#### THE INTERNATIONAL CADMIUM ASSOCIATION

**REGULATORY UPDATE**

**January 28, 2017**[[1]](#footnote-1)

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**FEDERAL ISSUES**

**CAA ISSUES**

**EPA Issues Final Rule Amending RMP For Chemical Facilities**

On January 13, 2017, EPA issued a final rule amending its RMP regulations to reduce the likelihood of accidental releases at chemical facilities and improve emergency response activities when those releases occur. According to EPA, while numerous chemical plans are operated safely, in the last ten years more than 1,500 accidents were reported by RMP facilities. The RMP regulations require covered facilities to develop and implement a risk management program. The final rule includes the following table of affected facilities by sector:

| **Sector** | **NAICS Codes** | **Total Facilities** | **Chemical Uses** |
| --- | --- | --- | --- |
| Administration of environmental quality programs (*i.e*., governments) | 924 | 1,923 | Use chlorine and other chemicals for treatment |
| Agricultural chemical distributors/wholesalers | 111, 112, 115, 42491 | 3,667 | Store ammonia for sale; some in NAICS 111 and 115 use ammonia as a refrigerant |
| Chemical manufacturing | 325 | 1,466 | Manufacture, process, store |
| Chemical wholesalers | 4246 | 333 | Store for sale |
| Food and beverage manufacturing | 311, 312 | 1,476 | Use -- mostly ammonia as a refrigerant |
| Oil and gas extraction | 211 | 741 | Intermediate processing (mostly regulated flammable substances and flammable mixtures) |
| Other | 44, 45, 48, 54, 56, 61, 72 | 247 | Use chemicals for wastewater treatment, refrigeration, store chemicals for sale |
| Other manufacturing | 313, 326, 327, 33 | 384 | Use various chemicals in manufacturing process, waste treatment |
| Other wholesale | 423, 424 | 302 | Use (mostly ammonia as a refrigerant) |
| Paper manufacturing | 322 | 70 | Use various chemicals in pulp and paper manufacturing |
| Petroleum and coal products manufacturing | 324 | 156 | Manufacture, process, store (mostly regulated flammable substances and flammable mixtures) |
| Petroleum wholesalers | 4247 | 276 | Store for sale (mostly regulated flammable substances and flammable mixtures) |
| Utilities | 221 | 445 | Use chlorine (mostly for water treatment) and other chemicals |
| Warehousing and storage | 493 | 1,056 | Use mostly ammonia as a refrigerant |
| **Total** |  | **12,542** |  |

The amendments are intended to:

* Prevent catastrophic accidents by improving accident prevention program requirements;
* Enhance emergency preparedness to ensure coordination between facilities and local communities;
* Improve information access to help the public understand the risks at RMP facilities; and
* Improve third-party audits at RMP facilities.

The final rule was scheduled to take effect **March 14, 2017**. On January 26, 2017, EPA published a *Federal Register* notice delaying the effective date of the RMP rule from **March 14, 2017**, to **March 21, 2017**, in response to a January 20, 2017, White House memorandum. Scott Pruitt, Oklahoma Attorney General and President Trump’s intended nominee for EPA Administrator, criticized EPA’s proposed rule. Pruitt described the proposed rule as a terrorism risk and asked EPA to withdraw it.

**CERCLA ISSUES**

**EPA Proposes Financial Responsibility Requirements For Hardrock Mining Industry**

On January 11, 2017, EPA proposed to require owners and operators of certain classes of hardrock mines and mineral processing facilities to show financial ability to address risks from hazardous substances. Facilities that apply environmentally protective practices -- including those required by other regulations -- may be able to reduce their required amount of financial responsibility under the proposed rule. The proposed rule would apply to certain classes of facilities that engage in the extraction, beneficiation, and processing of metals (*e.g*., copper, gold, iron, lead, magnesium, molybdenum, silver, uranium, and zinc) and non-metallic, non-fuel minerals (*e.g*., asbestos, phosphate rock, and sulfur). The proposed rule includes a table, for illustration purposes, of examples of commodities that EPA expects are subject to the proposed rule. The table includes **cadmium**. The proposed rule would require owners and operators subject to the rule to demonstrate and to maintain financial responsibility consistent with the degree and duration of risk associated with the treatment, production, transportation, storage, and disposal of hazardous substances at their facilities. EPA proposes that current owners and operators of facilities subject to the rule be required to demonstrate financial responsibility to cover the three types of costs associated with releases and potential releases of hazardous substances from their facilities, including response costs, health assessment costs, and natural resource damages. Owners and operators of facilities subject to the proposed rule would be required to:

