#### THE INTERNATIONAL CADMIUM ASSOCIATION

**MONTHLY REGULATORY UPDATE**

**March 28, 2011**[[1]](#footnote-1)

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**FEDERAL ISSUES**

**CAA ISSUES**

**EPA Updates NATA**

On March 11, 2011, EPA announced the fourth update of NATA, which contains 2005 emissions data submitted primarily from the states for 178 pollutants, including **cadmium compounds**. EPA used models “to make broad estimates of health risks for areas of the country.” According to EPA, “[t]he tool is not designed to determine actual health risks to individuals living in these areas.” EPA states that the update shows that EPA, the states, and industry are continuing to make progress to reduce air toxic emissions. Between 1990 and 2005, air toxic emissions were reduced by about 42 percent from industrial and mobile sources. EPA uses NATA to identify which geographic areas, pollutants, and types of emission sources might need closer investigation to characterize more fully potential risks and determine if actions may need to be taken to protect public health. EPA also uses NATA to work with communities to design their own local assessment, improve its emissions inventories, and identify priorities for expanding the air toxics monitoring network. EPA states that, once risks are fully characterized, state air agencies can decide if steps should be taken to reduce air toxics emissions. According to EPA, its overall confidence in the exposure assessment for **cadmium compounds** is “lower.” NATA is available at <http://www.epa.gov/nata2005>.

**EPA Promulgates Final Rules To Reduce Emissions Of Air Pollutants From Existing And New Boilers, CISWI, And SSI**

On March 21, 2011, EPA promulgated final rules intended to reduce emissions of air pollutants from existing and new boilers, CISWI, and SSI:

* *Emissions Standards for Area Source Industrial, Commercial, and Institutional Boilers* -- The final rule is intended to reduce emissions of air pollutants, including **cadmium**, from existing and new industrial, commercial, and institutional boilers located at area source facilities.
* *Emissions Standards for Major Source Industrial, Commercial, and Institutional Boilers and Process Heaters* -- The final rule is intended to reduce emissions of toxic air pollutants from new and existing industrial, commercial, and institutional boilers and process heaters at major source facilities. According to the final rule, metals, including **cadmium**, make up about six percent of the total HAP emissions.
* *Emissions Standards for CISWI* -- The final rule covers four CISWI subcategories, incinerators, energy recovery units, waste burning kilns, and small incinerators in very remote locations, and will establish emission limits for nine pollutants, including **cadmium**.
* *Emissions Standards for SSI* -- The final rule promulgates EPA’s new source performance standards and emission guidelines for SSI units located at wastewater treatment facilities designed to treat domestic sewage sludge. The final rule sets limits for nine pollutants under CAA Section 129, including **cadmium**.

The final rules are effective **May 20, 2011**. In a March 21, 2011, *Federal Register* notice, EPA announced that it will “reconsider” certain aspects of the boiler and CISWI rules. According to EPA, the final boiler and CISWI rules reflect “reasonable approaches consistent with the requirements of the Clean Air Act. However, some of the issues identified in the comments on our April 2010 proposals raised difficult technical issues that the Agency believes would benefit from additional public involvement.” More information about the final rules is available in our February 28, 2011, Update.

**EPCRA/CERCLA ISSUES**

**EPA Adds Sites To NPL And Proposes Additional Sites Be Added To NPL**

On March 8, 2011, EPA announced the addition of 10 hazardous waste sites to the NPL and proposed the addition of 15 sites to the NPL. In its press release, EPA states: “Harmful contaminants found at the sites include arsenic, asbestos, barium, **cadmium**, chromium, copper, creosote, dichloroethene (DCE), dioxins, lead, mercury, pentachlorophenol (PCP), polynuclear aromatic hydrcarbons (PAHs), polychlorinated biphenyls (PCBs), tetrachloroethene (PCE), trichloroethane (TCA), trichloroethene (TCE), and zinc.” Sites may be placed on the NPL through various mechanisms:

* Numeric ranking established by EPA’s Hazard Ranking System;
* Designation by states or territories of one top-priority site; or
* Meeting all three of the following requirements:
  + ATSDR has issued a health advisory that recommends removing people from the site;
  + EPA determines the site poses a significant threat to public health; and
  + EPA anticipates it will be more cost-effective to use its remedial authority than to use its emergency removal authority to respond to the site.

