#### THE INTERNATIONAL CADMIUM ASSOCIATION

**REGULATORY UPDATE**

**May 28, 2014**[[1]](#footnote-1)

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**FEDERAL ISSUES**

**EPCRA ISSUES**

**EPA Seeking To Use TRI Data For Enforcement Efforts**

During the May 7-9, 2014, workshop entitled “2014 National Training Conference on the Toxics Release Inventory (TRI) and Environmental Conditions in Communities,” EPA spokespersons stated that it is seeking to use TRI data better for enforcement and pollution prevention efforts. According to the spokespersons, EPA is developing new electronic tools to better focus enforcement efforts on areas that face the greatest chemical risks, increase detection of reporting violations, and better educate communities on the risks chemical releases pose to sensitive populations. **Cadmium** and **cadmium compounds** are included on the TRI list of chemicals.

**TSCA ISSUES**

**Elementis Appeals Penalty For Failure To Disclose Public Health Risks Under TSCA**

On March 25, 2014, the EAB granted Elementis’ March 5, 2014, motion for leave to file a reply brief, which Elementis filed on April 8, 2014. Elementis clarified its position that a TSCA Section 8(e) violation is complete for the purposes of initiating the statute of limitations after reportable information is not provided “immediately.” Elementis argues that EPA’s interpretation is not entitled to deference because TSCA is clear that Section 8(e) is not a continuing violations statute. Even if TSCA were ambiguous, Elementis states that resolving it would present “straight-forward questions of statutory construction and canons of statutory interpretation,” with no reason to defer to EPA. EPA filed its surreply brief on April 22, 2014, arguing that Elementis “has largely ignored” EPA’s principal arguments, the applicable case law, and EAB precedent on the statute of limitations issue. On May 9, 2014, Elementis filed a request for oral argument, stating that, through the briefing provided to the EAB, “it appears that EPA has changed or abandoned several of its arguments.” According to Elementis, oral argument “will greatly assist the Board because it will allow the parties to concisely present their positions, address all issues as finally presented, and provide the Board with the opportunity to question the parties on issues raised in their respective arguments.” EPA filed its response on May 14, 2014, opposing the request for oral argument, in view of the “extensive briefing in this matter.” EPA suggests that if the EAB has specific questions in its review of the issues on appeal, “Complainant would gladly make itself available to answer those questions.” More information is available at [http://yosemite.epa.gov/oa/EAB\_Web\_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/23ac48fc6a55aa1885257c2200687473!OpenDocument](http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/23ac48fc6a55aa1885257c2200687473%21OpenDocument).

**House Subcommittee Discusses Revised Draft CICA**

On April 29, 2014, the House Energy and Commerce Subcommittee on Environment and the Economy held a hearing to review a revised draft of the CICA. Representative John Shimkus (R-IL), Chair of the Subcommittee, released the revised draft on April 22, 2014. According to Shimkus, since he first released the discussion draft in March 2014, he has been working on a bipartisan basis to find common ground to reform TSCA. More information regarding the hearing, as well as both the revised draft CICA and a redline comparison to the March 2014 discussion draft, is available at <http://energycommerce.house.gov/hearing/chemicals-commerce-act-0>. B&C®’s April 24, 2014, memorandum on the revised draft legislation is available at <http://www.lawbc.com/regulatory-developments/entry/tsca-reform-an-in-depth-analysis-of-the-revised-chemicals-in-commerce-act-d/>. B&C’s April 30, 2014, memorandum regarding the hearing is available at <http://www.lawbc.com/regulatory-developments/entry/tsca-reform-house-subcommittee-discusses-revised-draft-of-chemicals-in-comm/>.

**EPA Considering Amending Significant New Use Regulations To Align With HCS**

According to an item in EPA’s Spring 2014 Regulatory Agenda, which was posted on May 23, 2014, EPA is considering proposing changes to the applicable significant new uses of chemical substances regulations at 40 C.F.R. Part 721 to align the EPA regulations, where possible, with the final revisions to the OSHA HCS. EPA states that, when it issued regulations in 1990 for the “Protection in the Workplace” and “Hazard Communication Program” components of the regulations, it closely aligned the regulations with the HCS. OSHA amended the HCS on March 26, 2012, to align it with the GHS. EPA intends to issue an NPRM in **December 2014**.

**MISCELLANEOUS ISSUES**

**ATSDR Requests Comments On Proposed Substances To Be Evaluated For Set 28 Toxicological Profiles**

ATSDR published a May 22, 2014, *Federal Register* notice requesting comment on the proposed substances to be evaluated for the 28th set of toxicological profiles. ATSDR is soliciting public nominations from the Priority List of Hazardous Substances to be evaluated for toxicological profile development. In addition, ATSDR will consider the nomination of “any additional, non-CERCLA substances that may have public health implications, on the basis of ATSDR’s authority to prepare toxicological profiles for substances not found at sites on the National Priorities List.” Nominations are due **June 20, 2014**. The Priority List of 275 substances includes **cadmium**, which is ranked 7 on both the 2013 and 2011 lists. The Priority List is available at <http://www.atsdr.cdc.gov/spl/>.