* Notify EPA that they are subject to the rule;
* Calculate a level of financial responsibility for their facility using a formula provided in the rule (and provide supporting documentation for the calculation);
* Obtain a financial responsibility instrument, or qualify to self-assure, for the amount of financial responsibility if that option is adopted in the final rule;
* Demonstrate to EPA that they have obtained such evidence of financial responsibility; and
* Update and maintain financial responsibility until EPA releases the owner or operator from the CERCLA Section 108(b) regulations.

In addition, as requested by Congress, EPA published a [market capacity study](https://semspub.epa.gov/src/document/11/196705) that examines the availability of financial responsibility instruments for the proposal. EPA states that the study “illustrated the likely probability of sufficient providers and capacity to meet requirements of a future CERCLA 108(b) regulation for hardrock mining.” Comments on the proposed rule are due **March 13, 2017**.

On December 2, 2016, Senate Energy and Commerce Committee Chair Fred Upton (R-MI) and Senate Natural Resources Committee Chair Rob Bishop (R-UT) issued the following [statement](https://energycommerce.house.gov/news-center/press-releases/upton-bishop-epa-releases-burdensome-and-duplicative-cercla-financial) criticizing the proposed rule:

The latest EPA proposed regulation is the result of sue-and-settle litigation that perpetuates more of the same special interest handouts from this administration. It’s a burdensome, duplicative, and completely unnecessary pile-on to the tune of billions of dollars on the backs of the mining industry. State financial assurance programs and numerous other federal regulations are already in place to ensure environmental stewardship, but the EPA ignored input from those models and stakeholders. This rule -- drafted by EPA with very little input from states, the mining industry, and the financial sector -- inevitably creates massive uncertainty and blocks access to our vast natural resources.

**CWA/SDWA ISSUES**

**EPA Proposes NPDWRs For Regulatory Revision, Will Not Revise Cadmium At This Time**

On January 11, 2017, EPA published a *Federal Register* notice announcing the results of its detailed review of 76 NPDWRs, including **cadmium**. EPA states that at this time it has determined that eight NPDWRs are candidates for regulatory revision. According to the notice, EPA concluded that the NPDWR for cadmium is “not appropriate for revision at this time” because, as of December 2015, a health effects assessment is in process or the contaminant is nominated for health assessment. In the case of cadmium, the notice states that it included in EPA’s IRIS multi-year agenda. EPA states that the notice “is not a final regulatory decision, but rather the initiation of a process that will involve more detailed analyses of factors relevant to deciding whether a rulemaking to revise an NPDWR should be initiated.” Comments are due **March 13, 2017**.

**EPCRA ISSUES**

**EPA Announces Availability Of 2015 TRI National Analysis**

EPA announced on January 12, 2017, the publication of the [2015 TRI National Analysis](http://links.govdelivery.com:80/track?type=click&enid=ZWFzPTEmbWFpbGluZ2lkPTIwMTcwMTEyLjY4Njc2NDAxJm1lc3NhZ2VpZD1NREItUFJELUJVTC0yMDE3MDExMi42ODY3NjQwMSZkYXRhYmFzZWlkPTEwMDEmc2VyaWFsPTE3MTIyMzI1JmVtYWlsaWQ9Y2h1dHRvbkBsYXdiYy5jb20mdXNlcmlkPWNodXR0b25AbGF3YmMuY29tJmZsPSZleHRyYT1NdWx0aXZhcmlhdGVJZD0mJiY=&&&100&&&https://www.epa.gov/trinationalanalysis?utm_medium=email&utm_source=govdelivery), EPA’s summary and interpretation of the most recent data on toxic chemical releases and pollution prevention activities at more than 20,000 U.S. industrial facilities. The National Analysis includes local- and national-level data on toxic chemical releases to air, water, and land, and information about what companies are doing to prevent these releases. The highlights from the 2015 data include:

* Between 2005 and 2015, air releases of toxic chemicals from TRI facilities decreased by 56 percent (850 million pounds). An eight percent decrease from 2014 to 2015 contributed to this ten-year decline; and
* In 2015, of the nearly 26 billion pounds of total chemical waste managed at TRI facilities (excluding metal mines), approximately 92 percent was not released into the environment due to the use of preferred waste management practices such as recycling, energy recovery, and treatment.