The following 10 sites have been added to the NPL:

* Dwyer Property Ground Water Plume, Elkton, Maryland;
* Washington County Lead District -- Furnace Creek, Caledonia, Missouri;
* ACM Smelter and Refinery, Cascade County, Montana;
* Mansfield Trail Dump, Byram Township, New Jersey;
* Dewey Loeffel Landfill, Nassau, New York;
* Wright Chemical Corporation, Riegelwood, North Carolina;
* Milford Contaminated Aquifer, Milford, Ohio;
* Cabo Rojo Ground Water Contamination, Cabo Rojo, Puerto Rico;
* Hormigas Ground Water Plume, Caguas, Puerto Rico; and
* West County Road 112 Ground Water, Midland, Texas

The following 15 sites have been proposed to the NPL:

* Blue Ledge Mine, Rogue River – Siskiyou National Forest, California;
* New Idria Mercury Mine, Idria, California;
* Sandoval Zinc Company, Sandoval, Illinois;
* Gary Development Landfill, Gary, Indiana;
* Sauer Dump, Dundalk, Maryland;
* Kerr-McGee Chemical Corp, Columbus, Mississippi;
* Red Panther Chemical Company, Clarksdale, Mississippi;
* Garfield Ground Water Contamination, Garfield, New Jersey;
* MolyCorp Inc., Questa, New Mexico (re-proposal);
* New Cassel/Hicksville Ground Water Contamination, New Cassell/Hicksville, New York;
* CTS of Asheville, Inc., Asheville, North Carolina;
* Astoria Marine Construction Company, Oregon;
* North Ridge Estates, Klamath Falls, Oregon;
* US Finishing/Cone Mills, Greenville, South Carolina; and
* Alamo Contaminated Ground Water, Alamo, Tennessee.

More information is available at <http://www.epa.gov/superfund/sites/npl/current.htm>.

**RCRA ISSUES**

**EPA Promulgates Final Rule Identifying Non-Hazardous Secondary Materials That Are Solid Waste**

On March 21, 2011, EPA promulgated a final rule identifying which non-hazardous secondary materials, when used as fuels or ingredients in combustion units, are “solid wastes” under RCRA. This RCRA solid waste definition will determine whether a combustion unit is required to meet the emissions standards for solid waste incineration units issued under CAA Section 129 or the emissions standards for commercial, industrial, and institutional boilers issued under CAA Section 112. CAA Section 129(a)(4) requires that specific numeric emission limitations be established for nine pollutants, including **cadmium**, plus opacity (as appropriate). EPA notes that, of the nine pollutants, several, including **cadmium**, are also regulated HAPs under CAA Section 112. The final rule includes the following definition:

Contaminants means any constituent in non-hazardous secondary materials that will result in emissions of the air pollutants identified in Clean Air Act section 112(b) or the nine pollutants listed under Clean Air Act section 129(a)(4) when such non-hazardous secondary materials are burned as a fuel or used as an ingredient, including those constituents that could generate products of incomplete combustion.

The final rule is effective on **May 20, 2011**.

**TSCA ISSUES**

**EPA Preparing TSCA Section 8(d) Rule Concerning Cadmium**

As reported in our March 21, 2011, e-mail, according to EPA’s February 2011 AIL, last month EPA began work on a health and safety reporting rule for **cadmium**. The abstract states:

On August 30, 2010, EPA granted a request from the Sierra Club to use section 8(d) of the Toxic Substances Control Act (TSCA) to require producers, importers, and processors of **cadmium** and **cadmium compounds** to submit to EPA lists or copies of ongoing and completed unpublished health and safety studies concerning **cadmium** and **cadmium compounds** that are reasonably likely to be incorporated into consumer products. Sierra Club made this request May 28, 2010 through a citizen’s petition filed under TSCA section 21. The petition also asked that the Consumer Product Safety Commission (CPSC) take certain actions, including the establishment of standards restricting **cadmium** in children’s products, especially metal jewelry. The health and safety studies that EPA would require under this rule would be used to help determine if a potential hazard exists from **cadmium** or **cadmium compounds** and whether a product should be banned as a hazardous substance under guidelines established by CPSC.

The projected publication date is more than 12 months. More information is available at <http://www.epa.gov/lawsregs/regulations/ail.html>.