**IRIS Assessment**

***NRC Finds Substantial Improvements In IRIS Assessment Development Process***

On May 6, 2014, the National Academies’ NRC released its report reviewing the IRIS assessment development process. According to the NRC, the changes EPA has proposed and implemented are “substantial improvements.” While acknowledging the progress made to date, the NRC states that its report offers further guidance and recommendations to improve the overall scientific and technical performance of the program. The NRC’s report recommends that the handbook providing a more detailed description of the IRIS process and its underlying principles be peer-reviewed, that IRIS assessments clearly identify the members of all teams involved, and that outside experts be engaged when needed. According to the NRC, EPA should provide technical assistance to stakeholders who might not have the resources to provide input into the IRIS process. According to the report, a major challenge for EPA in problem formulation is determining which adverse health outcomes should be evaluated in a specific IRIS assessment. The NRC suggested a process that includes conducting a broad literature search, creating a table that organizes the lines of evidence and possible health outcomes, and then examining the table to decide which outcomes warrant a review. Once a systematic review question is specified, a protocol should be developed that makes the methods of the review transparent. After systematic review is completed, an IRIS assessment must combine all the individual lines of evidence to come to a judgment about whether a chemical is hazardous to human health, a process the committee referred to as “evidence integration.” EPA currently relies on a guided expert judgment process for evidence integration. According to the NRC, EPA should either make this process more transparent if it chooses to continue using this approach, or adopt a structured process for evidence integration. EPA should also develop templates for narrative justifications of the evidence integration process and its conclusions, and work to ensure that its guidelines for integration are uniform for cancer and noncancer outcomes. The NRC report is available at <http://www.epa.gov/iris/iris-nrc.htm>.

**OSHA Will Analyze Comments On RFI Concerning PSM**

According to an item in OSHA’s Spring 2014 Regulatory Agenda, which was posted on May 23, 2014, OSHA intends to analyze comments by **July 2014** on its December 9, 2013, RFI. The RFI identified issues related to modernization of the PSM standard and related standards necessary to meet the goal of preventing major chemical accidents. The PSM standard applies mainly to manufacturing industries, particularly those pertaining to chemicals, transportation equipment, and fabricated metal products. More information regarding the RFI is available in our January 28, 2014, Update.

**NGOs Call For SEC To Issue New Resource Extraction Issuers Rule**

On April 14, 2014, a coalition of 544 civil society organizations from 40 countries, united by the Publish What You Pay Campaign, wrote to the SEC to urge it to adopt a new resource extraction issuers rule. The SEC promulgated a final rule on September 12, 2012, which was then struck down on July 2, 2013, by the U.S. District Court for the District of Columbia. *American Petroleum Institute, et al. v. SEC*, No. 12-cv-01668. An SEC spokesperson stated on September 3, 2013, that the SEC would not appeal the decision, but would instead undertake further proceedings informed by the court’s decision. In its April 14 letter, the coalition states that “the Court’s ruling does not preclude the SEC from requiring full public disclosure of project-level payments or denying exemptions, and we believe the SEC has the discretion to retain these critical provisions in the final rule, as long as sufficient justification is given.” The coalition calls for a rule that would:

* Ensure full public disclosure of payments, including the identity of reporting companies;
* Require contract-based project-level reporting;
* Include no country exemptions; and
* Set a reporting threshold of U.S. $100,000.

According to the coalition, this would align the U.S. with the global standard for extractive revenue transparency, including the EU Accounting and Transparency Directives, as well as similar legal developments in Norway and Canada. The coalition’s letter is available at <http://publishwhatyoupay.org/resources/civil-society-around-world-calls-sec-reissue-strong-oil-gas-mining-transparency-rule>.

**STATE ISSUES**

***Alaska***

**Bill Would Require Publication Of List Of Chemicals Of High Concern To Which Children Are At High Risk Of Potential Exposure**

There is no new publicly available information to report regarding S.B. 151, which would require the publication of a list of chemicals of high concern to which children are at high risk of potential exposure. Companion legislation (H.B. 348) was introduced on February 26, 2014. The second session of the 28th Legislature ended on April 20, 2014.

***California***

**OEHHA Holds Public Workshop On Draft Pre-Regulatory Warning Requirements, Extends Comment Period**

OEHHA held a public workshop on April 14, 2014, concerning potential amendments to the regulation governing Proposition 65 warnings. OEHHA released a draft pre-regulatory warning regulation and a draft pre-regulatory Initial Statement of Reasons. Section 25605 of the draft pre-regulatory regulation would require 12 chemicals, including **cadmium**, to be specified in the warning. The draft pre-regulatory Initial Statement of Reasons states: “Section 25605 identifies twelve currently listed chemicals that are commonly found in consumer products, including foods, and those that commonly are involved in occupational or environmental exposures.” OEHHA notes: “This is a pre-regulatory proposal. The potential regulation may change substantially prior to the eventual initiation of a formal regulatory proceeding. If OEHHA decides to formally propose changes to Section 25601, additional opportunities for public input will be provided during the formal process.” On April 16, 2014, OEHHA extended the comment period, and comments are due **June 13, 2014**. More information is available at <http://oehha.ca.gov/prop65/warnings/030714warningworkshop.html>. OEHHA’s presentation and a recording of the public workshop are available at <http://www.oehha.ca.gov/prop65/warnings/041414agenda.html>.