EPA notes that the TRI National Analysis website includes a new “flipbook” showing how the TRI Program has evolved over the past 30 years, plus a new dashboard that allows users to build customized visualizations of TRI data by a chemical or a sector.

**TSCA ISSUES**

**EPA Names First Chemicals For Review Under New TSCA**

On November 29, 2016, EPA announced the [first ten chemicals](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/evaluating-risk-existing-chemicals-under-tsca) it will evaluate for potential risks to human health and the environment under new TSCA:

* 1,4-Dioxane;
* 1-Bromopropane;
* Asbestos;
* Carbon tetrachloride;
* Cyclic aliphatic bromide cluster;
* Methylene chloride;
* N-methylpyrrolidone;
* Pigment violet 29;
* Tetrachloroethylene, also known as perchloroethylene; and
* Trichloroethylene.

EPA selected the chemicals from the 2014 TSCA Work Plan. When EPA published the list in the *Federal Register* on December 19, 2016, it triggered a statutory deadline to complete risk evaluations for these chemicals within three years. The evaluation will determine whether the chemicals present an unreasonable risk to humans and the environment. EPA will hold a public meeting on **February 14, 2017**, to receive input and information to assist EPA in its efforts to establish the scope of the risk evaluations. In particular, EPA is providing the public an opportunity to identify information specifically related to the conditions of use for the ten chemical substances (*i.e*., the circumstances under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed). Under new TSCA, EPA must release a scoping document within six months for each chemical, or by **June 19, 2017**. This will include the hazard(s), exposure(s), conditions of use, and the potentially exposed or susceptible subpopulation(s) EPA plans to consider for the evaluation. If EPA determines that a chemical presents an unreasonable risk, EPA must mitigate that risk within two years. For each risk evaluation that EPA completes, EPA must begin another. By the **end of 2019**, EPA must have at least 20 chemical risk valuations ongoing at any given time.

**Bipartisan Group Of Senators Urge Smooth Transition For Implementation Of TSCA Reform In New Administration; Pruitt States Implementing TSCA Reform Is A Priority**

On December 1, 2016, a bipartisan group of Senators sent a letter to Vice President Mike Pence, in his role as Chair of the Presidential Transition Team Executive Committee, urging the new Administration to ensure there is continuity in implementation of the bipartisan Frank R. Lautenberg Chemical Safety for the 21st Century Act. The December 1, 2016, [press release](http://www.epw.senate.gov/public/index.cfm/press-releases-republican?ID=3D04BEE6-9018-4CF6-949C-E4CEC07B0658) notes that the bill was signed into law with broad bipartisan support, and reforms the “badly broken” TSCA. The Senators stressed the importance of communication between the transition team and EPA to ensure successful implementation of the reform, “which will safeguard public health and the environment and bolster confidence in the marketplace for manufacture[r]s and consumers alike.” The letter urges Pence to begin working with EPA “to communicate on critical steps that are underway and to get a full appreciation of the new law’s deadlines. We urge that you view appointments, funding and staffing to this office with utmost importance. It is essential to maintain momentum during the Presidential transition and in the early months of the new Administration to ensure that this new law is successful.” Scott Pruitt, Oklahoma Attorney General and President Trump’s selection for EPA Administrator, supported S. 697, the Senate’s TSCA reform bill. The Senate Committee on Environment and Public Works held a [nomination hearing](http://www.epw.senate.gov/public/index.cfm/hearings?ID=1FC50BFE-C59F-4815-86F8-E463582935A6) for Pruitt on January 18, 2017. During the hearing, Pruitt stated that implementing TSCA reform is “absolutely” a priority.

