



Environment, Land Use & Natural Resources ADVISORY ■

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EPA Pauses Enforcement of PIP (3:1) Ban for Six Months – With a Catch

By [Kevin Minoli](#), [Ronnie Gosselin](#), and [Shannon Vreeland](#)

The U.S. Environmental Protection Agency (EPA) has granted temporary partial relief to companies subject to its recent rulemaking that prohibits, with a few exceptions, the processing and distribution of PIP (3:1) and PIP (3:1)-containing articles after March 8, 2021. The move comes after contributions from numerous industry stakeholders in recent days. “PIP” is short for phenol, isopropylated, phosphate (3:1), a chemical used as a flame retardant, plasticizer, and an anti-wear or anti-compressibility additive in coatings, adhesives, sealants, and plastics. PIP is frequently used in the manufacture of products that range from cars to aerospace vehicles to at-home electronics. The PIP rule was published in January 2021 as part of a group of final rules designed to reduce exposure to five persistent, bioaccumulative, and toxic (PBT) chemicals under Section 6(h) of the Toxic Substances Control Act (TSCA).

On March 8, 2021, the day before the PIP (3:1) prohibition became effective, the EPA issued a 180-day “[no-action assurance](#)” on the enforcement of certain of the rule’s provisions. Specifically, while the PIP rule is now in effect, the EPA agreed to exercise its enforcement discretion to not enforce the rule’s prohibitions on the processing and distributing in commerce of PIP (3:1) for use in articles and PIP (3:1)-containing articles and certain associated recordkeeping requirements.

Significantly, several provisions of the rule are not covered by the EPA’s no-action assurance and remain subject to EPA enforcement during the no-action period. These include the rule’s prohibition on discharges to water and the downstream notification requirements for PIP (3:1) and articles containing PIP (3:1). Certain recordkeeping requirements also remain in effect, including a new requirement to keep records that include a statement that any PIP (3:1) and PIP (3:1)-containing articles are complying with all aspects of the PIP rule.

Importantly, the benefit of protection from EPA enforcement during the no-action period only extends to companies that comply with all PIP rule requirements that are not covered by the no-action assurance. Further, the no-action assurance is silent on how subject companies should address TSCA certifications made upon importing PIP (3:1) and PIP (3:1)-containing articles. Companies continuing to import PIP (3:1) and PIP (3:1)-containing articles after March 8 should consult with counsel.

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Finally, the EPA also [announced](#) a 60-day public comment period to collect additional input on all five of the previously published final rules relating to PBT chemicals. The EPA will be seeking comment on whether portions of the PIP rule should be stayed for a time to allow companies to come into compliance with those provisions. The new deadline for collecting public comments is forthcoming, but the EPA anticipates considering the comments it receives and making a decision about the future effectiveness of the rule by the end of the no-action period.

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If you have any questions or would like additional information, please contact your Alston & Bird attorney or any of the following:

Environment, Land Use & Natural Resources Group

Lee Ann Anand
404.881.4609
leeann.anand@alston.com

Jeffrey Carlin
213.576.1008
jeff.carlin@alston.com

Ronnie Gosselin
404.881.7965
ronnie.gosselin@alston.com

Phil Sandick
202.239.3632
phil.sandick@alston.com

Gina Angiolillo
213.576.2606
gina.angiolillo@alston.com

Nicki Carlsen
213.576.1128
nicki.carlsen@alston.com

Maya Lopez Grasse
213.576.2526
maya.grasse@alston.com

Shannon Vreeland
404.881.7429
shannon.vreeland@alston.com

Doug Arnold
404.881.7637
doug.arnold@alston.com

Edward Casey
213.576.1005
ed.casey@alston.com

Kathleen Hill
213.576.1056
kathleen.hill@alston.com

Andrea Warren
213.576.2518
andrea.warren@alston.com

Megan Ault
415.243.1056
megan.ault@alston.com

Greg Christianson
415.243.1012
greg.christianson@alston.com

Clay Massey
404.881.4969
clay.massey@alston.com

Sara Warren
404.881.7472
sara.warren@alston.com

Greg Berlin
213.576.1045
greg.berlin@alston.com

Ha Chung
213.576.1151
ha.chung@alston.com

Kevin Minoli
202.239.3760
kevin.minoli@alston.com

Matt Wickersham
213.576.1185
matt.wickersham@alston.com

Caleb Bowers
415.243.1038
caleb.bowers@alston.com

Jeffrey Dintzer
213.576.1063
jeffrey.dintzer@alston.com

Elise Paeffgen
202.239.3939
elise.paeffgen@alston.com

Jessica Williams-Vickery
404.881.7167
jessica.williams-vickery@alston.com

Meaghan Goodwin Boyd
404.881.7245
meaghan.boyd@alston.com

Maureen Gorsen
916.498.3305
maureen.gorsen@alston.com

Geoff Rathgeber
404.881.4974
geoff.rathgeber@alston.com

ALSTON & BIRD

WWW.ALSTON.COM

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ATLANTA: One Atlantic Center ■ 1201 West Peachtree Street ■ Atlanta, Georgia, USA, 30309-3424 ■ 404.881.7000 ■ Fax: 404.881.7777

BEIJING: Hanwei Plaza West Wing ■ Suite 21B2 ■ No. 7 Guanghua Road ■ Chaoyang District ■ Beijing, 100004 CN ■ +86.10.85927500

BRUSSELS: Level 20 Bastion Tower ■ Place du Champ de Mars ■ B-1050 Brussels, BE ■ +32 2 550 3700 ■ Fax: +32 2 550 3719

CHARLOTTE: One South at The Plaza ■ 101 South Tryon Street ■ Suite 4000 ■ Charlotte, North Carolina, USA, 28280-4000 ■ 704.444.1000 ■ Fax: 704.444.1111

DALLAS: Chase Tower ■ 2200 Ross Avenue ■ Suite 2300 ■ Dallas, Texas, USA, 75201 ■ 214.922.3400 ■ Fax: 214.922.3899

FORT WORTH: 3700 Hulen Street ■ Building 3 ■ Suite 150 ■ Fort Worth, Texas, USA, 76107 ■ 214.922.3400 ■ Fax: 214.922.3899

LONDON: 5th Floor ■ Octagon Point, St. Paul's ■ 5 Cheapside ■ London, EC2V 6AA, UK ■ +44.0.20.3823.2225

LOS ANGELES: 333 South Hope Street ■ 16th Floor ■ Los Angeles, California, USA, 90071-3004 ■ 213.576.1000 ■ Fax: 213.576.1100

NEW YORK: 90 Park Avenue ■ 15th Floor ■ New York, New York, USA, 10016-1387 ■ 212.210.9400 ■ Fax: 212.210.9444

RALEIGH: 555 Fayetteville Street ■ Suite 600 ■ Raleigh, North Carolina, USA, 27601-3034 ■ 919.862.2200 ■ Fax: 919.862.2260

SAN FRANCISCO: 560 Mission Street ■ Suite 2100 ■ San Francisco, California, USA, 94105-0912 ■ 415.243.1000 ■ Fax: 415.243.1001

SILICON VALLEY: 1950 University Avenue ■ Suite 430 ■ East Palo Alto, California, USA 94303 ■ 650.838.2000 ■ Fax: 650.838.2001

WASHINGTON, DC: The Atlantic Building ■ 950 F Street, NW ■ Washington, DC, USA, 20004-1404 ■ 202.239.3300 ■ Fax: 202.239.3333