**Biomonitoring Database Includes Results For Metals, Including Cadmium**

OEHHA announced on May 5, 2014, the availability of Biomonitoring California’s interactive results database. Users can explore the results from all Biomonitoring California projects. Summary statistics, such as detection frequency, geometric mean, and selected percentiles are provided for measured chemicals. The category “metals” includes results for arsenic, **cadmium**, lead, and mercury for the Maternal and Infant Environmental Exposure Project, and arsenic, **cadmium**, manganese, and mercury for the Firefighter Occupational Exposures Project. More information is available at <http://biomonitoring.ca.gov/results/explore>.

***Connecticut***

**Legislature Passes Bill Restricting Use Of Cadmium In Children’s Jewelry And Creating Task Force**

On April 28, 2014, the House passed H.B. 5305, and the Senate passed it on May 7, 2014. The bill would restrict the use of **cadmium** in children’s jewelry. Under the bill, effective **July 1, 2016**, no person may manufacture, sell, offer for sale, or distribute any children’s jewelry that contains **cadmium** at more than .0075 percent by weight. The bill also establishes a task force to study the threshold at which **cadmium** is safe in children’s jewelry. The task force shall consist of the following members:

(1) One appointed by the speaker of the House of Representatives, who shall represent the jewelry manufacturing industry;

(2) One appointed by the president *pro tempore* of the Senate, who shall represent a not-for-profit organization promoting children’s health and safety;

(3) One appointed by the majority leader of the House of Representatives, who shall be a chemist with expertise in the bioavailability of heavy metals and shall serve as an ex-officio member of the task force;

(4) One appointed by the majority leader of the Senate, who shall be a member of a child advocacy group;

(5) One appointed by the minority leader of the House of Representatives, who shall be a municipal public health director and shall serve as an ex-officio member of the task force;

(6) One appointed by the minority leader of the Senate, who shall represent a jewelry retail business or association in the state;

(7) The House chairpersons of the joint standing committees of the General Assembly having cognizance of matters relating to children and general law, or the chairpersons’ designees;

(8) The Senate chairpersons of the joint standing committees of the General Assembly having cognizance of matters relating to children and general law, or the chairpersons’ designees;

(9) The House ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to children and general law, or the ranking members’ designees;

(10) The Senate ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to children and general law, or the ranking members’ designees;

(11) The Commissioner of Consumer Protection, or the Commissioner’s designee; and

(12) The Commissioner of Public Health, or the Commissioner’s designee.

Not later than **January 15, 2015**, the task force shall submit a report on its findings and recommendations to the joint standing committees of the General Assembly having cognizance of matters relating to children, general law, and public health. The bill was submitted to Governor Dannel Malloy (D) on May 22, 2014.

**Bill Introduced Concerning Cadmium In Children’s Jewelry**

There is no new publicly available information to report regarding S.B. 84. Under the bill, beginning **July 1, 2014**, no person would be allowed to manufacture, sell, offer for sale, or distribute any children’s jewelry that contains **cadmium** in excess of the level set forth in ASTM standard F2923-11. The legislature adjourned on May 7, 2014. More information is available in our March 28, 2014, Update.

**Bill Would Create List Of Chemicals Of High Concern To Children**

There is no new publicly available information to report regarding H.B. 5354, which concerns chemicals of high concern to children. No later than **January 1, 2015**, the Commissioner of Public Health, in consultation with the Commissioner of Energy and Environmental Protection and the Commissioner of Consumer Protection, would create and maintain a list of priority chemicals that are of high concern to children after considering a child’s or developing fetus’ potential for exposure to each chemical. Similar legislation (S.B. 126) was introduced in the Senate on February 13, 2014. The legislature adjourned on May 7, 2014. More information is available in our March 28, 2014, Update.

**Bill Introduced Concerning Children’s Products And Chemicals Of High Concern**

There is no new publicly available information to report regarding H.B. 5036, which concerns children’s products and chemicals of high concern. No later than **January 1, 2015**, the Commissioner of Public Health would create a list of priority chemicals that are of high concern to children. The legislature adjourned on May 7, 2014. More information is available in our March 28, 2014, Update.

***Florida***

**Act Relating To Chemicals Of High Concern Dies In Committee**

On May 2, 2014, H.B. 991, which would reduce the exposure of pregnant women and children to chemicals of high concern by publicly identifying such chemicals and encouraging substitution with safer alternatives whenever feasible, died in the House Committee on Health and Human Services. The bill would have required FDOH, in consultation with other state agencies, to publish an initial list of at least 50, but not more than 100, chemicals of high concern. A similar bill (S.B. 1180) died in the Senate Appropriations Subcommittee on Health and Human Services. More information regarding the bill is available in our March 28, 2014, Update.