**STATE ISSUES**

***California***

**Save The Plastic Bag Coalition Files Suit Against Marin County**

On February 24, 2011, the Save the Plastic Bag Coalition filed a lawsuit against Marin County in the Superior Court of California. The Coalition alleges that the County violated CEQA for failing to complete and certify an EIR prior to adopting an ordinance requiring that, beginning **January 1, 2012**, stores may not provide plastic carryout bags to consumers and must charge at least five cents for paper carryout bags. The Coalition claims that the County is “guilty of spreading environmental myths and misinformation about plastic bags,” including a “Marin County Bring Your Own Bag” leaflet about plastic bags, which states:

Certain chemicals found in plastics (especially BPA, phthalates, PFOA, PFOS, polystyrene, and additives such as antimony, **cadmium**, and lead) are associated with a who’s who of modern disorders, including asthma, cancer, diabetes, obesity, premature puberty, and reproductive failure.

The Coalition maintains that plastic bags “do not contain any of those chemicals.” More information is available at <http://www.savetheplasticbag.com/UploadedFiles/STPB%20Petition%20for%20Writ%20of%20Mandate%20against%20Marin%20County.pdf>.

**Tween Brands Agrees To Settlement In Proposition 65 Suit**

Under an agreement with CEH, beginning **December 31, 2011**, Tween Brands would cease to sell jewelry that is more than 0.03 percent **cadmium**. The agreement would cover jewelry intended for children, teens, and adults. Although CEH sued in California under Proposition 65, Tween Brands, which operates 890 “Justice” retail outlets, agreed to adopt the limit nationwide. CEH launched the first legal challenge on **cadmium** in jewelry in February 2010. According to CEH, at that time, it found children’s jewelry at a Justice store with a component containing over 2,300 times more **cadmium** than the 0.03 percent level agreed to in the settlement. Last summer, Tween Brands investigated its inventory and ordered a nationwide consumer recall of their **cadmium**-containing jewelry. In addition to the reformulation agreement, Tween Brands agreed to pay $45,000 (after a $5,000 credit for their nationwide consumer recall of **cadmium**-containing jewelry), which includes payments to OEHHA, payments to help fund CEH’s ongoing work to educate and protect Californians from **cadmium** in jewelry and other toxic health hazards, and payments to help defer CEH’s legal expenses. According to CEH, it has found high levels of **cadmium** in jewelry sold by 40 other retailers, including Wal-Mart, Saks Fifth Avenue, Claire’s, Old Navy, Aeropostale, CVS, Styles for Less, and others. CEH has ongoing legal challenges against these companies, alleging that the **cadmium** in their jewelry violates California consumer protection laws. The settlement with Tween Brands was filed with California’s Attorney General on March 18, 2011.

**Legislation Would Prohibit Reusable Bags Containing Cadmium In “Toxic Amounts”**

On March 21, 2011, the Committee on Natural Resources passed A.B. 298, which would prohibit manufacturers from selling or distributing reusable bags that contain “lead, **cadmium**, or any other heavy metal in toxic amounts.” The bill was referred to the Committee on Appropriations.

**Bill Would Create Product Stewardship Program For Household Batteries**

On **April 4, 2011**, the Senate Committee on Environmental Quality will hold a hearing on S.B. 515, which would require, by **September 30, 2012**, a producer or the household battery stewardship organization created by one or more producers of a household battery to submit a stewardship plan to CDRRR. Producers, wholesalers, and retailers would be prohibited from selling a household battery after **January 1, 2014**, unless CDRRR deems the plan complete. The bill notes that, under state law, “household batteries” are “batteries made of mercury, alkaline, carbon-zinc, and nickel-**cadmium**, and other batteries typically generated as household waste.”

***Florida***

**House And Senate Bills Introduced Concerning Cadmium In Children’s Products**

The House and Senate had their first readings of identical legislation (H.B. 111 and S.B. 272) on March 8, 2011. The House referred H.B. 111 to the House Committee on Business and Consumer Affairs Subcommittee, House Criminal Justice Subcommittee, House Committee on Justice Appropriations Subcommittee, and House Committee on Economic Affairs. The bills would prohibit the use or application of **cadmium** in excess of 75 ppm on any item of children’s jewelry, toy, or child care article sold in Florida. Child is defined as an individual seven years old or younger. The bills would take effect on **July 1, 2011**.

