to TSCA Section 6 “PBT” Regulation for DecaBDE



**Importance of Retaining Exclusion for Shipping Pallets
and Articles Containing Recycled Content and Why
Labeling Shipping Pallets is Impracticable and
Discourages Recycling Efforts**

August 22, 2024

Agenda

- Brief Introductions
- Meeting objectives
 - Explaining iGPS shipping pallets history and sustainability practices
 - Making clear significance of current exclusions and exemptions for iGPS and its recycling efforts
 - Detailing impracticalities of labeling pallets and inherent unfairness
- Background on iGPS pallets and sustainability model
- History of cooperative engagement by iGPS with EPA on decaBDE
- Importance of preserving critical terms of the current regulation affecting recycling
- Impracticability of the labeling feature of the Agency's proposal
- Further Discussion; Response to Questions

Background on iGPS

- Founded in 2007, iGPS operates the world's first and largest plastic shipping pallet rental service.
- iGPS customers include some of nation's most environmentally conscious manufacturers/retailers
- iGPS does not manufacture decaBDE; rather, from 2007-2012 it purchased custom-designed pallets that contained decaBDE in order to meet state fire safety regulations.
- iGPS has been recycling damaged pallets into “new” pallets since 2007, adding no additional decaBDE in the process.
 - Recovering plastic resin through recycling damaged pallets is core to iGPS' business model.
 - iGPS pallet recycling is done at a limited number of locations.
 - Recently the Company began self-manufacturing pallets using “virgin” HDPE; no decaBDE (and no other brominated flame retardant) is added to these pallets.
- Information concerning pallet attributes, sustainability of plastic pallets, and supply chain costs savings have been provided to EPA personnel, and can be provided to OIRA upon request (<https://igps.net/>)

iGPS has Actively Engaged with the Agency

- iGPS has been constructively engaged with EPA on decaBDE for more than a decade.
 - Engagement dates back to EPA's proposed SNUR for decaBDE in 2012.
 - iGPS supported EPA's voluntary agreement with decaBDE manufacturers to phase out US production and import of decaBDE by the end of 2013.
 - As part of that understanding, EPA committed not to prohibit the use of existing articles containing decaBDE or the recycling of such articles.
 - iGPS participated in Agency's "Design for the Environment" alternatives assessment for decaBDE.
- iGPS has supported decaBDE phase-down initiatives, consistently met with OPPT personnel, provided information and data pertinent to EPA's efforts.
 - iGPS has submitted comments prior to and during the TSCA 6(h) PBT rulemaking and EPA's reconsideration and rule amendment efforts;
 - We have provided to EPA: pallet use and lifecycle analysis, third-party studies showing pallet use does not release material amounts of decaBDE, a detailed presentation depicting iGPS's recycling operations, and data concerning the prohibitive costs associated with proposed labeling requirements and for laboratory testing for decaBDE content in recycled pallets.

iGPS Supports Retention of Essential Provisions of 2021 Final Rule

- iGPS advocates that OPPT retain and preserve the provisions of the January 2021 final rule that permit:
 - the responsible use and reuse of previously-manufactured articles (including shipping pallets) that contain decaBDE;
 - the recycling of such articles;
 - and the production, distribution, and unincumbered movements of articles that contain decaBDE solely due to the presence of recycled content (i.e., when no new decaBDE is added during recycling).
 - Doing so is consistent with long standing Agency policies, the Administration's National Recycling Goals, and uphold commitments made in EPA's 2009 DecaBDE Phase-Out Agreement, as well as the standards of 2016 amendments to TSCA related to the regulation of articles under Section 6 of the Act.
- Encouraging recycling practices extends the useful life of decaBDE-containing articles; keeping decaBDE out of landfills and the environment.
- Any final rule must be clear that it does not interfere with the unfettered movement of shipping pallets in commerce which is a requirement of the UN's Customs Convention on Containers of which the US and its North American neighbors are signatories.
https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-A-15&chapter=11&clang=en.