***Hawaii***

**Senate Bill Would Prohibit Use Of Packaging Containing Cadmium**

There is no new publicly available information to report regarding S.B. 2573, which would prohibit the use of packages and packaging containing lead, **cadmium**, mercury, and hexavalent chromium beginning **January 1, 2015**. The legislature adjourned for 2014.

***Illinois***

**Bill Would Create Task Force On Chemicals In Commercial Products**

There is no new publicly available information to report regarding H.B. 5857, which would create a Task Force on Chemicals in Commercial Products. The Task Force would: (1) prepare a report evaluating the risks to human health and safety posed by the presence of chemicals classified as priority chemicals by the federal Safer Chemistry Challenge Program within commercial products sold in Illinois; and (2) provide recommendations to the General Assembly as to whether further legislation is needed to regulate priority chemicals in commercial products in Illinois. More information is available in our March 28, 2014, Update.

***Maine***

**MDEP Designates Cadmium As A Priority Chemical And Requires Reporting For Certain Product Categories**

During the May 6, 2014, rulemaking meeting, MDEP adopted Chapter 884, which will designate **cadmium** as a priority chemical under the Safer Chemicals Program. It will require manufacturers to report, no later than 180 days after the effective date of the Chapter, any bedding, childcare articles, clothing, cosmetics, craft supplies, footwear, games, jewelry and embellishments, safety seats, occasion supplies, personal accessories, personal care products, school supplies, or toys, any of which are intended for use by a child under the age of 12 years and that contain intentionally-added **cadmium**. Reports must include:

(a) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer;

(b) A description of the product or products containing **cadmium**, including the overall size of the product and/or the component of the product that contains **cadmium**, and whether the product or **cadmium**-containing component of the product can be placed in the mouth. (If a reportable item is smaller than five centimeters in one dimension, it is regarded as mouthable);

(c) The number of items sold or distributed in Maine or nationally;

(d) The amount of **cadmium** in the product reported;

(e) The function of **cadmium** in the product reported; and

(f) Any other information the manufacturer deems relevant to the reporting of the chemical, such as relevant independent scientific study on exposure specific to the amount of chemical present in the finished product reported or product of similar functionality.

More information is available at <http://www.maine.gov/dep/rules/#609394>. This includes an adoption package, which includes a response to comments, text of Chapter 884, and basis statement.

***Massachusetts***

**Bill Would Seek To Reduce Use Of Priority Chemical Substances In Consumer Products**

There is no new publicly available information to report regarding H.B. 235, which would require TURI to publish, no later than 90 days after enactment, a list of chemicals of concern. Under the bill, manufacturers of consumer products containing priority chemical substances and users of priority chemical substances would be required to notify TURI and the Massachusetts DEP. More information is available in our March 28, 2014, Update.

***Minnesota***

**MDH Requests Comments On Possible Amendments To Rules Governing HRLs For Water**

As reported in our April 14, 2014, e-mail, MDH seeks comments on possible amendments to rules on HRLs in groundwater and published a request for comments in the April 14, 2014, issue of the *Minnesota State Register*. MDH states that it will propose to adopt current health-based guidance values for water into the HRL rule. The possible amendments include new HRL values for 11 chemicals, with replacement of outdated HRL values for six of these chemicals, including **cadmium**. According to MDH, it will publish health-based guidance values for **cadmium** prior to rulemaking because it is currently under re-evaluation. More information is available at <http://www.health.state.mn.us/divs/eh/risk/rules/water/chemicals.html>.

**Bill Would Require Manufacturers To Report Priority Chemicals**

There is no new publicly available information to report regarding the Toxic Free Kids Act (H.B. 605), which would amend Minnesota’s priority chemical identification criteria and require manufacturers of children’s products that contain priority chemicals to provide information to the MPCA. The bill would authorize the MPCA to prohibit sales of children’s products that contain priority chemicals.

***New York***

**Assembly Passes Bill Banning Sale Of Cadmium-Added Novelty Consumer Products**

There is no new publicly available information regarding A.B. 4822, which would ban the sale and distribution of any **cadmium**-added novelty consumer product. Companion legislation (S.B. 6729) was introduced in the Senate on March 4, 2014. More information is available in our March 28, 2014, Update.

***Oregon***

**Senate Bill Would Require List Of High Priority Chemicals Of Concern For Children’s Health**

There is no new publicly available information regarding S.B. 1569, which would require OHA to establish and maintain a list of designated high priority chemicals of concern for children’s health used in children’s products. A manufacturer of a children’s product sold or offered for sale in Oregon that contains a chemical included on the list would be required to provide notice to OHA that the product contains a high priority chemical. More information is available in our March 28, 2014, Update.