**EPA Intends To Align CDR Requirements With TSCA Amendments**

According to EPA’s [November 2016 Action Initiation List](https://www.epa.gov/laws-regulations/actions-initiated-month" \l "nov16), before the next CDR period of **2020**, EPA will be examining the reporting requirements to align better the reporting with EPA’s needs, such as frequency of reporting and changes to the processing and use codes, parent company information, and other changes due to the amendments to TSCA by the Frank R. Lautenberg Chemical Safety for the 21st Century Act. This rulemaking does not include the byproducts requirements. EPA intends to publish an NPRM in 12 months or less.

**EPA Plans For Negotiated Rulemaking On CDR Requirements For Inorganic Byproducts, Includes NAMC On Initial List Of Parties**

On December 15, 2016, EPA published a *Federal Register* notice announcing that it intends to establish a Negotiated Rulemaking Committee under the Federal Advisory Committee Act and the Negotiated Rulemaking Act. EPA states that the objective of the Committee will be to negotiate a proposed rule that would limit chemical data reporting requirements under TSCA Section 8(a), as amended by the Frank. R. Lautenberg Chemical Safety for the 21st Century Act, for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. According to EPA, the purpose of the Committee will be to conduct discussions in a good faith attempt to reach consensus on proposed regulatory language. The negotiation process is required by TSCA Section 8(a)(6). The Committee will consist of representatives of parties with a definable stake in the outcome of the proposed requirements. EPA states that it anticipates that the following key interests are likely to be significantly affected by the rule to be addressed by the Negotiated Rulemaking Committee while negotiating how to limit CDR requirements for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed:

* Inorganic chemical manufacturers and processors, including metal mining and related activities;
* Recyclers, including scrap recyclers;
* Industry advocacy groups;
* Environmental advocacy groups;
* Federal, state, or tribal governments; and
* Employee advocacy groups, such as labor unions.

EPA intends to conduct the negotiated rulemaking proceedings with particular attention to ensuring full and adequate representation of those interests that may be significantly affected by a rule providing for limiting CDR requirements for inorganic byproduct chemical substances. EPA listed parties that it has initially identified as representing interests likely to be significantly affected by a rule, including the NAMC, of which ICdA is a member. On January 17, 2017, NAMC submitted a letter to EPA formally requesting that EPA include NAMC as a member of the Negotiated Rulemaking Committee.

**EPA Issues Final TSCA Reporting And Recordkeeping Rule For Nanoscale Materials**

On January 12, 2017, EPA promulgated a final TSCA Section 8(a) rule establishing reporting and recordkeeping requirements for certain chemical substances when they are manufactured or processed at the nanoscale. According to the final rule, manufacturers and processers, or persons who intend to manufacture or process these chemical substances must report certain information to EPA. The information to be reported includes, insofar as known to or reasonably ascertainable by the person making the report, the specific chemical identity, production volume, methods of manufacture and processing, exposure and release information, and existing information concerning environmental and health effects. Persons who manufacture or process a discrete form of a reportable chemical substance at any time during the three years prior to **May 12, 2017**, the effective date of the final rule, must report to EPA one year after the effective date of the final rule. There is also a standing one-time reporting requirement for persons who intend to manufacture or process a discrete form of a reportable chemical substance on or after the effective date of the rule. These persons must report to EPA at least 135 days before manufacture or processing of that discrete form. As reported in our May 28, 2015, Update, the supporting materials in the rulemaking docket include a [list of chemical substances that could be nanomaterials](http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2010-0572-0025). The 85-page list includes **cadmium** and a number of **cadmium compounds**. More information on the final rule is available in B&C®’s January 12, 2017, memorandum, “[EPA Promulgates Final TSCA Reporting and Recordkeeping Rule for Nanoscale Materials](http://www.lawbc.com/regulatory-developments/entry/epa-promulgates-final-tsca-reporting-and-recordkeeping-rule-for-nanoscale-m).”

