

**PIP (3:1) Further Compliance Date Extension  
Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)**

**Deadlines**

- Member Feedback Due: Wednesday, December 1
- Draft Comments Distributed for Member Review and Feedback: Monday, December 6
- Member Feedback on Draft Comments Due: Monday, December 13
- Deadline for Comment Submission by CTA/IPC/ITI: no later than Monday, December 27

**Summary Information**

Proposed Rule: <https://www.federalregister.gov/documents/2021/10/28/2021-23337/regulation-of-persistent-bioaccumulative-and-toxic-chemicals-under-tsca-section-6h-phenol>

EPA is proposing to extend the compliance dates for PIP (3:1)-containing articles and the PIP (3:1) used to make those articles until October 31, 2024, along with the associated recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles.

CTA/IPC/ITI compared the content of the new proposed rule with the comments we submitted in response to the March 2021 call for information (Table 1 at the end of this document). Several outstanding items remain, and we aim to address them during this comment period for the new proposed rule.

**Next Steps – Member Response / Input Needed**

CTA/IPC/ITI intend to submit a response largely based on the comments we previously submitted in May 2021 in response to the March 2021 call for information. The May 2021 comments have been referenced and complimented numerous times by EPA in the new proposed rule and in public settings where they've presented on the TSCA section 6(h) rules. However, we look to strengthen several arguments and gather additional details from members. Our request of members is based on the specific requests from EPA in the new proposed rule.

CTA/IPC/ITI intend to focus our response to this proposed rule in two areas.

1. We will not oppose the newly proposed extension to October 31, 2024, but we will request that it be based on a “manufactured by” compliance date.
2. We will reiterate our earlier requests to establish an adequate de minimis concentration and to provide specific exemptions. While EPA has indicated it will pursue a rulemaking in 2023 related to the five PBT chemicals [including PIP (3:1)] we intend to reiterate the importance of these issues in this comment period.

We anticipate that the CTA/IPC/ITI response will follow this format:

- Reiterate industry's prior requests including:
  - Timeline for phase-out of PIP (3:1) from the supply chain and requested coherence with other jurisdictions (e.g., the EU).

- Establish a “manufactured by” compliance date.
  - If “manufactured by” is not feasible, request an additional one (1) year extension for distribution in commerce.
- Request:
  - Establishment of a de minimis level.
  - Exemption for spare and replacement parts.
  - Exemption for research and development.
  - Exemption for monitor and control instruments.
- Provide additional or new information to EPA, specifically:
  - Additional uses of PIP (3:1) not previously identified in the May 2021 public comments (e.g., listing of parts, components, and/or finished goods).
  - Economic impacts of the lack of an exemption for spare and replacement parts.
  - Viable alternatives to PIP (3:1) that have been identified and any information regarding those chemicals.
    - Updates to any timelines required to identify, test, and qualify these alternatives.

Questions for Industry Members – Feedback due Wednesday, December 1

CTA/IPC/ITI request the following additional or new information from member companies:

- **Specific uses.** Please list any additional parts, components, and/or finished goods where your company has identified the use of PIP (3:1) outside of the parts, components and/or finished goods identified in the May 2021 public comments submitted by CTA/IPC/ITI.
  - Please note any additional certifications that may be needed for these parts, components, and/or finished goods not identified in previous comments.
  - An indication if these parts, components, and/or finished goods are anticipated to meet the October 31, 2024, compliance date or if additional time is needed. (If additional time is needed, please respond to the questions below.)
- **Request for extension.** CTA/IPC/ITI anticipate most companies will be able to meet the October 31, 2024 compliance date. If this is not accurate and more time is needed, please provide information on the following:
  - The specific articles (parts, components, and/or finished goods) that need an alternative compliance date.
  - The basis for the alternative compliance date and what that date should be.
  - Supporting information including extremely detailed information on the following:
    - The specific uses of PIP (3:1) in articles throughout the supply chain;
    - Concrete steps taken to identify, test, and qualify substitutes for those uses, including details on the substitutes tested and the specific certifications that would require updating;
    - Estimates of the time required to identify, test, and qualify substitutes with supporting documentation; and
    - Documentation of the specific need for replacement parts, which may include the documented service life of the equipment and specific identification of any applicable regulatory requirements for the assurance of replacement parts.