***Vermont***

**Legislature Passes Bill Designating Cadmium And Cadmium Compounds As Chemicals Of High Concern**

On May 9, 2014, S.B. 239, which would require VDOH to identify and publish a list of chemicals of high concern, was voted out of the legislature. The Senate ultimately agreed to adopt the version proposed by the House rather than risk the bill being suspended in committee when the legislature adjourned on May 10, 2014. Under the amended bill, a number of chemicals, including **cadmium** and **cadmium compounds**, would be designated as chemicals of high concern. Beginning **July 1, 2017**, and biennially thereafter, the Commissioner of Health will recommend at least two chemicals of high concern to children in children’s products for review by the Working Group. The Commissioner’s recommendations shall be based on the degree of human health risks, exposure pathways, and impact on sensitive populations presented by a chemical of high concern to children. Unless the Commissioner adopts by rule a phased-in reporting requirement, beginning **July 1, 2016**, and biennially thereafter, a manufacturer of a children’s product or a trade association representing a manufacturer of children’s products shall submit to VDOH a notice for each chemical of high concern to children in a children’s product if the chemical meets certain conditions. Governor Peter Shumlin (D) is expected to sign the bill.

**Bill Would Establish Toxic Chemical Identification And Reduction Program**

There is no new publicly available information to report regarding H.B. 744, which would require the Secretary of Natural Resources to establish a toxic chemical identification and reduction program. By **January 1, 2015**, the Secretary of Natural Resources would be required to publish a list of chemicals of high concern to public health or the environment. More information is available in our March 28, 2014, Update.

***Washington***

**WDOE Announces That Most Manufacturers Are Following Laws Concerning Use Of Toxic Chemicals**

WDOE announced on April 14, 2014, that tests on more than 200 children’s products sold in Washington show most manufacturers are complying with Washington’s CSPA and toxics in packaging legislation. The tests were funded by a grant from the Washington Attorney General’s office. WDOE states that it found seven potential violations on lead or **cadmium**, as well as two violations on toxic metals in packaging that came with children’s products. According to WDOE, it notified manufacturers of potential violations and is working with state and federal partners to ensure compliance. WDOE’s testing focused on several classes of toxic chemicals, including “metals, including lead, mercury, **cadmium**, antimony and cobalt.” More information, including the publications *Metals and Phthalates in Tier 3 Children’s Products* and *Metals in Children’s and Consumer Products and Packaging*, is available at <http://www.ecy.wa.gov/programs/swfa/cspa/index.html>.

**WDOSH Amends Occupational Health Standard For Cadmium**

Effective May 1, 2014, WDOSH amended WAC 296-62-07425, “Communication of **cadmium** hazards to employees.” The amendments include:

* Changed the title to read “Communication of **cadmium** hazards”;
* Removed the word “assure” and replaced it with “ensure” in subsection (2)(c);
* Added OSHA identical language requirements relating to hazard communication. This language provides employees information about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels, other forms of warning, SDSs, and training. These requirements are federally driven and consistent with the provisions of the GHS, Revision 3;
* Changed information on signs to be consistent with OSHA and to allow employers to be compliant with new and old signs until **June 1, 2016**;
* Changed information on labels to be consistent with OSHA and to allow employers to be compliant with new and old labels until **June 1, 2015**;
* Changed reference in subsection (4)(c)(viii) from “296-800-170” to “296-901-140”; and
* Changed numbering.

The complete text is available at <http://apps.leg.wa.gov/wac/default.aspx?cite=296-62-07425>.

**INTERNATIONAL ISSUES**

**AUSTRALIA**

**Australia Publishes Eighth Tranche Of IMAP Assessments**

As reported in our April 17, 2014, e-mail, NICNAS published for public comment the eighth tranche of human health and environmental assessments for chemicals identified as part of the Stage One implementation of the IMAP Framework. Tier II -- human health assessments (chemicals assessed at Tier II because the Tier I assessment indicated that it needed further investigation) include **cadmium cyanide**, and **cadmium iodide**. NICNAS states that it seeks comments where information that has the potential to affect the outcome of an assessment has not been considered in the assessment. Comments provided should be evidence-based and the relevance of submitted information should be highlighted. Comments are due **May 30, 2014**. More information is available at <http://www.nicnas.gov.au/chemical-information/imap-assessments/imap-assessments/public-comment>.

**CANADA**

**Canada Tables Legislation Intended To Improve Labeling And Classification Of Workplace Chemicals**

Canada announced on March 28, 2014, that it tabled new legislation intended to improve the level of protection for workers handling hazardous materials in the workplace. According to Canada, the proposed legislative changes to the Hazardous Products Act are an important step in Canada’s implementation of the GHS. Canada has committed to implementing the GHS by **June 1, 2015**. In a fact sheet, Health Canada states that the GHS would improve how information on hazardous products is communicated, by implementing changes to the current WHMIS:

* The standardized hazard symbols, signal words and hazard statements are expected to improve the communication of hazard information;
* The GHS identifies hazards not addressed under the current system; and
* More detailed information on hazardous products would be provided to employees and employers.