**EPA Proposes Requirements For TSCA Inventory Notification (Active-Inactive)**

EPA published a proposed rule on January 13, 2017, that would require a retrospective electronic notification of chemical substances on the TSCA Inventory that were manufactured (including imported) for non-exempt commercial purposes during the ten-year time period ending on June 21, 2016. EPA would also accept such notices for chemical substances that were processed. The recent TSCA amendments require EPA to designate chemical substances on the TSCA Inventory as either “active” or “inactive” in U.S. commerce. EPA states in the proposed rule that it would use these notifications to distinguish active substances from inactive substances. EPA would include the active and inactive designations on the TSCA Inventory and as part of its regular publications of the Inventory. EPA also proposes to establish procedures for forward-looking electronic notification of chemical substances on the TSCA Inventory that are designated as inactive, if and when the manufacturing or processing of such chemical substances for non-exempt commercial purposes is expected to resume. According to the proposed rule, upon receipt of a valid notice, EPA would change the designation of the pertinent chemical substance on the TSCA Inventory from inactive to active. Comments are due **March 14, 2017**. More information on the proposed rule is available in B&C’s January 17, 2017, memorandum, “[EPA Proposes Requirements for TSCA Inventory Notification (Active-Inactive)](http://www.lawbc.com/regulatory-developments/entry/epa-proposes-requirements-for-tsca-inventory-notification-active-inactive).”

**EPA Proposes Procedures To Prioritize Chemicals For Risk Evaluation Under TSCA**

EPA proposed on January 17, 2017, procedures to establish the risk-based screening process and criteria that EPA will use to identify chemical substances under TSCA as either High-Priority Substances for risk evaluation, or Low-Priority Substances for which risk evaluations are not warranted at the time. The proposed rule describes the processes for identifying potential candidates for prioritization, selecting a candidate, screening that candidate against certain criteria, formally initiating the prioritization process, providing opportunities for public comment, and proposing and preparing final priority designations. EPA notes that prioritization is the initial step in a new process of existing chemical substance review and risk management activity established under recent amendments to TSCA. EPA incorporated all of the elements required by new TSCA, but also supplemented those requirements with additional criteria it expects to consider, some clarifications intended to provide greater transparency, and additional procedural steps to ensure effective implementation. EPA requests comments on all aspects of the proposed rule. Comments are due **March 20, 2017**. More information on the proposed rule is available in B&C’s January 18, 2017, memorandum, “[EPA Proposes Procedures to Prioritize Chemicals for Risk Evaluation under TSCA](http://www.lawbc.com/regulatory-developments/entry/epa-proposes-procedures-to-prioritize-chemicals-for-risk-evaluation-under-t).”

**EPA Proposes Chemical Risk Evaluation Process Under New TSCA**

On January 19, 2017, EPA proposed a process for conducting risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, including an unreasonable risk to a potentially exposed or susceptible subpopulation, under the conditions of use. The process would not consider costs or other nonrisk factors. Risk evaluation is the second step, after prioritization, in a new process of existing chemical substance review and management established under recent amendments to TSCA. The proposed rule identifies the steps of a risk evaluation process, including scope, hazard assessment, exposure assessment, risk characterization, and finally a risk determination. EPA proposes that this process be used for the first ten chemical substances to be evaluated from the 2014 update of the TSCA Work Plan for Chemical Assessments, chemical substances designated as High-Priority Substances during the prioritization process, and those chemical substances for which EPA has initiated a risk evaluation in response to manufacturer requests. The proposed rule also includes the required “form and criteria” applicable to such manufacturer requests. Comments are due **March 20, 2017**. More information is available in B&C’s January 19, 2017, memorandum, “[EPA Releases Proposed Chemical Risk Evaluation Process Under New TSCA](http://www.lawbc.com/regulatory-developments/entry/tsca-epa-releases-proposed-chemical-risk-evaluation-process-under-new-tsca).”

**EPA Interprets New TSCA As Requiring Substantiation Of CBI Claims**

EPA announced in a January 19, 2017, *Federal Register* notice its interpretation of new TSCA Section 14 concerning CBI claims for information submitted to EPA. EPA states that it interprets the revised TSCA Section 14(c)(3) as requiring substantiation of non-exempt CBI claims at the time the information claimed as CBI is submitted to EPA. According to the notice, EPA has revised its web pages on CBI to assist compliance with this interpretation. The web pages list the substantiation questions from 40 C.F.R. Section 2.204(e) and provide information on substantiation exemptions and on how the substantiations should be directed to EPA. This action will be effective **March 20, 2017**.