***Hawaii***

**House And Senate Bills Introduced Concerning Cadmium In Children’s Products**

There is no new publicly available information to report regarding H.B. 722 and S.B. 916, which would prohibit the sale, manufacture, and distribution in Hawaii of children’s products that contain **cadmium** in an amount more than .004 percent by weight. The prohibition would take effect on **July 1, 2013**. The House bill was referred to the Committees on Health, Consumer Protection and Commerce, and Judiciary. The Senate bill was referred to the Committees on Health and Judiciary and Labor. More information is available in our February 28, 2011, Update.

***Illinois***

**Legislation Introduced Concerning Coal Combustion Waste**

H.B. 3620, which was introduced on February 24, 2011, concerns the storage or disposal of coal combustion waste that is reused as structural fill at a site or facility, if that waste is fully encapsulated. The bill would define “fully encapsulated” as “encased or enclosed in such a way as to prevent the leaching of coal combustion residual constituents, including, but not limited to, antimony, arsenic, barium, beryllium, **cadmium**, chromium, lead, mercury, nickel, selenium, silver, and thallium, in trace amounts or otherwise.”

***Kentucky***

**House Bill Would Restrict Cadmium In Children’s Articles**

There is no new publicly available information to report regarding H.B. 443, which would prohibit the manufacture, sale, offer for sale, or distribution of any children’s product that contains **cadmium** at more than .004 percent by weight. The bill was referred to the Veterans, Military Affairs, and Public Safety Committee. More information is available in our February 28, 2011, Update.

***Maine***

**Bill Introduced To Amend Process For Prioritizing Toxic Chemicals Under The Kid-Safe Products Law**

Senator Seth Goodall (D) introduced legislation (L.D. 1185) that would amend the process for prioritizing toxic chemicals in children’s products. Under the bill, the MDEP, with input from the MDHHS and MCDC, would publish a list of chemicals that are candidates for designation as priority chemicals. The initial list, which must be published by **January 1, 2012**, would include at least 10 and no more than 50 chemicals. A chemical of high concern would be included in the list if it meets at least one of the following criteria:

* A chemical action plan has been developed for that chemical by EPA under its chemicals management program;
* The chemical is on the candidate list of SVHCs published by the ECHA;
* The chemical has been nominated for review under the Stockholm Convention on Persistent Organic Pollutants; or
* The potential for exposure of children to the chemical from the use or disposal of children’s products containing that chemical has been demonstrated by another state or federal agency or in the peer-reviewed scientific literature, to the satisfaction of MDEP, MDHHS, and MCDC.

**Bill Introduced To Ensure Children’s Products Are Free Of Cadmium**

There is no new publicly available information to report regarding L.D. 492, which is intended to ensure that children’s products are free of **cadmium**. The manufacture, sale, distribution, or offer for sale or distribution of a children’s product containing **cadmium** at more than .004 percent by weight would be prohibited beginning **July 1, 2013**. The bill was referred to the Committee on Health and Human Services. More information is available in our February 28, 2011, Update.

***Maryland***

**House Passes Bill That Would Prohibit Cadmium In Children’s Jewelry**

On March 24, 2011, the House passed H.B. 145, which would prohibit a person, on or after **July 1, 2012**, from manufacturing, selling, offering for sale, or distributing children’s jewelry that contains **cadmium** at more than .0075 percent by weight. The bill was amended to define children’s jewelry as any jewelry designed or intended to be worn or used by a child under the age of 13 years rather than 12 years. The bill would take effect on **July 1, 2011**. The bill is in the Senate.

***Massachusetts***

**Bill Would Prohibit Cadmium In Children’s Jewelry**

Under S.B. 1074, no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use children’s jewelry containing **cadmium** in any paint or surface coating or accessible substrate that exceeds 75 ppm, unless superseded by a federal standard applicable to children’s jewelry. The bill would define child as an individual who is six years of age or younger, and children’s jewelry as jewelry that is primarily designed, marketed, and intended for use by a child. The bill would apply to products that are manufactured after **December 31, 2011**.

**Bill Would Designate Cadmium As A Priority Chemical Substance**

There is no new publicly available information regarding H.B. 1136, which would establish safer alternatives to toxic chemicals. Upon enactment, **cadmium**, trichloroethylene, and nonylphenol ethoxylates would be designated as priority chemical substances. The bill would require the promotion of safer alternatives to priority chemical substances. Similar legislation (S.B. 397) is before the Senate.