Under the proposed legislation, the GHS would apply to sectors currently under WHMIS. Additionally, eight sectors -- consumer products, pest control products, explosives, cosmetics, medical devices, drugs, food, and wood and products made from wood -- are currently excluded from WHMIS in Canada but included by the U.S. and other jurisdictions. Under the proposed legislation, these sectors would be moved to a Schedule to the Hazardous Products Act. If and when Canada moves forward on excluded sectors, any of the sectors listed in the Schedule could be brought under all or some of the provisions of the Act through the normal regulatory process, including full consultation with impacted sectors. According to the fact sheet, a key objective of implementation of the GHS is to create a system that would allow the use of a single North American label and SDS for each hazardous product. The fact sheet notes that although Canada and the U.S. are working to keep variances to a minimum, there will be some regulatory variances, such as bilingual labels in Canada, between the two countries. Once Canada adopts the changes to federal legislation, provinces and territories would be required to make their own legislative and regulatory amendments. More information is available at <http://www.hc-sc.gc.ca/ahc-asc/media/nr-cp/_2014/2014-033fs-eng.php>.

**Canada Announces Final Screening Assessment Of Substances From Phase One Of The DSL Inventory Update**

Canada announced in a March 29, 2014, *Canada Gazette* notice the release of its *Final Screening Assessment of Substances from Phase One of the Domestic Substances List Inventory Update*. The Final Screening Assessment, which used the rapid screening approach, concludes that 117 of the 140 substances do not meet any of the criteria set out under CEPA Section 64, including: **acetic acid, cadmium salt**; **octadecanoic acid, barium cadmium salt (4:1:1)**; **octanoic acid, cadmium salt**; **octadecanoic acid, cadmium salt**; **dodecanoic acid, cadmium salt**; **benzoic acid, cadmium salt**; **benzoic acid, 4-(1,1-dimethylethyl)-, cadmium salt**; **hexadecanoic acid, cadmium salt**; **tetradecanoic acid, cadmium salt**; **9-octadecenoic acid (Z)-, cadmium salt**; **cadmium, bis(diethylcarbamodithioato-S,S’)-, (T-4)-**; **dodecanoic acid, barium cadmium salt**; **cyclohexanebutanoic acid, cadmium salt**; **naphthenic acids, cadmium salts**; **neodecanoic acid, cadmium salt**; **benzoic acid, 3-methyl-, cadmium salt**; **cadmium, benzoate p-tert-butylbenzoate complexes**; **cadmium zinc sulfide ((Cd,Zn)S), copper chloride-doped**; and **octadecanoic acid, 12-hydroxy-, cadmium salt (2:1)**. The remaining 23 substances were identified as needing further assessment. The notice is available at <http://canadagazette.gc.ca/rp-pr/p1/2014/2014-03-29/html/notice-avis-eng.php#d106>. The Final Screening Assessment is available at <http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=7340E1B7-1>.

**Canada Begins Public Consultation On Approach For A Subset Of Substances Prioritized During Categorization**

Canada began on March 29, 2014, a pubic consultation concerning the approach for a subset of substances prioritized during categorization. Canada proposes that 249 substances on the DSL identified as priorities through categorization that, upon further analysis, can be associated with other risk assessment or risk management initiatives under CEPA do not require further risk assessment at this time. Canada notes that this does not preclude further data collection, risk assessment or risk management activities triggered through other initiatives such as:

* Identification of new hazard or exposure information that may impact previous analyses of risk;
* International activities;
* Inclusion in future substances grouping or other assessment initiatives; or
* As may be required to support risk management activities including performance evaluation and subsequent changes to risk management.

The consultation document, *Proposed Approach for a Subset of Substances Prioritized during Categorization*, states that the first Priority Substances List assessment covers **cadmium compound**s released both from industrial point sources, as well as commercial **cadmium products**. The following 11 inorganic **cadmium compounds** are considered within the scope of the assessment of “**cadmium and its compounds**.” As such, Canada proposes that these 11 inorganic **cadmium compounds** do not require further risk assessment at this time.

|  |  |
| --- | --- |
| **CAS Number** | **Name**  |
| 513-78-0  | Carbonic acid, cadmium salt (1:1)  |
| 1306-19-0  | Cadmium oxide (CdO)  |
| 1306-23-6  | Cadmium sulfide (CdS)  |
| 1345-09-1  | Cadmium mercury sulfide  |
| 7789-42-6  | Cadmium bromide (CdBr2)  |
| 10108-64-2  | Cadmium chloride (CdCl2)  |
| 10124-36-4  | Sulfuric acid, cadmium salt (1:1)  |
| 10325-94-7  | Nitric acid, cadmium salt  |
| 12014-14-1  | Cadmium titanium oxide (CdTiO3)  |
| 14017-36-8  | Sulfamic acid, cadmium salt (2:1)  |
| 14486-19-2  | Borate(1-), tetrafluoro-, cadmium (2:1)  |

Comments are due **May 28, 2014**. The consultation document is available at <http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=76847CF1-1>. More information is available at <http://www.chemicalsubstanceschimiques.gc.ca/plan/approach-approche/substances-prioritized_jugees-eng.php>.