- Note: The timeline for each step of the process for an alternative compliance date phase out should follow the steps CTA/IPC/ITI used in the May 2021 comments.
- **Economic impacts** if there is no exemption for spare and replacement parts:
  - An indication if those spare and replacement parts are anticipated to service finished good articles currently being sold in the market or servicing finished good articles no longer sold but which are still in their useful life. Please provide specific examples.
  - Anticipated quantity by specific type of spare and replacement parts in stock as of October 31, 2024, that will need to be managed as end of life.
  - Estimated costs to recycle spare and replacement parts in stock as of October 31, 2024.
  - Estimated costs to redesign those spare and replacement parts.
    - Please separate out costs for spare and replacement parts for finished good articles still being sold in the market versus those for servicing finished good articles no longer sold.
- Details to support the request for a **“manufactured by” compliance date** including:
  - An indication of the retail shelf life for each finished good article where PIP (3:1) is utilized. (See list of finished good articles in the May 2021 comments.)
  - The estimated potential economic impact of finished good articles (by type) that are likely to be found on retail shelves as of October 31, 2024.
  - Additional information to strengthen arguments in the May 2021 regarding the challenges of a “distribution in commerce” compliance date and why a “manufactured by” compliance date is preferable.
- Details on **viable alternatives to PIP (3:1)** that have been identified and information / data regarding those alternatives. Please include CASRN of the alternative. (See also list from the May 2021 comments.)
  - Concentration of alternatives [as compared to concentration of PIP (3:1)].
  - Updates to any timelines required to identify, test and quality these alternatives.
- Details on why a **de minimis level** is needed to ensure industry’s ability to comply with the prohibition.
  - Experience with and justification for the de minimis levels set in the European Union under REACH and RoHS Directive.
  - Examples of other EPA regulations where de minimis levels have been established.
  - Exposure data or release data related to PIP (3:1) specifically at de minimis levels.

**Table 1. Comparison of Comments Submitted and New Proposed Rule**

CTA/IPC/ITI comments to EPA in response to March 2021 call for information in which we asked EPA to:	How does the October 2021 proposed rule address the CTA/IPC/ITI comments?
<p><b>Implement</b> a manufactured by compliance date for articles no sooner than 48 months from the effective date of the revised final rule for articles.</p> <ul style="list-style-type: none"> <li>- “manufactured by” date establishes a reasonable and certain compliance date based on unique product identifiers such as lot or serial numbers on the finished good</li> <li>- 48 months is based on reasonable range for “phase out” stages</li> </ul>	<p>EPA is proposing to extend the compliance date applicable to the processing and distribution in commerce of certain PIP (3:1)- containing articles, and the PIP (3:1) used to make those articles until October 31, 2024, along with the associated recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles.</p> <p>Articles covered by the phased-in prohibition include any article not otherwise covered by an alternative compliance deadline or exclusion described in the January 2021 rule.</p> <p>The proposed rule does not address the “manufactured by” request.</p>
<p><b>Establish</b> an adequate de minimis concentration for the prohibition.</p> <ul style="list-style-type: none"> <li>- threshold of 0.1% (by weight) or less is consistent with existing notification regulations under TSCA section 6, RoHS, REACH</li> </ul>	<p>Not addressed in this proposed rule.</p> <p>EPA intends to commence a new rulemaking effort on PIP (3:1) and the other four chemical substances regulated under TSCA section 6(h) and anticipates issuing a proposal in 2023; At the time that this broader proposal is issued, to the extent that any industry sector still believes that they will not be able to comply with the PIP (3:1) compliance dates established in this rulemaking, EPA plans to invite that industry to provide specific detailed comments and documentation (e.g., like that requested in the March 2021 call for information).</p>
<p><b>Exempt</b> spare and replacement parts for any electronics finished good manufactured prior to the “manufactured by” compliance date.</p>	<p>EPA will evaluate requests for extensions beyond the October 2024 compliance date by evaluating the level of detail and documentation provided by the commenters on...documentation of the specific need for replacement parts, which may include the documented service life of the equipment and specific identification of any applicable regulatory requirements for the assurance of replacement parts.</p>
<p><b>Exempt</b> use of PIP (3:1) in substances, mixtures, and articles for R&amp;D purposes.</p>	<p>Not addressed in this proposed rule.</p> <p>EPA intends to commence a new rulemaking effort on PIP (3:1) and the other four chemical</p>