***New Jersey***

**Bills Introduced To Prohibit The Sale Of Children’s Products Containing Cadmium**

A.B. 2259 and S.B. 1636 would prohibit the sale of certain children’s products containing lead, mercury, or **cadmium**. Children’s product would mean a product, including a toy or play equipment, that is designed or intended solely or primarily:

(1) For the care of, or use by, a child; or

(2) To come into contact with a child while the product is used.

Under the bills, no person shall sell, offer for sale, distribute, import, or manufacture any children’s product intended for use by a child under the age of six years containing, composed of, or made with lead, mercury, or **cadmium**. The bills would take effect on the first day of the seventh month following enactment. The Assembly referred A.B. 2259 to the Assembly Consumer Affairs Committee. The Senate referred S.B. 1636 to the Senate Commerce Committee.

***New York***

**Bill Would Direct Commissioner Of Health To Establish Standards For Cadmium In Children’s Jewelry**

Under A.B. 5548, in the absence of a federal standard for a specific type of product, the Commissioner of Health would be required to establish the maximum quantity of **cadmium** in children’s jewelry. Until the Commissioner establishes a maximum level, the sale of children’s jewelry containing **cadmium** in excess of 0.5 ppm would be prohibited. Children would be defined as children aged 12 years and younger, and children’s jewelry would be defined as jewelry that is made for, marketed for, used by, or marketed to children. The bill was referred to the Assembly Committee on Health.

**Bill Would Regulate Cadmium In Children’s Jewelry**

S.B. 4055 would prohibit heavy metals in paint or surface coatings of children’s jewelry, and regulate **cadmium** in children’s jewelry. Covered plastic components of children’s jewelry containing 300 ppm or less total **cadmium** would not need to be tested for migratable **cadmium**. Covered plastic components that exceed the 300 ppm **cadmium** total content screening level shall not exceed 75 ppm **cadmium**. **Cadmium** in metal components of children’s jewelry that are small parts would be screened for total **cadmium** content. Small parts containing 300 ppm or less total **cadmium** would not need to be tested for migratable **cadmium**. Small parts that exceed the 300 ppm total content screen level must not contain more than 200 µg of **cadmium**. Metal components of children’s jewelry that are not small parts would be screened for total **cadmium** content. Covered metal components containing 300 ppm or less total **cadmium** would not need to be tested for migratable **cadmium**. Covered metal components that exceed the 300 ppm total content screening level must not contain more than 18 µg **cadmium**. Child would be defined as a person who is six and one-half years of age or younger, and children’s jewelry would be defined as jewelry designed or intended primarily for use by a child. The requirements would take effect one year after enactment.

**Bill Would Require Public Health Study On Installation Of Crumb Rubber In Synthetic Turf**

A.B. 5528 would require a comprehensive public health study on the potential threats associated with the use of synthetic turf. The bill includes the following legislative findings:

The legislature finds that increasingly, synthetic turf is being installed in many locations in New York state, including parks, athletic fields and other settings where natural grass was previously grown. In recent years, crumb rubber fill is being used as a component of synthetic turf and mulch. Crumb rubber is the result of processing waste tires, which contain numerous components, some of which are known to be hazardous to people and the environment. The hazardous components include arsenic, **cadmium**, chromium, lead, vanadium, zinc and acetone. Health effects associated with these components, at dangerous levels, include birth defects, cancer, nervous system damage and immune system suppression. While various options for waste tire use are essential to reducing the significant stockpiles of waste tires, such uses should not threaten or compromise public health.

**Bills Introduced To Regulate Toys Contaminated With Toxic Substances**

Under A.B. 5711 and S.B. 2443, no person, firm, corporation, association, or agent or employee thereof shall import, manufacture, sell, hold for sale, or distribute a toy or other article that is contaminated with any toxic substance. A toy would be contaminated with a toxic substance if it meets certain conditions, including is coated with paints and lacquers containing compounds of lead of which the lead content is in excess of that permitted by federal regulations, or soluble compounds of antimony, arsenic, **cadmium**, mercury, selenium, or barium. Child would mean any person less than 14 years of age, and toy would mean an article or item designed and made for the amusement of a child or for his or her use in play. The law would take effect immediately.