iGPS view of EPA's Proposed Amendments to decaBDE Rule

- Proposal to Prohibit Releases to Water
 - iGPS supports this requirement; no processes in iGPS's pallet recycling operations result in discharges of decaBDE-containing water to surface waters.
- Requirement to Implement Specific PPE
 - iGPS supports the use of personal protective equipment during recycling operations involving decaBDE.
 - However, the PPE proposal appears only to apply to iGPS' recycling operations. Fairness requires EPA to apply this provision to all facilities performing recycling operations involving plastic articles, or remove the requirement entirely from any final rule.
 - If iGPS pallet recycling operations become the only recycling operations in the US required to use PPE, the recordkeeping and associated documentation requirements should be streamlined and less burdensome.

iGPS Strongly Opposes Proposed Labeling Requirement for Plastic Pallets

- The labeling proposal (if codified) would unfairly pertain only to iGPS shipping pallets that contain decaBDE, and no other articles in US commerce that might contain decaBDE.
 - Countless everyday articles containing decaBDE and are recycled, including those currently present in homes and workplaces; yet the proposed labeling requirement only applies to plastic shipping pallets.
 - No information in rulemaking record supports singling out plastic shipping pallets; data supplied by iGPS show no material quantiles of decaBDE are released during typical use and treatment.
 - iGPS pallets that contain decaBDE are physically indistinguishable to those that do not contain it; requiring iGPS to test all pallets in its fleet to determine which would require labeling.
- Requiring a “Contains DecaBDE” warning label for the millions of iGPS pallets in circulation would be harmful to iGPS’ environmentally sustainable business operation.
 - This would significantly disadvantage iGPS pallets when compared to other companies’ pallets.
 - Labeling requirement would not serve proposal’s stated purpose (to advise iGPS pallet recycling workers of presence of decaBDE in pallets).
 - Informing recycling workers of the presence of decaBDE, and to use PPE is better achieved through sound workplace practices (e.g., signage, training, etc.), more practical, and effective.
 - Such labeling would significantly discourage use by iGPS customers, retailers, and inappropriately concern consumers observing pallets in “big box” store environments.

Labeling Requirement is Premised on Mistaken Assumptions

- The proposed label requirement is not practicable because it is based on an inaccurate assumption concerning iGPS business operations.
 - The preamble states, “EPA understands that the company typically attaches a label when it has possession of a plastic pallet in its inventory (i.e., after a pallet is returned from being rented out) as part of normal business practice.” This is incorrect.
 - A bar code attached to pallets when initially molded becomes quickly damaged by forklifts, goods, and other objects contacting pallets during use and are not replaced; iGPS does not re-attach or repair bar codes because it is highly impractical and unnecessary.
- Pallet labeling proposed by EPA is impractical given iGPS’s business operations.
 - Pallet labeling is infeasible because fewer than 20% of the millions of iGPS pallets in circulation will pass through an iGPS-operated facility during the calendar year; such facilities do not engage in labeling or relabeling pallets that pass through.
 - Proposed labeling would impose millions of dollars in costs on iGPS and were substantially underestimated in EPA’s economic assessment of the proposal in the rulemaking docket. iGPS has provided to EPA calculations reflecting the Company’s estimate of the costs to implement a labeling requirement such as the one proposed. These data have been provided to EPA during meetings and in written comments and we hope they will be taken into account before the rule is issued in final form.

Effects of Routine Handling on Adhesive Bar Codes on iGPS Pallets at Retail



Summary and Opportunity for Questions / Comments

- iGPS's pallet fleet is managed using an environmentally-sustainable business model
- Since its inception, iGPS has reused, reclaimed, and recycled its pallets to ensure they remain in commerce and not in landfills or other forms of waste
- iGPS's practices are thoroughly aligned with EPA's national recycling policies and its long-standing "pollution prevention" goals
- The Final rule should continue to retain existing provisions that specifically support and enable the continued reuse, recycling, and redistribution of iGPS pallets
- iGPS supports and agrees that a final rule prohibiting releases of decaBDE to water is feasible
- iGPS supports providing recycling workers with PPE that is commonly used
- However, labeling iGPS pallets to warn of decaBDE content is not feasible, is unfair and impractical
- Labeling requirements will impair iGPS operations, impose costs for which EPA has not accounted, and unfairly disadvantage its pallets in a highly competitive market

Thank You for Your Time

