

USA WTO TBT Enquiry Point, National Institute of Standards and Technology (NIST)

These comments are submitted on behalf of P.R. China regarding the "Proposed Rule of Safer Products Restrictions and Reporting of the state of Washington", notified by the United States under the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT Agreement) as G/TBT/N/USA/1958.

ZHAOMINGGANG

China WTO/TBT National Notification & Enquiry Center

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Subject: Comments from P. R. China on USA Notification G/TBT/N/USA/1958 Safer Products Restrictions and Reporting	

Comments from P. R. China on USA Notification

G/TBT/N/USA/1958

Safer Products Restrictions and Reporting

Dear Sir or Madam,

We appreciate the opportunity to submit comments on the notified draft proposed by United States of America.

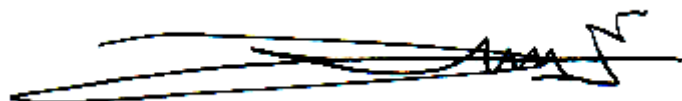
Enclosed please find comments in English and Chinese.

Please acknowledge receipt of the comments by e-mail to tbt@customs.gov.cn.

Thank you very much in advance for United States of America taking into account comments from P.R. China. Your formal reply will be appreciated.

Best regards,

Zhao Minggang



Deputy Director General

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Comments from P. R. China on USA Notification

G/TBT/N/USA/1958

Safer Products Restrictions and Reporting

The People's Republic of China appreciates United States of America for fulfilling the transparency obligation under WTO, as well as for the opportunities for other WTO Members to make comments on the notification G/TBT/N/USA/1958. According to Article 2.9.4 of the WTO/TBT Agreement "without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account", China would like to put forward the following comments on the notified regulations and hope United States of America take these comments into consideration. The detail comments as follows:

1. China suggests US should not control OFRs as a family. US should specify which OFR subgroup to be restricted based on scientific assessment not only in hazard but also in technical feasibility of alternatives as well as impacts on the industry. Below are the reasons:

There are totally over 100 types of OFRs, and no more than 10 types are restricted currently. US National Academies of Sciences, Engineering and Medicine (NASEM) released a study report in 2019, pointing out that OFRs used in consumer products cannot be made hazardous assessment as a single group; instead they should be sorted into 14 subgroups based on chemical structure, physicochemical properties, and predicted biologic activity, and then they should be assessed not only in hazard but also in technical feasibility of alternatives as well as impacts on the industry. Thus, to avoid unnecessary barrier to trade, it is not desirable to conduct "one size fits all" control over OFRs without sufficient science-based assessment; instead, subgroup-based control should be adopted.

2. China suggests that US should grant exemption to those EEE products which do not have alternatives to OFRs temporarily. Below are the reasons:

Restricting the use of OFRs is aimed to achieve "Safer Products". Although in some instances there might be alternatives to some sub-groups of OFRs for use in indoor EEE casings, alternatives are not always available. If product manufacturers are forced to use alternatives not well proven, it will undermine fireproof performance of the indoor EEE products and jeopardize consumers' life and property. From the perspective of circular economy, on the other hand, the plastics with OFRs actually has its unique advantage in recycling and carbon footprint given consideration to its comparatively high thermal stability. Thus it is suggested that US should grant exemption to those EEE products which do not have alternatives to OFRs temporarily.

3. China suggests that US should specify the names of toxic chemicals and the scope of EEE products.

On one hand, the proposed rule should specify individual electronic and electrical

products that it plans to regulate, and on the other hand it should specify individual OFRs by CAS Registry Number that it plans to regulate. This information is needed to alleviate confusion and avoid potential supply chain disruptions that could harm supply of EEE products in Washington State.

Comments in Chinese are in below:

中国对 G/TBT/N/USA/1958 通报的评议意见

中国政府赞赏美国履行 WTO 透明度义务，给予其他 WTO 成员评议 G/TBT/N/USA/1958 号通报的机会，根据 WTO/TBT 协定 2.9.4 条“无歧视地给予其他成员合理的时间以提出书面意见，并对这些书面意见和讨论的结果予以考虑的规定”，请美国对中方的评议意见予以考虑并做出答复。中方具体意见如下：

一、中方建议美国不应将 OFR 作为一个整体进行管控，应根据科学的危害评估、替代技术可行性评估和对产业的影响评估，明确所要限制使用的是哪一种 OFR 的子类而不是限制所有 OFR 的使用。理由如下：

有机卤素阻燃剂有一百多种，目前限制使用的不到 10 种。美国国家科学院（NASEM）2019 年发布研究报告中也提出，消费品中使用的 OFR 不能作为一个单一类别进行危害评估；而应根据化学结构、物理化学特性和预期生物活性分为 14 个子类，进行危害评估、替代技术可行性评估和对产业的影响评估。因此，为避免给贸易带来不必要的障碍，在没有充分科学评估依据的情况下，不对 OFR 进行“一刀切”管控，而应实施分类管理。

二、中方建议美国对暂时没有 OFR 替代品的电子电器设备予以豁免。理由如下：

限制 OFR 使用的目标是获得“更安全的产品”，在某些情况下，室内电子设备塑料外壳中的某些 OFR 子类可能有替代品，但替代品并不能用于所有场合。如果电子电器制造商被迫采用不成熟的无卤替代品，可能降低阻燃水平，从而放大室内火灾风险，威胁消费者的生命和财产安全。而且，从循环经济的角度而言，含 OFR 的塑料因为热稳定性相对其他阻燃剂较高，所以在回收和碳足迹方面具有独特优势。因此，建议美国对暂时没有 OFR 替代品的电子电器设备予以豁免。

三、中方建议美国明确所限制的有害化学品名称和电子电器产品范围。

一方面，要明确所针对的具体的电子电器产品名称；另一方面，要明确所限制的具体 OFR 的名称及 CAS 注册编号。这样可以减少误解，避免供应链中断影响华盛顿州电子电器产品的市场供应。