

January 8, 2024

Submitted via regulations.gov

Scott Drewes  
Existing Chemicals Risk Management Division  
Office of Pollution Prevention and Toxics  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW, 7404M  
Washington, DC 20460-0001

Re: AHAM Comments on EPA's Proposed Rule Concerning Revision to the Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under the Toxic Substances Control Act (TSCA), Isopropylated Phosphate (3:1); Docket No. EPA-HQ-OPPT-2023-0376-0001

Dear Mr. Drewes:

The Association of Home Appliance Manufacturers (AHAM) respectfully submits the following comments to the Environmental Protection Agency (EPA) on its Proposed Rule Concerning Revision to the Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under the Toxic Substances Control Act (TSCA), Isopropylated Phosphate (3:1) (PIP (3:1)); Docket No. EPA-HQ-OPPT-2023-0376-0001; 88 Fed. Reg. 82287 (Nov. 24, 2023).

AHAM is submitting comments on EPA's Proposed Rule concerning phenol, isopropylated phosphate (3:1) (PIP (3:1) (CASRN 68937-41-7). AHAM previously commented to EPA regarding its regulations on this chemical and is appreciative of the actions EPA took in response to concerns that AHAM and other stakeholders raised in 2021 when EPA initially finalized regulations over PIP (3:1). AHAM generally supports the actions EPA is proposing but believes that there could be additional clarity. We urge EPA to further facilitate compliance with the rule by making some changes to its proposal.

## **I. AHAM Supports Many Of EPA's Proposed Regulatory Extensions And Exclusions.**

AHAM supports a number of the actions EPA proposes in this rule. Among these are a five-year phased-in prohibition on the use of PIP (3:1) in lubricants and greases, a 10-year compliance extension for the use of PIP (3:1) in manufacturing equipment and semiconductor manufacturing, and an exclusion to the prohibition for PIP (3:1) used in wire harnesses and circuit boards. While AHAM seeks additional clarity on the wire harness exemption (see section IV below), we believe that these steps address many of industry's concerns over the PIP (3:1) prohibition and support these proposals.

## **II. EPA Should Consider A *De Minimis* Exception To The PIP (3:1) Prohibition.**

EPA should employ a *de minimis* exemption, by weight in finished products, for chemical regulations, including the PIP (3:1) prohibition. The absence of a *de minimis* exemption in these regulations could prevent innovative methods aimed at accomplishing other environmental goals. For example, without a *de minimis* exemption for the PIP (3:1) exemption, it will be difficult, if not impossible, for manufacturers to develop methods to incorporate recycled materials in their products. Without a *de minimis* exemption, circular manufacturing pathways are unattainable. Such an approach is consistent with the European's REACH and RoHS programs, both of which allow for *de minimis* exemptions. AHAM understands that the permissible level may change depending upon the substance, but a *de minimis* exemption of 0.1% by weight seems reasonable for most chemical substances and we urge EPA to adopt such an exception in this case.

## **III. The PIP (3:1) Exemption Should Allow For The Sell-Through Of Existing Articles And Spare Parts.**

It is not reasonable or practical to base compliance on the date of sale rather than on date of manufacture as EPA has proposed to do. The risk of exposure to PIP (3:1) from home appliances is minimal for consumers. Most of the PIP (3:1)-using components are internal, and the exposure from external components, such as power cord casings, is very limited. In fact, disposing complete and functional units that are still on the shelves after the October 2024 compliance date—which is what EPA's proposed rule will require in practice—will be worse for the environment.

Additionally, EPA should consider the costs involved from scrapping these products, not only to the manufacturers in terms of loss and disposal costs, but to the consumer in terms of loss of product availability. Requiring immediate disposal also runs contrary to the principle of sustainability, if reasonably safe products are destroyed and never used. Moreover, it is difficult if not impossible for manufacturers to ensure compliance of products after the date of manufacture especially when the products have left their control.

The risk of a compliance date tied to date of manufacture and allowing continued use of PIP (3:1) in replacement parts is low. AHAM does not believe that allowing for the use of PIP (3:1) in spare parts will lead to unacceptable exposures, and disallowing their use may render many millions of products obsolete. This is particularly pertinent for products that are no longer in production. Phasing PIP (3:1) out of spare parts that are no longer used in new appliances requires all of the same quality, safety, and supply chain challenges. Companies may carry thousands of spare parts to discontinued models for up to and sometimes beyond 10 years so customers can extend the life of their products and avoid sending a repairable appliance to waste collection. Furthermore, there are existing and developing repair regulations that may require

spare parts to be maintained for years after production, causing a further conflict between complying with spare part regulations and the EPA regulation.<sup>1</sup>

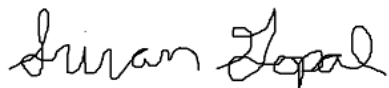
#### **IV. AHAM Seeks Additional Clarity On The Exclusion For Wire Harnesses.**

The proposed rule defines wire harnesses as “a broad class of articles, including but not limited to terminal and fuse covers, cable sleeves, casings, connectors and tapes, used in a variety of applications.” Based on this proposed definition, it is unclear whether EPA intends to define wire harnesses as those that are found internally to the product or to also include harnesses that might be found externally.

AHAM believes EPA’s intent is to minimize exposure to PIP (3:1), and therefore we interpret the exemption to apply to internal wire harnesses only. If that is the case, EPA should specifically state that interpretation in the final rule. That said, AHAM members would welcome the increased flexibility of being able to use PIP (3:1) in both internal and external wire harnesses, and so AHAM will support EPA’s decision to apply the exemption to both internal and external wire harnesses.

AHAM appreciates the opportunity to submit comments to EPA on its Proposed Rule concerning Revision to the Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under the TSCA and would be glad to discuss these matters in more detail should you so request.

Respectfully submitted,



Sriram Gopal  
Director, Technology and Environmental Policy  
Association of Home Appliance Manufacturers

**About AHAM:** AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers’ lives. The home appliance industry is a significant segment of the economy, measured by the contributions of home appliance manufacturers, wholesalers, and retailers to the U.S. economy. In all, the industry drives nearly \$200 billion in economic output throughout the U.S. and manufactures products with a factory shipment value of more than \$50 billion.

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<sup>1</sup> E.g, the proposed right-to-repair law currently under consideration in the European Union and California’s Right to Repair Act (SB 244).