



February 22, 2021

**Via E-mail**

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Chief of Staff  
U.S. Environmental Protection Agency  
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Washington, DC 20002

Michal Freedhoff, Ph.D.  
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Victoria Arroyo  
Associate Administrator  
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**Re: Phenol, Isopropylated Phosphate (3:1) (PIP 3:1); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Final Rule (Jan. 6, 2021)**

Dear Mr. Utech, Dr. Freedhoff and Ms. Arroyo:

On behalf of the National Association of Music Merchants (NAMMM), the trade association for the international music products industry, I write to convey our concerns regarding the short compliance timeframe provided in the Final Rule for Phenol, Isopropylated Phosphate (3:1) (PIP 3:1); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals issued on January 6, 2021.

NAMMM was founded in 1901, is headquartered in Carlsbad, CA and has more than 8,000 business members across the United States and over 2,000 members in 120 countries. We are dedicated to expanding the market for music products and providing people of all ages the opportunity to experience the proven benefits of making music.

NAMMM's members represent all segments of the music products industry, including manufacturers, distributors and retailers, as well as all types of music products entities, including those involved in both instruments and accessories. The Association's membership includes small, mid-sized and large businesses and sole proprietor artisans producing hand-crafted instruments and other music products. As a result, NAMMM has a unique perspective on issues facing the music products industry, its businesses and entrepreneurs, of all types and sizes.

While our member companies intend to fully comply with the regulation to prohibit PIP (3:1), the rule imposes truncated and unrealistic compliance timeframes that will be detrimental to manufacturers, suppliers and retailers of music products. The deadlines raise substantial policy



issues, including whether the rulemaking process assessed the feasibility of compliance deadlines and the types and numbers of products affected by the rule.

Therefore, NAMM respectfully requests a suspension of the compliance deadlines pending a comprehensive review of the rule's current compliance timeframes. This request is also made pursuant to the January 20, 2021 memorandum from Assistant to the President and White House Chief of Staff Ron Klain directing, among other things, that agencies consider postponing the rule's effective dates for 60 days, "for the purpose of reviewing any questions of fact, law, and policy the rules may raise."<sup>1</sup>

We believe the review of the rule's compliance deadlines should also include a public comment period to allow NAMM and other interested parties to submit comments and propose a reasonable timeframe that will help ensure effective compliance and, at the same time, safeguard our environment.

## **1. Music Products Affected by the Final Rule**

Based on information from NAMM's membership, our initial estimate is that more than 200 types of music and music-related products could contain PIP (3:1). One member company, in fact, anticipates that close to 10% of its products could be affected by the new rule's requirements.

Among the potential product areas impacted: acoustic pianos, guitar amplifiers, consumer audio (i.e., consumer electronics), electronic keyboards, synthesizers and portable keyboards, speakers and mixers (commercial and professional audio) and digital recording interfaces. This list is not exhaustive; there are likely many more yet-to-be-identified music and music-related products, including cables, electronic devices and other articles/components, which may contain PIP (3:1).

In short, this rule will likely have a significant impact on the music products industry for large, mid-sized and small businesses. Moreover, if the compliance deadline is not extended, many products could be quickly banned or removed from shelves, without alternatives available.

## **2. Compliance Timing Creates Challenges Due to Unrealistic Deadlines**

Regarding compliance timing, NAMM is aligned with many of recommendations made by CTA and ITI in their joint January 28, 2021 letter submitted for your consideration. An extension is essential so that companies have a realistic timeframe to come into compliance. Particularly

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<sup>1</sup> Memorandum from Ron Klain, Assistant to the President and Chief of Staff, to the Heads of Executive Departments and Agencies (Jan. 20, 2021).



problematic is the upcoming March 8, 2021 implementation date – an effective date set only a mere 60 days after the final rule was issued.

The challenge with the truncated timing of this regulation is two-fold. First, it is difficult to ascertain which products contain PIP (3:1) in such a short time frame. Second, for many music manufacturers and retailers importing products, there are products already exported from factories overseas that won't be received in the U.S. until *after* the implementation date.

NAMMM's member companies need a reasonable period to identify the products that contain PIP (3:1). Once such products are identified, then another reasonable period is needed to find alternative parts and products. For manufacturers, replacing a component could even entail modifications to the manufacturing process.

On the import issue, there is a well-documented backlog at U.S. west coast ports, with products taking significantly longer to import. This delay is due primarily to the COVID-19 pandemic. COVID-19 has limited the number of dock workers, and the bottlenecks in off-loading have created delays throughout the intermodal transportation system. Many products are not making it to their destinations in a timely manner, causing delays in manufacturing and in the fulfillment of retail sales orders. Unfortunately, the final rule does not factor in these complex trade issues and associated supply stream problems caused by the pandemic.

Together with CTA and ITI recommendations, NAMMM supports a 24-month compliance timeframe to phase out the use of PIP (3:1); an additional compliance period for distribution in commerce; and a sell-through provision.

We urgently and respectfully request that applicable products in the music industry be included in the list of products eligible for the extended compliance timeframe.

In closing, NAMMM very much appreciates your consideration. We welcome the opportunity to work with you on this timely and important matter.

Sincerely,

A handwritten signature in black ink, reading "Joe Lamond". The signature is written in a cursive, flowing style with a large initial "J".

Joe Lamond, NAMMM President and CEO  
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