**CHINA**

**Chinese Industrial Association Releases Draft Guideline For Social Responsibility In Chinese Outbound Mining Investments**

CCCMC held a public consultation period on a draft document entitled “Guideline for Social Responsibility in Outbound Mining Investments,” which is intended to guide Chinese mining investment and operations and to encourage Chinese companies to develop specific corporate social responsibility and sustainability strategies. The draft document was developed with the support of the bilateral Sino-German Corporate Social Responsibility Project initiated by the Chinese and German governments. The consultation ended on April 9, 2014. The draft document is available at <http://www.chinacsrproject.org/Events/Event_Show_EN.asp?ID=222>.

**China Publishes Catalog Of Priority Hazardous Chemicals For Environment Management**

In early April, MEP published the final Catalog of Priority Hazardous Chemicals for Environment Management, which includes 84 substances, including **cadmium selenide**, **cadmium fluoborate**, and **cadmium telluride**. Companies that manufacture listed chemicals or use listed chemicals to manufacture products must submit an environmental administration registration to provincial environmental authorities. These companies must obtain an environmental risk assessment report, prepared by a qualified third party, and submit it to the authorities, as well. By January 31 of each year, companies must submit a pollutant release and transfer register form and environmental risk management plans to county-level authorities. Companies must conduct environmental monitoring of listed chemicals and their waste. MEP stated that most of the 84 substances are PBT; manufactured in large quantities and pose possible risks to human health or the environment; or covered by international conventions on hazardous chemicals. MEP’s notice is available, in Chinese, at <http://www.mep.gov.cn/gkml/hbb/bgt/201404/t20140409_270296.htm>. The notice includes a link to the list of 84 substances. Although the substance names are in Chinese, CAS Numbers are included.

**Chinese Survey Finds Cadmium Pollution In Soil**

The Ministry of Land and Resources announced on April 17, 2014, the results of a nine-year government survey of pollutants in soil. The survey found that safety guidelines were breached in 16 percent of the 6.3 million square meters of land tested, and the pollutants include mercury, arsenic, and **cadmium**. China intends to conduct further studies on soil quality and implement steps for its gradual restoration, as well as strengthen supervision over areas such as the disposal of wastewater and gas, and control over agricultural production such as the use of pesticides and fertilizers.

**Greenpeace East Asia Finds Excessive Levels Of Cadmium In Rice**

On April 24, 2014, Greenpeace East Asia posted a blog item entitled “‘**Cadmium** rice’: heavy metal pollution of China’s rice crops,” which announces the availability of a report entitled “Distribution of metals in soils from uncultivated land, soils from rice fields and in rice grown in the area of an industrial complex with metal smelting and processing facilities in Hunan Province, China.” Greenpeace East Asia states:

Greenpeace East Asia sampled soil and rice crops in villages close to a cluster of heavy metals smelters in Hunan Province, an area that ranks first in rice output and among the top five in nonferrous metals production. Testing and analysis of the samples shows that both rice and soil samples found near the industrial complex were contaminated by heavy metals, including lead. 12 out of all 13 rice samples contained excessive levels of **cadmium**.

Using statistics in the China Statistical Yearbook on Environment (2010), we estimated that the nonferrous metals smelting business contribute over 80% of all **cadmium** and lead in industrial waste water.

In 2002, the Ministry of Agriculture found in an investigation that 10% of rice samples contained excessive **cadmium**. In a similar investigation in 2013, Guangdong Provincial government found 44% of rice sample to have excessive **cadmium**. However, little research has been done on the source of **cadmium** contamination.

More information is available at <http://www.greenpeace.org/eastasia/publications/reports/toxics/2014/cadmium-rice-heavy-metal/>.

**University Study Finds Cadmium In Market-Bought Vegetables**

A Hong Kong Polytechnic University study commissioned by Food Watch found that one in five samples of various imported vegetables bought at Hong Kong markets had excessive amounts of **cadmium**. Researchers tested 20 samples of mainland-sourced vegetables, including watercress, bamboo fungus, and dried mushrooms, and found that four exceeded city limits of **cadmium** by 15 to 94 percent. The CFS stated that the government already set up a task force to review food safety standards.

**MALAYSIA**

**Malaysia Notifies WTO Of Lower Limit For Cadmium Leakage In Ceramic Ware**

On March 24, 2014, MOH notified the WTO that it is lowering the limits on the amount of lead and cadmium that can be released from ceramic ware. MOH has deferred enforcement, including the requirement for a health certificate for the import of ceramic ware, to a later date. According to the WTO notification, the dates for adoption and enforcement have yet to be determined. Health certificates must be issued by a competent authority of the exporting country and be made available, upon request, to the health officer at the point of entry to Malaysia.

