#### THE INTERNATIONAL CADMIUM ASSOCIATION

**REGULATORY UPDATE**

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# NEW DEVELOPMENTS

New information is available on the following issues in this Update:

Federal Issues

CAA Issues

EPA Seeks Comments On Potential Revisions To Risk Management Program Regulations, page 3

CWA/SDWA Issues

EPA Requests Comment On Preliminary 2014 Effluent Guidelines Program Plan, Including Preliminary Category Review Of Metal Finishing, page 4

TSCA Issues

Oral Argument Scheduled In Elementis Appeal Of Penalty For Failure To Disclose Public Health Risks Under TSCA, page 4

Senate Talks On TSCA Reform Legislation Collapse, page 5

Miscellaneous Issues

DHS Initiates Rulemaking Process To “Mature” CFATS Program, page 8

NGOs Urge SEC To Take Action Concerning Resource Extraction Rulemaking, page 8

NGO Sues SEC Over Delay In Issuing Resource Extraction Disclosure Rule, page 9

State Issues

*California*

CDTSC Releases Draft PP Work Plan, page 9

*Connecticut*

Task Force On Cadmium In Children’s Jewelry Holds First Meetings, page 10

*North Carolina*

NCSAB Approves Recommendation For Revised Cadmium AAL, page 10

*Washington*

WDOE Announces Availability Of Product Testing Database, page 11

International Issues

Australia

Australia Publishes Tenth Tranche Of IMAP Assessments, Which Includes Cadmium, page 12

Canada

Health Canada’s Forward Regulatory Plan Includes Amending The Children’s Jewelry Regulations, page 12

Tsilhqot’in National Government Announces Draft Mining Policy, Spokesperson Later States It Will Ban All Mining, page 13

Canada’s Energy And Mines Ministers Discuss Priorities For 2015, Including Reporting Requirements For Extractive Companies, page 13

China

China Could Double Fees Charged For Some Pollutants, Including Cadmium, page 14

South Korea

K-REACH Joint Registration Pilot Project Announced, page 15

Publication Of K-REACH Decrees Delayed To October, page 16

Taiwan

Taiwan Announces Draft Rules For The Registration Of New And Existing Chemical Substances, page 16

**FEDERAL ISSUES**

**CAA ISSUES**

**EPA Seeks Comments On Potential Revisions To Risk Management Program Regulations**

On July 31, 2014, EPA published an RFI requesting comment on potential revisions to its Risk Management Program regulations and related programs. In the RFI, EPA asks for information and data on specific regulatory elements and PSM approaches, the public and environmental health and safety risks they address, and the costs and burdens they may entail. Section 6 of Executive Order 13650, “Improving Chemical Facility Safety and Security,” requires the EPA Administrator and the Secretary of Labor to “review the chemical hazards covered by the Risk Management Program (RMP) and the Process Safety Management Standard (PSM) and determine if the RMP or PSM can and should be expanded to address additional regulated substances and types of hazards.” EPA notes that its Risk Management Program regulation closely tracks the accident prevention measures contained in the OSHA PSM standard because CAA Section 112(r)(7)(D) requires EPA to coordinate the Risk Management Program regulation with “any requirements established for comparable purposes” by OSHA. Topics in EPA’s RFI are divided into two categories -- those addressed in parallel to the OSHA RFI, and additional topics not raised by OSHA. EPA “encourages” readers to review the OSHA RFI, as it does not always reiterate OSHA’s full justification on the same or similar topics. EPA will use the information received in response to the RFI to inform what action, if any, it may take. Comments are due **October 29, 2014**.