**MINING AND MINERAL ISSUES**

**EICC And CFSI Announce Responsible Raw Materials Initiative**

On November 15, 2016, EICC and CFSI announced the Responsible Raw Materials Initiative. The Initiative is intended to address the most significant social and environmental impacts related to the extraction and processing of raw materials used in the global supply chains of technology companies in multiple industries. According to the [press release](http://www.eiccoalition.org/news-and-events/news/rrmi-launch/), companies in the Initiative “are monitoring a growing body of research suggesting that [adverse social and environmental impacts from the mining sector] may be associated with a variety of metals and minerals that extend beyond tin, tungsten, tantalum and gold (3TG) covered by” the Dodd-Frank Act. Members will review additional raw materials and sourcing practices for possible inclusion in their responsible sourcing strategies. The Initiative will use international standards such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights as its guideposts. Along with participating companies and cross-sector partners, the Responsible Raw Materials Initiative intends to develop proposals and recommendations “to drive meaningful social and environmental improvements” in mineral and metal supply chains. The Initiative is involved in a World Bank project to create a global database of small-scale artisanal mines. According to an Initiative spokesperson, the Initiative is going through a “prioritization process” to decide on which metals, minerals, geographic areas, and issues to focus.

**MSHA Issues Final Rule Concerning Examination Of Working Places In Metal And Non-Metal Mines**

On January 23, 2017, MSHA promulgated a final rule amending its standards for the examination of working places in metal and nonmetal mines. The final rule requires that an examination of the working place be conducted before miners begin working in that place, that operators notify miners in the affected areas of any conditions found that may adversely affect their safety or health, that operators promptly initiate corrective action, and that a record be made of the examination. The final rule also requires that the examination record include: the name of the person conducting the examination; the date of the examination; the location of all areas examined; a description of each condition found that may adversely affect the safety or health of miners; and the date of the corrective action. In addition, the final rule requires that mine operators make the examination record available for inspection by authorized MSHA representatives and miners’ representatives and provide a copy upon request. The final rule will be effective **May 23, 2017**.

**House Committee On Financial Services Publishes Report On Financial CHOICE Act**

On December 20, 2016, the House Committee on Financial Services published [House Report 114-883](https://www.congress.gov/congressional-report/114th-congress/house-report/883) on the Financial CHOICE Act (H.R. 5983). The bill would repeal certain sections of the Dodd-Frank Act, including Sections 1502, 1503, and 1504, which concern disclosure requirements related to conflict minerals, mine safety, and extractive industries. The Committee reported favorably on the bill with an amendment and recommended that the bill as amended pass. The Minority Views in the Report refer to the Financial CHOICE Act as the “Wrong Choice Act.” According to the Minority, the bill is “a giant step backward for our financial system” that “would all but invite another financial crisis similar to the one in 2008.” During his campaign, President Donald Trump pledged to undo the Dodd-Frank Act, “a sprawling and complex piece of legislation that has unleashed hundreds of new rules and several new bureaucratic agencies.” The Trump transition website, which is no longer online, stated: “The Financial Services Policy Implementation team will be working to dismantle the Dodd-Frank Act and replace it with new policies to encourage economic growth and job creation.”

**Gold King Mine Spill**

***Water Resources Infrastructure Bill Will Speed Up Reimbursements To Tribal, Local, And State Governments***

On December 16, 2016, President Obama signed the Water Infrastructure Improvements Act for the Nation (WIIN) Act (S. 612). The Act includes the WRDA, which authorizes port, waterway, and flood protection improvements for the country. Both the House and Senate passed WRDA bills earlier this year, and the WIIN Act is the product of the resulting bicameral negotiations. The Act includes a provision that would speed up reimbursements to tribal, local, and state governments for the costs incurred responding to the Gold King Mine spill.