**Malaysia Updates Industry Code Of Practice On Chemicals Classification And Hazard Communication**

Malaysia published a notice in the April 16, 2014, *Federal Government Gazette* entitled “Notification of the Approval and Revocation of the Approval of Industry Code of Practice.” The notice announces the approval of an updated *Industry Code of Practice on Chemicals Classification and Hazard Communication* (ICOP) and revokes the 2012 edition. The ICOP contains a list of chemical substances that have been classified, including **cadmium, elemental and compound, as Cd**, and guidance on chemical classification and hazard communication. The ICOP provides guidance to the principal suppliers on self-classification of chemicals according to method and classification criteria of the third edition of the GHS. The ICOP can also assist suppliers in preparing labels and SDSs according to the DOSH’s Classification Labeling, and SDS of Hazardous Chemicals Regulations. The 2014 ICOP is available at <http://www.dosh.gov.my/index.php?option=com_docman&task=doc_download&gid=1157&Itemid=183&lang=en>.

**SOUTH KOREA**

**MTIE Orders Recall Of 12 Children’s Products**

MTIE ordered the recall of 12 children’s products after finding excessive levels of **cadmium**, lead, or phthalates. MTIE tested 424 products, and ordered recalls of three toys, four jewelry products for children, and five other products, including a potty, baby bib, and children’s footwear. MTIE has asked large retail stores to block immediately the sale of the products.

**TAIWAN**

**Taiwan Will Hold Second Nomination Period For Existing Substances Inventory**

Taiwan will hold a second “supplementary nomination and correction” period beginning **June 1, 2014**. Substances eligible will be those imported to Taiwan, or manufactured, handled, used, or sold domestically between January 1, 1993, and December 31, 2011. Substances that are already on the draft existing chemical substance inventory do not have to be nominated. Nominations will be accepted for two months. Nomination tools and two guidance documents are available, in Chinese, at <http://csnn.cla.gov.tw/content/oldChemical.aspx>. The draft inventory is available at <http://csnn.cla.gov.tw/content/Substance_Query_Q.aspx>.

**UNEP**

**UNEP Calls For Information On Lead And Cadmium**

The UNEP has invited governments and other stakeholders to submit information on techniques for emissions abatement and on the possibility of replacing lead and cadmium with less hazardous substances or techniques. Responses are due **May 31, 2014**. More information is available at <http://www.unep.org/chemicalsandwaste/LeadCadmium/Mandates/Mandates-UNEPGC27-Followup/tabid/838787/Default.aspx>.

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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, or Carla N. Hutton at (202) 557-3809 or chutton@lawbc.com.

## ACRONYMS

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

**B&C** -- Bergeson & Campbell, P.C.

**CCCMC** -- China Chamber of Commerce of Minerals, Metals, and Chemicals Importers and Exporters

**CEPA** -- Canadian Environmental Protection Act, 1999

**C.F.R.** -- Code of Federal Regulations

**CFS** -- Center for Food Safety

**CICA** -- Chemicals in Commerce Act

**CSPA** -- Children’s Safe Product Act

**DEP** -- Department of Environmental Protection

**DOSH** -- Department of Occupational Safety and Health

**DSL** -- Domestic Substances List

**EAB** -- Environmental Appeals Board

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

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

**EU** -- European Union

**FDOH** -- Florida Department of Health

**GHS** -- Globally Harmonized System of Classification and Labeling of Chemicals

**HCS** -- Hazard Communications Standards

**HRL** -- Health Risk Limit

**ICdA** -- International Cadmium Association

**IMAP** -- Inventory Multi-tiered Assessment and Prioritization

**IRIS** -- Integrated Risk Information System

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

**MDH** -- Minnesota Department of Health

**MEP** -- Ministry of Environmental Protection

**MOH** -- Ministry of Health

**MPCA** -- Minnesota Pollution Control Agency

**MTIE** -- Ministry of Trade, Industry, and Energy

**NGO** -- Non-Governmental Organization

**NICNAS** -- National Industrial Chemicals Notification and Assessment Scheme

**NPC** -- National People’s Congress

**NPRM** -- Notice of Proposed Rulemaking

**NRC** -- National Research Council

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

**OHA** -- Oregon Health Authority

**OSHA** -- Occupational Safety and Health Administration

**PBT** -- Persistent, Bioaccumulative, and Toxic

**PSM** -- Process Safety Management

**RFI** -- Request for Information

**SDS** -- Safety Data Sheet

**SEC** -- United States Securities and Exchange Commission

**TRI** -- Toxics Release Inventory

**TSCA** -- Toxic Substances Control Act

**TURI** -- Toxics Use Reduction Institute

**UNEP** -- United Nations Environment Program

**WAC** -- Washington Administrative Code

**WDOE** -- Washington Department of Ecology

**WDOSH** -- Washington Division of Occupational Safety and Health

**WHMIS** -- Workplace Hazardous Materials Information System

**WTO** -- World Trade Organization

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)