**CWA/SDWA ISSUES**

**EPA Requests Comment On Preliminary 2014 Effluent Guidelines Program Plan, Including Preliminary Category Review Of Metal Finishing**

On September 16, 2014, EPA published a *Federal Register* notice announcing the availability of the combined Final 2012 and Preliminary 2014 Effluent Guidelines Program Plans and EPA’s 2012 and 2013 Annual Effluent Guidelines Review Reports. EPA requests comments on its Preliminary 2014 Plan, including the data and information used to support the findings, actions, and conclusions as stated in the Preliminary 2014 Plan. Specifically, EPA solicits public comment and stakeholder input, data, and information on several issues, including:

Preliminary Category Review of Metal Finishing. EPA plans to continue a preliminary category review of the Metal Finishing point source category (40 CFR Part 433). EPA solicits data and information regarding the discharge and treatment of metals, particularly chromium, nickel, and zinc, in addition to **cadmium**, copper, lead, silver and any others, to publicly owned treatment works (“POTWs”) by metal finishers, as well as any other information believed to be relevant to EPA’s review.

Comments are due **November 17, 2014**. More information is available at <http://water.epa.gov/scitech/wastetech/guide/304m/index.cfm>.

**TSCA ISSUES**

**Oral Argument Scheduled In Elementis Appeal Of Penalty For Failure To Disclose Public Health Risks Under TSCA**

On September 4, 2014, the EAB issued an order scheduling oral argument for **October 30, 2014**, in Elementis’ appeal of its penalty for failure to disclose public health risks under TSCA. The EAB states that, after reviewing the appellate briefs, it has determined that oral argument would assist it in its deliberations regarding the appeal. Elementis filed on May 9, 2014, 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.” On May 14, 2014, EPA filed its response, opposing the request for oral argument, in view of the “extensive briefing in this matter.” 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).

**Senate Talks On TSCA Reform Legislation Collapse**

On September 17, 2014, Senators Barbara Boxer (D-CA), Chair of the Senate Environment and Public Works Committee, David Vitter (R-LA), Ranking Member, Ben Cardin (D-MD), and Tom Udall (D-NM) met to discuss a revised draft of the Chemical Safety Improvement Act (S. 1009). The Senators were unable to reach agreement on the bill. A spokesperson for Vitter stated on September 18, 2014: “We’ve had very fruitful discussions but it hasn’t produced an agreement before the election. Therefore, Senator Vitter will go back to S. 1009 as introduced and see where we are after the election.” Boxer issued a September 18, 2014, statement concerning current TSCA reform efforts, as well as the Boxer TSCA reform counterproposal, which reflects “important changes needed to Senator Vitter’s draft bill to ensure that the bill strengthens current law and protects public health,” and a critique of Vitter’s TSCA proposal. In response to Boxer’s release of the July draft of the bill, Vitter stated: “We’ve worked for over a year on bipartisan negotiations in good faith. In contrast, Senator Boxer has released our confidential proposal to the press without my consent. That speaks for itself -- it’s not a good faith effort to reach consensus but a press stunt/temper tantrum. It’s an insult to Tom Udall and others who’ve worked hard at this, as well as to Frank Lautenberg’s legacy.” Boxer released the following highlights of her counterproposal:

* Section 3. Definitions:
* Ensures that “conditions of use” includes reasonably foreseeable spills, leaks and other unintended exposures; and
* Changes the definition of “Safety Standard” to tighten the standard so that it clearly rejects the ineffective standard in the original TSCA law.
* Section 3A. Policies, Procedures and Guidance:
* Removes ambiguous terminology, including “weight of the evidence”;
* Requires consideration of aggregate exposure -- because that reflects real-world conditions;
* References specific reports by the National Academy of Sciences; and
* Requires that conflicts of interest be avoided in appointing the Science Advisory Committee.
* Section 4. Testing of Chemical Substances or Mixtures:
* Clarifies EPA authority to require testing for prioritization; and
* Applies the animal testing provisions to tests using mammals.
* Section 4A. Prioritization Screening:
* Increases the minimum number of chemicals to be identified as high priority initially. The Vitter draft only requires ten chemicals to be considered, despite the thousands of chemicals in commerce;
* Simplifies the procedure for adding EPA Workplan chemicals to the initial list;
* Increases the rate at which new chemicals will be added to the high priority list in connection with imposing fees;
* Makes storage near a drinking water source a factor in establishing a chemical as high priority to address the issues underscored by the disastrous chemical spill in West Virginia;
* Tightens the criteria for labeling a chemical as low priority to ensure the decision is based on adequate information; and
* Makes the determination that a chemical is low priority a “final agency action,” subject to judicial review, including through citizen suits.
* Section 5. New Chemicals and Significant Uses:
* Ensures that EPA’s regulatory authority includes mixtures and articles containing chemicals.
* Section 6. Safety Assessments and Determinations:
* Tightens extremely lengthy deadlines for safety assessments and determinations in the Vitter draft;
* Limits cost-benefit analysis to cases where a regulation would have costs of $100 million or more, and eliminates duplicative analyses for a decision to ban a chemical;
* Ensures that EPA’s regulatory authority includes mixtures and articles containing chemicals;
* Places a specific time limit (which may be renewed) on exemptions from regulations;
* Requires EPA to take expedited action on PBT chemicals; and
* Requires EPA to take action on all forms of asbestos, one of the most dangerous, toxic substances long known for causing severe injury and death, within three years of enactment.
* Section 13. Confidential Information
* Tightens the description of the kinds of information that can be claimed as CBI; and
* Clarifies language describing EPA authority to review and release CBI.
* Section 16. Preemption:
* Restores state authority.
* Section 21. Administration:
* Adds fees and ties them to increasing the number of chemicals EPA will review.

Boxer’s statement, critique of Vitter’s proposal, and counterproposal are available at <http://www.epw.senate.gov/public/index.cfm?FuseAction=Majority.PressReleases&ContentRecord_id=69343ad5-ff65-15c3-6d34-53c14f435018>. A summary of the changes in S. 1009 and the Boxer TSCA version is available in B&C®’s September 25, 2014, memorandum, which is available at <http://www.lawbc.com/regulatory-developments/entry/summary-of-changes-in-the-chemical-safety-improvement-actcsia-s.-1009-and-t/>.

**MISCELLANEOUS ISSUES**

**DHS Initiates Rulemaking Process To “Mature” CFATS Program**

On August 18, 2014, DHS published an ANPR initiating a rulemaking process “as a step towards maturing the CFATS program and to identify ways to make the program more effective in achieving its regulatory objectives.” DHS states that the ANPR “provides an opportunity for the Department to hear and consider, during the development of an updated CFATS regulation, the views of regulated industry and other interested members of the public on their recommendations for program modifications.” The ANPR lists areas in which DHS “is most interested in receiving comments,” which include treatment of non-traditional chemical facilities. DHS states that it recognizes that a one-size-fits-all approach may not be optimal, and requests comments regarding the applicability of existing CFATS requirements and processes to non-traditional chemical facilities covered under CFATS. The ANPR states: “The expansive and dynamic nature of the community that uses potentially hazardous chemicals and that have facilities that are covered by CFATS include, but are not limited to many types of facilities that are not traditionally considered ‘chemical facilities,’ such as agricultural product manufacturers; microchip manufacturers; paint and coatings manufacturers; mines; hospitals; racecar tracks; and colleges and universities.” Areas of interest for comments also include all aspects of CFATS Appendix A, including: (1) comments on the possible addition of chemicals to, and/or the deletion or modification of certain COI currently listed in Appendix A; (2) any term utilized in 6 C.F.R. Section 27.203, and the applicability and/or modification of STQs as the bases for listing COIs; and (3) the concentration and mixtures rules associated with Appendix A. DHS intends to hold multiple public listening sessions to solicit the public’s views on the ANPR and how the current CFATS regulation might be improved. DHS plans to announce dates, times, and locations of these public listening sessions at [www.dhs.gov/critical-infrastructure-chemical-security](http://www.dhs.gov/critical-infrastructure-chemical-security). Comments on the ANPR are due **October 17, 2014**.