**Bill Would Prohibit Child Care Centers From Using Toxic Toys**

A.B. 6363 would prohibit every child day care, child day care provider, child day care center, group family day care home, school-age child care, or family day care home from using or having for use toxic toys. Toxic toys would include any article or item designed, intended, or made for the amusement of a child or for his or her use in play that is coated with paints and lacquers containing compounds of lead of which the lead content is in excess of that permitted by federal regulations, or soluble compounds of antimony, arsenic, **cadmium**, mercury, selenium, or barium. The bill would take effect 60 days after enactment.

**Bill Would Limit Use Of Cadmium In Brake Friction Material**

S.B. 1356 would limit the use of certain substances, including **cadmium**, in brake friction material. According to the bill, “[t]housands of pounds of copper and other substances released from brake friction material enter New York state streams, rivers and marine environments as a result of the normal operation of motor vehicle brakes. The legislature finds that brake friction materials are toxic to many aquatic and marine organisms and must be regulated to ensure the quality, safety, and health of the state’s waterways.” The bill would prohibit the use of **cadmium and its compounds** in an amount exceeding 0.01 percent by weight.

**Bills Introduced Concerning Children’s Products And Novelty Consumer Products**

There is no new publicly available information regarding the following bills that would regulate **cadmium** in children’s products and novelty consumer products. More information is available in our February 28, 2011, Update.

* A.B. 3141 and S.B. 1526 would regulate toxic chemicals in children’s products. The bill would designate several chemicals, including **cadmium**, as priority chemicals. Two years after the effective date of the bills, the distribution, sale, or offer for sale of an item of children’s apparel or a children’s novelty product containing a priority chemical would be prohibited.
* A.B. 1158 and S.B. 2729 would ban the sale or distribution free of charge of any **cadmium**-added novelty consumer product beginning **June 1, 2013**.
* A.B. 3678, which would prohibit the use of **cadmium** in children’s products, including toys, children’s jewelry, or another article, other than clothing, primarily intended for use by a child under 12 years of age.

**House Bill Would Establish Moratorium On Installation Of Synthetic Turf**

There is no new publicly available information regarding A.B. 4543, which would establish a moratorium on the installation of synthetic turf pending an environmental and public health study. The bill states that crumb rubber fill is being used as a component of synthetic turf and mulch, and that it includes hazardous components, including **cadmium**. More information is available in our February 28, 2011, Update.

***Oregon***

**Bill Would Require Product Stewardship Programs For Rechargeable Batteries**

There is no new publicly available information regarding H.B. 2187, which would require development and implementation of a product stewardship program for rechargeable batteries, which include nickel-**cadmium** batteries. Under the bill, ODEQ would have until **January 1, 2014**, to implement the program. More information is available in our February 28, 2011, Update.

**Senate Bills Would Regulate Brake Friction Materials, Including Cadmium**

S.B. 341 has been amended and no longer refers to brake friction material and makes no mention of **cadmium**. More information regarding the original bill is available in our February 28, 2011, Update.

There is no new publicly available information regarding S.B. 945, which would prohibit a manufacturer, wholesaler, retailer, or distributor from selling or offering for sale brake friction material or motor vehicles with brake friction material containing certain elements or fibers in an amount exceeding the specified concentrations, including **cadmium and its compounds**, 0.01 percent by weight. The prohibitions would take effect on **January 1, 2014**.

***South Dakota***

**Bill Would Prohibit Use Of Cadmium In Certain Products**

There is no new publicly available information to report regarding H.B. 1254, which would prohibit the use of **cadmium** at more than 0.004 percent by weight in children’s products. The ban would take effect on **July 1, 2012**. More information is available in our February 28, 2011, Update.

***Tennessee***

**Bills Would Ban Cadmium In Children’s Products**

There is no new publicly available information to report regarding H.B. 189 and S.B. 244, which would prohibit the manufacture, sale, offer for sale, or distribution of children’s products that contain **cadmium** at more than .004 percent by weight, beginning **July 1, 2013**. More information is available in our February 28, 2011, Update.

***Washington***

**WDE Releases Children’s Safe Products Rule, Which Includes Cadmium**

There is no new publicly available information to report regarding the October 22, 2010, proposed Children’s Safe Products Rule, which includes **cadmium** and **cadmium compounds** on the list of CHCCs. WDE’s tentative timeline for formal rulemaking includes the following actions:

| **Date** | **Action** |
| --- | --- |
| January - March 2011 | * Prepare Concise Explanatory Statement and Public Hearing Memo. * Draft Rule Adoption Notice. * Finalize Cost Benefit Analysis, Small Business Impact Statement, Significant Legislative Rules Criteria Document, Citation List, and Rule Implementation Plan. |
| April 2011 | Adopt, file, and publish the rule and send out Rule Adoption Notice. |
| May 2011 | Rule goes into effect (31 days after it has been adopted and filed). |

More information on the Rule is available at <http://www.ecy.wa.gov/programs/swfa/rules/ruleChildSafe.html>.