CTA/IPC/ITI comments to EPA in response to March 2021 call for information in which we asked EPA to:	How does the October 2021 proposed rule address the CTA/IPC/ITI comments?
	<p>substances regulated under TSCA section 6(h) and anticipates issuing a proposal in 2023; At the time that this broader proposal is issued, to the extent that any industry sector still believes that they will not be able to comply with the PIP (3:1) compliance dates established in this rulemaking, EPA plans to invite that industry to provide specific detailed comments and documentation (e.g., like that requested in the March 2021 call for information).</p>
<p><b>Exempt</b> use of PIP (3:1) in monitoring and control instruments.</p>	<p>Proposed rule states that “the semiconductor industry and the testing and measurement industry noted that their industries differ from the consumer electronics industry and the automotive industry in that their industries are high-mix, low-volume industries, meaning that manufacturer portfolios are typically composed of a large number of unique goods with relatively low unit sales...Their equipment is primarily built to order and sold directly to professional and industrial customers by the manufacturers.”</p> <p>EPA intends to commence a new rulemaking effort on PIP (3:1) and the other four chemical substances regulated under TSCA section 6(h) and anticipates issuing a proposal in 2023; At the time that this broader proposal is issued, to the extent that any industry sector still believes that they will not be able to comply with the PIP (3:1) compliance dates established in this rulemaking, EPA plans to invite that industry to provide specific detailed comments and documentation (e.g., like that requested in the March 2021 call for information).</p>
<p><b>Clarify</b> application of the existing exception for adhesives and sealants as it applies to adhesives applied to electronic components or incorporated into finished products.</p>	<p>The January 2021 final rule included a different compliance date for PIP (3:1) for use in sealants and adhesives and that compliance date is after January 6, 2025.</p> <p>This proposed rule does not change the 2025 compliance deadline.</p>
<p><b>Clarify</b> definitions for and applicability of the terms “article” and “product” in the context of this risk management rulemaking.</p>	<p>EPA is proposing that the compliance date for PIP (3:1) and PIP (3:1)-containing articles, but not PIP (3:1)-containing products, should be further extended.</p>

CTA/IPC/ITI comments to EPA in response to March 2021 call for information in which we asked EPA to:	How does the October 2021 proposed rule address the CTA/IPC/ITI comments?
	<p>Article is defined as a manufactured item : (1) Which is formed to a specific shape or design during manufacture, (2) Which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) Which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design. For example, laptop computers are articles, as are the internal components such as chips, wiring, and cooling fans. Product is defined as the chemical substance, a mixture containing the chemical substance, or any object that contains the chemical substance or mixture containing the chemical substance that is not an article. For example, hydraulic fluids and motor oils are products.</p>
<p><b>Support</b> exemption for recycled content.</p>	<p>Not addressed in this proposed rule. However, there is no indication that EPA will change existing “recycled content” exemption.</p> <p>The January 6, 2021 final rule prohibits processing and distribution in commerce of PIP (3:1) and products or articles containing the chemical substance for all uses except for recycling of plastic that contained PIP (3:1) before the plastic was recycled, and the articles and products made from such recycled plastic, provided no new PIP (3:1) is added during the recycling or production process.</p>