**NGOs Urge SEC To Take Action Concerning Resource Extraction Rulemaking**

On July 14, 2014, Oxfam America wrote to the SEC “to insist again that the Commission comply with its legal obligation to swiftly enact a new rule implementing Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,” which concerns specialized disclosure from resource extraction issuers. Oxfam America “note[s] with concern the recent non-binding announcement that the Commission may propose a new rule in **March 2015** and strongly believe that this delay is both unwarranted and inconsistent with the Commission’s legal obligations.” Oxfam America urges the SEC to “take swift action consistent with its previous approach to Section 1504, which showed leadership that set the stage for similar action around the world.” Oxfam America’s letter is available at <http://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-55.pdf>.

On August 1, 2014, Publish What You Pay sent a letter to the SEC to draw its attention to an open letter from its Africa Steering Committee to President Obama, in advance of the U.S.-Africa Leaders’ Summit. The letter “calls on the President to commit to enhancing governance of the extractive sector and to provide a level playing field so that Africans, not multinationals and an elite minority, benefit from the continent’s natural resources.” Publish What You Pay notes that a “central element of this is a call for swift publication of the SEC’s rules implementing Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.” The letter is available at <http://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-56.pdf>.

**NGO Sues SEC Over Delay In Issuing Resource Extraction Disclosure Rule**

On September 18, 2014, Oxfam America Inc. filed suit in the U.S. District Court for the District of Massachusetts to compel the SEC to issue a resource extraction disclosure rule. *Oxfam Am. Inc. v. SEC*, No. 14-cv-13648. Oxfam America stated: “The SEC’s pattern of delay gives no assurance that it will promulgate a Final Rule, nor even a proposed rule, without the involvement of this Court.” Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act directs the SEC to require the resource extractive industries to disclose payments made to governments to further the commercial development of oil, natural gas, or minerals. In 2013, the U.S. District Court for the District of Columbia struck down a rule adopted by the SEC in 2012. Oxfam America’s September 18, 2014, press release concerning the lawsuit is available at <http://www.oxfamamerica.org/press/oxfam-america-sues-sec-over-delay-on-oil-gas-and-mining-transparency-rules/>.

**STATE ISSUES**

***California***

**CDTSC Releases Draft PP Work Plan**

On September 12, 2014, CDTSC released the draft PP Work Plan, which identifies product categories from which it will select PPs. CDTSC states that the three-year Work Plan “outlines some of the considerations behind our product category selections.” CDTSC will issue a final Work Plan upon consideration of public comments received during the comment period. CDTSC will then use research and stakeholder input to identify specific product-chemical combinations that warrant consideration as potential PPs. CDTSC will issue an update to the Work Plan one year before the expiration date. CDTSC notes that the Work Plan does not specifically identify PPs or Chemicals of Concern. CDTSC states that it will identify future potential PPs by choosing specific products from the categories identified in the Work Plan in conjunction with chemicals found on the Candidate Chemicals list. The Work Plan is intended to provide a higher level of predictability regarding potential future regulatory actions by CDTSC. CDTSC held a workshop on September 25, 2014, and will hold another on **September 29, 2014**, to discuss the draft Work Plan. Comments are due **October 13, 2014**. More information is available at <http://www.dtsc.ca.gov/SCP/PPWP.cfm>, and in B&C’s September 15, 2014, memorandum, which is available at <http://www.lawbc.com/regulatory-developments/entry/dtsc-releases-draft-initial-priority-product-work-plan/>.