**MISCELLANEOUS ISSUES**

**CPSC Unanimously Approves Deferring Decision On Petition Concerning Cadmium In Toy Metal Jewelry**

According to the Record of Commission Action posted on CPCS’s website, CPSC voted unanimously to defer the decision on the petition for regulations on **cadmium** for six months and direct staff to participate in the ASTM F15.24 Subcommittee to develop a voluntary standard addressing accessible **cadmium** from children’s metal jewelry, and to work with the ASTM F15.22 Subcommittee on the ASTM F963 standard with respect to toy jewelry. According to the ballot vote sheet, if CPSC votes to defer its decision for six months, at the end of the six-month period, CPSC staff will provide an update on the progress of the voluntary standards for children’s jewelry and toy jewelry. At that time, CPSC could make a determination to continue to defer its decision on the petition and proceed with the voluntary standards process or to pursue other CPSC action. The Record of Commission Action is available at <http://www.cpsc.gov/library/foia/ballot/ballot11/petHP102RCA.pdf>. The ballot vote sheet and briefing package are available at <http://www.cpsc.gov/library/foia/foia11/brief/cadmiumpet.pdf>.

**CPSC Announces Launch Of Consumer Product Safety Information Database**

On March 11, 2011, CPSC announced the availability of the SaferProducts.gov database mandated by Congress, as part of CPSIA. CPSC will review all reports submitted online, and, within five business days, transmit qualifying reports to the manufacturer. The manufacturer will then have ten business days to respond and provide comments and/or claims. At the end of the ten-day period, if all requirements are met, CPSC will post the report and the manufacturer’s comments on SaferProducts.gov. CPSC will post reports that contain the minimum required information in the database ten business days after the CPSC sends a copy of the report to the manufacturer, or, according to CPSC, “approximately 15 business days after [the reports] are submitted to the CPSC.” CPSC “strongly urges all businesses” to register online. CPSC lists the following benefits of registration:

* All reports of harm involving your company’s product sent to your representative quickly and securely via e-mail;
* Convenient and secure online account to provide your comments for CPSC’s consideration and receive official CPSC correspondence;
* Multiple user accounts for registered companies; and
* Saves time as we work together to meet the ten-day deadline imposed by law before the report of harm is posted in the publicly available database.

The SaferProducts.gov website includes FAQs concerning reports and for consumers and businesses. The business FAQs address comments; registration; reports; confidentiality; accuracy; and self reporting. The FAQs are available at <http://www.saferproducts.gov/FAQ.aspx>.

**IRIS Assessment**

There is no new publicly available information to report regarding the detailed tracking report for **cadmium** (qualitative and quantitative), which includes the following information:

| **Activity/Event** | **Start Date** | **End Date** |
| --- | --- | --- |
| **1. Draft Development** | TBD | TBD |
| **2. Agency Review** | TBD | TBD |
| **3. Interagency Review** | TBD | TBD |
| **4. External Peer Review** | TBD | TBD |
| **5. Final Assessment/Posting** | TBD | TBD |

**EPA Promoted Use Of Coal Ash Products Lacking Risk Data**

EPA’s OIG released a March 23, 2011, report entitled *EPA Promoted the Use of Coal Ash Products With Incomplete Risk Information*, which found that EPA did not follow accepted and standard practices in determining the safety of the 15 categories of CCR beneficial uses it promoted through the Coal Combustion Products Partnership Program. According to the report, without proper protections, CCR contaminants can leach into ground water and migrate to drinking water sources, posing significant public health concerns. The report states: “According to EPA, CCRs contain a range of metals such as arsenic, selenium, **cadmium**, lead, and mercury, in low concentrations.” OIG recommended that EPA define and implement risk evaluation practices for beneficial uses of CCRs, and that it determine if further action is warranted to address historical CCR structural fill applications. EPA agreed with these recommendations, which were revised in response to EPA suggestions. The report is available at <http://www.epa.gov/oig/reports/2011/20110323-11-P-0173.pdf>.

