



News & Types: Client Advisories

EPA PIP (3:1) No Action Assurance Period Set to Expire September 4, 2021

9/3/2021

Practices: Commercial, Competition & Trade

EXECUTIVE SUMMARY

As was previously reported in our March 26, 2021 client advisory, the U.S. Environmental Protection Agency (“EPA”) on January 21, 2021 promulgated five final rules under the Toxic Substances Control Act to reduce exposures to five chemicals that are considered persistent, bioaccumulative and toxic (“PBT Chemicals”). Among these five PBT Chemicals covered by the final rules is Phenol, isopropylated phosphate (3:1) (“PIP (3:1)”). The final rule on the regulation of PIP (3:1) (“Final Rule”) became effective as of February 5, 2021 and prohibits the processing and distribution in commerce of PIP (3:1), including PIP (3:1)-containing products or articles, after March 8, 2021.

On March 8, 2021 the EPA issued a No Action Assurance (“NAA”) stating that the EPA will exercise enforcement discretion under the Final Rule and not seek enforcement against entities that continue to manufacture and distribute non-excluded PIP (3:1)-containing articles after March 8, 2021 for a 180-day period ending on 11:59 pm, September 4, 2021.

As of the date of this article (September 3, 2021), the EPA has not issued any further guidance or announcements regarding the Final Rule or NAA. Accordingly, businesses that manufacture or distribute PIP (3:1)-containing articles should prepare for the possibility that the Final Rule and its regulations will go into full effect upon expiration of the NAA period at 11:59 pm, September 4, 2021, unless or until the EPA announces a new interim Final Rule or extension of the NAA period. Masuda Funai will continue to monitor this situation and will update this guidance accordingly upon any new developments.