***Connecticut***

**Task Force On Cadmium In Children’s Jewelry Holds First Meetings**

The Task Force on **Cadmium** in Children’s Jewelry, created by an Act Concerning **Cadmium** Levels in Children’s Jewelry (Public Act No. 14-140), met on July 23, July 31, and August 7, 2014. The agenda for the July 23, 2014, meeting stated that the Task Force would discuss information and materials, including existing reports from the General Assembly Public Health Committee, Department of Consumer Protection, Office of Legislative Research, and submitted testimony. The agenda for the July 31, 2014, meeting listed presentations by Mr. Alan Kaufman, Senior Vice President of the Toy Industry Association, and Dr. Jeff Weidenhamer, Professor of Chemistry and Chair, Department of Chemistry at Ashland University. According to the agenda for the August 7, 2014, meeting, the Task Force held a roundtable discussion to identify issues of importance for Task Force members and discussion of future Task Force meetings. To date none of the meeting minutes have been posted. Webcasts of the meetings are available at <http://www.ctn.state.ct.us/show_info.asp?mbID=21571> (July 23, 2014), <http://www.ctn.state.ct.us/show_info.asp?mbID=21601> (July 31, 2014), and <http://www.ctn.state.ct.us/show_info.asp?mbID=21620> (August 7, 2014). More information is available at <http://www.cga.ct.gov/gl/Cadmium/default.asp>. More information regarding the Act Concerning **Cadmium** Levels in Children’s Jewelry is available in our July 28, 2014, Update.

***North Carolina***

**NCSAB Approves Recommendation For Revised Cadmium AAL**

According to the final minutes for the May 28, 2014, teleconference of the NCSAB, the NCSAB repeated its vote on the recommendation for a revised **cadmium** AAL. The NCSAB had unanimously approved a new recommended AAL value through an e-mail vote, which, although not intended, could be interpreted as non-transparent and not open to the public. The meeting minutes state:

Dr. Stopford noted that the recommended AAL value is 10-fold less than the current AA and is below the quantitation level of routine EPA analytical methods. He inquired if the recommended AAL value would only be useful for modeling purposes and if anyone had substituted the proposed value into a model to estimate fenceline concentrations. He wondered if an emission limit could be set for such a low concentration. Dr. Prusiewicz indicated that, other than the public comment period, the proposed AAL value had not been widely shared outside the board meetings. Dr. Starr confirmed that air dispersion modeling software could deal with the low value and that an emission level associated with the AAL value could be determined. Dr. Starr pointed out that the 10-fold change in the recommended AAL value was not due to a change in potency, but rather a change in the risk criterion used; specifically from 10-5 to 10-6. At the time the original AAL was established, **cadmium** was considered a possible human carcinogen so a criterion risk level of 10-5 was used. **Cadmium** is now considered to be a known human carcinogen and so the appropriate risk level to use is 10-6. While the board relied on an updated re-analysis of the epidemiological study originally used to establish the **cadmium** AAL, the potency factor did not significantly change. Dr. Starr noted that it was problematic for him that the board was recommending an AAL value that was not measurable using the standard analytical EPA method. He pointed out, however, that the original AAL value was also not measurable with the current analytical method.

Dr. Stopford made a motion to approve the recommended **cadmium** AAL. Dr. Rusyn seconded the motion. Dr. Starr asked if there was any discussion. Dr. Rusyn asked whether any comments were received on the document while it was out for public comment. Dr. Prusiewicz replied that one minor editorial comment was received from Dr. Reginald Jordan, the previous DAQ SAB liaison. The board then unanimously approved the recommendation for a revised **cadmium** AAL of 5.5 x 10-7 mg/m3.

The meeting minutes are available at <http://daq.state.nc.us/toxics/risk/sab/minutes/175.pdf>.

***Washington***

**WDOE Announces Availability Of Product Testing Database**

On September 4, 2014, WDOE announced the availability of a database containing lab results from products tested by WDOE for chemicals of concern under the Children’s Safe Product Act and other laws and rules that regulate chemicals in products. Products in the database so far include children’s and baby’s items, clothing, personal care items, and toys. WDOE states that it will add information on more product types, such as children’s upholstered furniture, electrical and electronic items, and office and art supplies, in the future. According to WDOE, tests show “most manufacturers are following laws regulating the use of toxic chemicals.” The database is available at <https://fortress.wa.gov/ecy/ptdbpublicreporting/>.