**INTERNATIONAL ISSUES**

**China’s Standards For Rare Earth Mining Industry Include Limits On Cadmium Discharges**

China’s MEP released new wastewater and air emissions standards for the mining and processing of rare earth minerals that, according to the MEP, will increase their production costs and likely lead to higher export prices. For wastewater, the standards set maximum levels for chemical oxygen demand, and set limits on direct discharges of thorium, uranium, **cadmium**, lead, arsenic, chromium, and hexavalent chromium. The standards will go into effect **October 1, 2011**, but MEP notes that they will first impact only new companies entering the sector. Existing companies that process rare earth minerals will be exempt from the standards until **December 31, 2013**, to give them time to construct the necessary pollution treatment facilities.

**Study Finds High Levels Of Cadmium In Shellfish**

According to a City University study, all eight types of shellfish bought in Tsuen Wan’s Yeung Uk Road wet market in October 2010 included **cadmium**. The scallops tested had 28.6 ppm **cadmium**, which is 15 times higher than Hong Kong’s legal limit of two ppm. Babylon shells contained 21.3 ppm **cadmium**, while sun and moon scallops contained 13.9 ppm. Under the Food Adulteration (Metallic Contamination) Regulations, vendors are prohibited from selling shellfish that contains more than two ppm **cadmium**. According to Associate Professor Dr. Richard Cheung Yun-hing, who led the study, the shellfish probably originated from areas of the mainland where industrial activities generated **cadmium** waste. “When there is rain, the industrial waste will be washed into the river. Since shellfish live near the shore, they are likely to absorb the toxins,” he stated.

\* \* \* \* \*

Unless otherwise noted, if you have questions about any item summarized above, please call or e-mail Lynn L. Bergeson at (202) 557-3801 or [lbergeson@lawbc.com](mailto:lbergeson@lawbc.com), or Carla N. Hutton at (202) 557-3809 or [chutton@lawbc.com](mailto:chutton@lawbc.com).

## ACRONYMS

**µg** -- Microgram

**AIL** -- Action Initiation List

**ATSDR** -- Agency for Toxic Substances and Disease Registry

**BPA** -- Bisphenol A

**CAA** -- Clean Air Act

**CCR** -- Coal Combustion Residual

**CDRRR** -- California Department of Resources Recycling and Recovery

**CEH** -- Center for Environmental Health

**CEQA** -- California Environmental Quality Act

**CERCLA** -- Comprehensive Environmental Response, Compensation, and Liability Act

**CHCC** -- Chemicals of High Concern for Children List

**CISWI** -- Commercial and Industrial Solid Waste Incinerators

**CPSC** -- United States Consumer Product Safety Commission

**CPSIA** -- Consumer Product Safety Improvement Act of 2008

**ECHA** -- European Chemicals Agency

**EIR** -- Environmental Impact Report

**EPA** -- United States Environmental Protection Agency

**EPCRA** -- Emergency Planning and Community Right-to-Know Act

**FAQ** -- Frequently Asked Question

**HAP** -- Hazardous Air Pollutant

**ICdA** -- International Cadmium Association

**IRIS** -- Integrated Risk Information System

**MCDC** -- Maine Center for Disease Control and Prevention

**MDEP** -- Maine Department of Environmental Protection

**MDHHS** -- Maine Department of Health and Human Services

**MEP** -- Ministry of Environment Protection

**NATA** -- National-Scale Air Toxics Assessment

**NPL** -- National Priorities List

**ODEQ** -- Oregon Department of Environmental Quality

**OEHHA** -- Office of Environmental Health Hazard Assessment

**OIG** -- Office of Inspector General

**PFOA** -- Perfluorooctanoic Acid

**PFOS** -- Perfluorooctane Sulfonic Acid

**ppm** -- Part Per Million

**RCRA** -- Resource Conservation and Recovery Act

**SSI** -- Sewage Sludge Incinerators

**SVHC** -- Substance of Very High Concern

**TBD** -- To Be Determined

**TSCA** -- Toxic Substances Control Act

**WDE** -- Washington Department of Ecology

1. This Update addresses significant federal, state, and international environmental and occupational safety and health regulatory issues and ongoing advocacy efforts pertinent to the ICdA member companies. A list of acronyms used in this Update is provided. [↑](#footnote-ref-1)