**INTERNATIONAL ISSUES**

**AUSTRALIA**

**Australia Publishes Tenth Tranche Of IMAP Assessments, Which Includes Cadmium**

As reported in our September 23, 2014, e-mail, NICNAS published for public comment the tenth tranche of human health and environmental assessments for chemicals identified as part of the Stage One implementation of the IMAP Framework. Tier II of the human health assessments includes **cadmium**. The assessment outcome states: “No recommendation as existing regulatory controls are considered sufficient.” 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 **October 31, 2014**. More information is available at <http://www.nicnas.gov.au/chemical-information/imap-assessments/imap-assessments/public-comment>.

**CANADA**

**Health Canada’s Forward Regulatory Plan Includes Amending The Children’s Jewelry Regulations**

Health Canada’s Forward Regulatory Plan: 2014-16, which provides information on regulatory proposals that Health Canada expects to bring forward over the next two years, includes regulations amending the Children’s Jewelry Regulations. The description of the objective states:

The objectives of this proposal are to reduce children’s exposure to lead and **cadmium** by amending the Children’s Jewellery Regulations to restrict the total lead concentration in children’s jewellery to 90 mg/kg and to restrict the total **cadmium** concentration to 130 mg/kg for any children’s jewellery that can be totally enclosed in a small parts cylinder (*i.e*. small enough to be swallowed by a child).

Health Canada held a public consultation in 2011 on a proposed guideline for **cadmium** in children’s jewelry. The web page states: “It is anticipated that Canadians will have the opportunity to provide further input during the *Canada Gazette*, Part I public comment period, which is expected to take place during the **Fall of 2014** and last 75 days.” More information is available at <http://www.hc-sc.gc.ca/ahc-asc/legislation/acts-reg-lois/frp-ppr/2014-2016/cjr-rbe-eng.php>.

**Tsilhqot’in National Government Announces Draft Mining Policy, Spokesperson Later States It Will Ban All Mining**

British Columbia’s aboriginal Tsilhqot’in National Government announced on July 31, 2014, a draft mining policy for companies that want to mine in its territory. In a June 26, 2014, ruling, the Supreme Court of Canada said the government must get express aboriginal permission before using and profiting from their lands. In announcing the draft mining policy, Chief Joe Alphonse stated: “There are dozens of mineral exploration projects in our territory and this policy will clarify for those proponents, government officials, and anyone else thinking of staking claims, that Tsilhqot’in laws remain in force in our territory, as they have since time immemorial.” The draft mining policy states that the Tsilhqot’in Nation will “require exploration agreements (for mineral exploration companies) and impact benefit agreements (for mining companies) prior to approval of any exploration or mining project.” The draft policy’s stated goals are to protect aboriginal territories’ critical environmental, cultural, and spiritual sites and areas, and to ensure mining and exploration projects are designed, managed, and monitored to protect the environment, minimize disturbance, and include Tsilhqot’in-led cumulative impact and cultural impact assessments. Comments on the draft mining policy are due **September 30, 2014**. More information is available at <http://www.tsilhqotin.ca/PDFs/Press%20Releases/20140731TNGReleaseMiningPolicy.pdf>.

More recently, Chief Joe Alphonse stated to Bloomberg BNA that the Tsilhqot’in National Government will ban all mining on its territory in British Columbia after a tailings pond spill at the Mount Polley gold and copper mine contaminated waterways across the region and killed salmon that the communities depend on for food. Alphonse stated: “We don’t want any mines in our territory. We don’t trust the B.C. government. We don’t trust the mining industry.” According to Alphonse, several companies are exploring for claims on its more than 1,700 square kilometers of land in west-central British Columbia. The August 4, 2014, breach at Imperial Metals’ Mount Polley mine near Quesnel, B.C., released more than 10 million cubic meters of contaminated water and 4.5 million cubic meters of fine sand into nearby waterways, leading to a drinking water ban for much of the sparsely populated Cariboo Regional District. The ban was lifted August 12, 2014, for most of the region, but remained in effect for areas closest to the spill. According to Alphonse, salmon are swimming upstream through the area of the contamination to get to Tsilhqot’in waters. Tsilhqot’in leaders advised members not to eat fish, even though the ban had been lifted for their waterways.

**Canada’s Energy And Mines Ministers Discuss Priorities For 2015, Including Reporting Requirements For Extractive Companies**

On August 26, 2014, Natural Resources Canada issued a press release entitled “Our Resources, New Frontiers: Canada’s Energy and Mines Ministers Discuss Responsible Resource Development and Priorities for the Upcoming Year,” which highlights the outcomes of the Energy and Mines Ministers’ Conference in Sudbury, Ontario. The ministers reaffirmed the critical importance of the principles agreed to in recent annual meetings, including:

* Provincial and territorial governments will work with the federal government in support of Canada’s commitment to establish new mandatory reporting standards for Canadian extractive companies with a view to enhancing transparency of payments made to governments; and
* Effective engagement is essential to ensure Aboriginal communities benefit fully from responsible resource development. The mineral sector continues to be the largest private employer of Aboriginal people in Canada.

The press release states that, in particular, the Ministers emphasized the need to continue working collaboratively over the coming year on several issues, including:

* Enhancing Aboriginal participation in energy and mining projects is critical in developing Canada’s natural resources;
* Exploring the framework to promote the long-term competitiveness of Canada’s junior mining sector in cooperation with stakeholders;
* Helping Canadian natural resource industries address environmental performance, through the advancement of research, technology and innovation; and
* Implementing mandatory reporting standards for payments made by the extractive sector to governments.

The press release states that all provinces and territories support the principle of mandatory reporting standards for the extractive sector on payments to governments. With this support, the Government of Canada intends to enact legislation. According to the press release, the federal government will defer by two years the requirement for industry to report their payments made to Aboriginal governments and continue engaging Aboriginal groups regarding mandatory reporting standards. The press release is available at <http://www.scics.gc.ca/english/Conferences.asp?a=viewdocument&id=2198>.

**CHINA**

**China Could Double Fees Charged For Some Pollutants, Including Cadmium**

According to a September 5, 2014, notice from the National Development and Reform Commission, Ministry of Finance, and Ministry of Environmental Protection, the fees charged to Chinese companies to offset their discharge of key air and water pollutants could double in **2015**. Fees for the standard discharge weight, calculated by existing technical standards for each pollutant, must be at least 1.2 Yuan (19 cents) for sulfur dioxide and nitrogen oxide, up from a current rate of 0.6 Yuan (9 cents) for the standard discharge weight, and at least 1.4 Yuan (22 cents) for chemical oxygen demand, ammonia nitrogen, and five heavy metals (lead, mercury, chromium, **cadmium**, and metalloid arsenic), up from 0.7 Yuan (11 cents). Areas with severe environmental problems or more developed local economies will be allowed to enact higher pollutant emissions discharge fees. Companies that exceed national or local emissions reduction targets, or that have exceeded their own allocated quotas, will be charged double the amount of the new fee standard. Companies that exceed both government targets and their own quotas will be charged three times the normal discharge fee, the notice states. More information is available, in Chinese, at <http://www.sdpc.gov.cn/gzdt/201409/t20140905_624993.html>.

**SOUTH KOREA**

**K-REACH Joint Registration Pilot Project Announced**

KCMA and the KNCPC will oversee a pilot project to test tools and procedures for the joint registration of substances under K-REACH. The project, which will end in **May 2015**, is intended to produce registration dossiers by **April 2015** for seven substances that will be included in the first registration priority list:

* M-tolylidene diisocyanate;
* Dibenzoyl peroxide;
* 4,4’Methylenedianiline;
* Hydrogen bromide;
* Methyl-m-phenylene diisocyanate;
* Trichloroethylene; and
* Butyl glycidyl ether.

Each substance will be assigned to a different consultancy. KCMA has asked consultants in the country to submit information on their capabilities, experience with EU REACH registration, and new chemical notifications. Manufacturers and importers in South Korea that handle more than one tonne per year of any of the seven substances, plus the appointed representatives of foreign exporters to South Korea, are eligible to take part in the project and must decide by **September 11, 2014**. Companies needing to register any of the substances that do not take part in the project and that do not have the necessary data will have to buy letters of access to the K-REACH consortia to register them as latecomers. More information is available, in Korean, at <http://www.kcma.or.kr/bbs/view.asp?bbs_idx=3760&bbs_code=1>.

**Publication Of K-REACH Decrees Delayed To October**

In a meeting in September 2014 with stakeholders, MOE Deputy Director In-Mok Hwang stated that the Ministry of Government Legislation is currently reviewing the final versions of the Presidential and Ministerial Decrees for the implementation of K-REACH. The final decrees were expected to be issued in September 2014. MOE is expected to release in **October 2014** a draft list of approximately 500 designated existing chemical substances that will be subject to registration in **2015**. The final list is expected to be released in **2015**. MOE is preparing draft guidance for the registration of chemicals, and intends to publish it on its website by the **end of** **2014**.

**TAIWAN**

**Taiwan Announces Draft Rules For The Registration Of New And Existing Chemical Substances**

The Environmental Protection Administration announced on August 25, 2014, draft rules for the registration of new and existing chemical substances. The draft rules are part of the implementation of the revised TCSCA, which will take effect **December 11, 2014**. The draft rules include the following:

* Registrants, including a legal entity, unincorporated body, or administrative agency, would be able to register a new or existing chemical substance directly or appoint a representative;
* A “standard registration” would be required for new chemical substances manufactured or imported in annual quantities of one tonne or more and for substances manufactured or imported for scientific R&D or for product or process-oriented R&D in quantities of over 100 tonnes per year. Companies that import more than 100 kg but less than 100 tonnes for such purposes could use a simplified registration procedure, while new chemicals that are imported or manufactured for production and process-oriented R&D in volumes of less than one tonne per year would be subject to a “small quantity” registration procedure;
* Substances classified as carcinogenic, mutagenic, or toxic for reproduction would be subject to standard registration;
* Standard registrations would be valid for five years, while simplified registration and small quantity registrations would be valid for two years;
* Prospective registrants of the same chemical substances would be allowed to file a joint registration; and
* Registrants could apply for five-year permits to retain the confidentiality of some information for demonstrable reasons involving national security or commercial secrets.

A spokesperson for the Department of Environmental Sanitation and Toxic Substance Management suggested comments be submitted by **October 15, 2014**. Public hearings will be held within six weeks, before a final version of the measures is announced. More information is available, in Chinese, at <http://gazette.nat.gov.tw/EG_FileManager/eguploadpub/eg020163/ch07/type3/gov60/num22/Eg.htm>.

\* \* \* \* \*

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

**AAL** -- Acceptable Ambient Level

**ANPR** -- Advance Notice of Proposed Rulemaking

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

**CAA** -- Clean Air Act

**CBI** -- Confidential Business Information

**CDTSC** -- California Department of Toxic Substances Control

**CFATS** -- Chemical Facility Anti-Terrorism Standards

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

**COI** -- Chemical of Interest

**CWA** -- Clean Water Act

**DHS** -- Department of Homeland Security

**EAB** -- Environmental Appeals Board

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

**EU** -- European Union

**ICdA** -- International Cadmium Association

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

**KCMA** -- Korea Chemical Management Association

**KNCPC** -- Korea National Cleaner Production Centre

**K-REACH** -- Act for the Registration and Evaluation of Chemicals

**MOE** -- Ministry of Environment

**NCSAB** -- North Carolina Science Advisory Board

**NGO** -- Non-Governmental Organization

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

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

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

**PP** -- Priority Product

**PSM** -- Process Safety Management

**R&D** -- Research and Development

**REACH** -- Registration, Evaluation, Authorization and Restriction of Chemicals

**RFI** -- Request for Information

**SDWA** -- Safe Drinking Water Act

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

**STQ** -- Screening Threshold Quantity

**TCSCA** -- Toxic Chemical Substances Control Act

**TSCA** -- Toxic Substances Control Act

**WDOE** -- 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)