***EPA Releases Final Analysis Of Metals Released From Gold King Mine In The Animas And San Juan Rivers***

On January 6, 2017, EPA posted the [final fate and transport report](https://www.epa.gov/goldkingmine/fate-transport-analysis) for the Gold King Mine release. The report focuses on understanding pre-existing river conditions, the movement of metals related to the release through the river system, and the effects of the release on water quality. EPA states that the research supports its earlier statements that water quality in the affected river system returned to the levels that existed prior to the release and contamination of metals from the release have moved through the river system to Lake Powell. According to EPA, the report shows the total amount of metals, dominated by iron and aluminum, entering the Animas River following the release was comparable to four to seven days of ongoing Gold King Mine acid mine drainage or the average amount of metals carried by the river in one to two days of high spring runoff. The concentrations of some metals in the plume were higher than historical mine drainage, however. EPA notes that there were no reported fish kills in the affected rivers; concentrations of metals in well-water samples collected after the plume passed did not exceed federal drinking water standards; and no public water system using Lake Powell as a source of drinking water has reported an exceedance of metals standards since the release. Some metals from the release contributed to exceedances of state and tribal water quality criteria at various times for nine months after the release in some locations, and may have contributed to some water quality criteria exceedances during the spring 2016 snow melt. EPA states that it will continue to work with states and tribes to interpret and respond to these findings.

**MISCELLANEOUS ISSUES**

**House Passes Midnight Rules Relief Act, Companion Bill Introduced In Senate**

On January 4, 2017, the House passed the Midnight Rules Relief Act (H.R. 21) by a vote of 238-184. Senator Ron Johnson (R-WI) introduced a companion bill in the Senate on January 5, 2017. The bill would allow Congress to overturn regulations issued by the Obama Administration in the last half of 2016. It would amend the CRA to allow Congress to include multiple regulations in one joint resolution of disapproval rather than considered individually.

**National Academies Publishes Report Calling For Use Of Emerging Scientific Data To Assess Better Public Health Risks**

On January 5, 2017, the National Academies of Sciences, Engineering, and Medicine [announced](http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=24635) the release of a new report entitled [*Using 21st Century Science to Improve Risk-Related Evaluations*](https://www.nap.edu/catalog/24635/using-21st-century-science-to-improve-risk-related-evaluations). The committee that wrote the report considered the benefits of new tools in exposure science, toxicology, and epidemiology, such as personal sensors and other sampling techniques that offer opportunities to characterize individual exposures and computational tools with the potential to provide exposure estimates where exposure-measurement data are not available. EPA, FDA, NIEHS, and the National Center for Advancing Translational Sciences requested the study. The report discusses risk assessment applications that could be improved by newer tools, such as chemical assessment, assessing risks at facilities like hazardous waste sites, and the evaluation of new chemical molecules for which there are no close comparisons. The report includes several case studies based on realistic scenarios that illustrate ways to incorporate new tools from different fields in assessing the risks associated with known or possibly hazardous agents. The committee emphasized that technological growth is outpacing the development of approaches to analyze, interpret, and integrate the diverse, complex, and large datasets available. The report proposes an agenda for enhancing use of the findings from these emerging technologies that includes developing case studies reflecting various situations of decision-making and data availability, testing case studies with multidisciplinary panels, and cataloguing evidence evaluations and decisions that have been made on various agents so that expert judgments can be tracked and evaluated.

**NIOSH Updates Chemical Carcinogen Policy**

On December 27, 2016, NIOSH published [*Current Intelligence Bulletin 68: NIOSH Chemical Carcinogen Policy*](https://www.cdc.gov/niosh/docs/2017-100/default.html). NIOSH states that, since there is no known safe level of exposure to a carcinogen, reduction of worker exposure to chemical carcinogens as much as possible through elimination or substitution and engineering controls is the primary way to prevent occupational cancer. Accordingly, NIOSH no longer uses the term REL for chemical carcinogens; rather NIOSH will only recommend an initial starting point for control, the RML-CA. For each chemical identified as a carcinogen, this level corresponds to the 95 percent lower confidence limit of the risk estimate of one excess cancer case in 10,000 workers in a 45-year working lifetime. NIOSH states that keeping exposures within the risk level of one in 10,000 is the minimum level of protection and striving for lower levels of exposure is recommended. When measurement of the occupational carcinogen at the RML-CA is not analytically feasible at the one in 10,000 risk estimate, NIOSH will set the RML-CA at the LOQ of the analytical method. In addition, NIOSH will continue to evaluate available information on existing engineering controls and also make that information available when publishing the RML-CA. NIOSH states that the foundation on which its chemical carcinogen policy is built is cancer hazard classification. To avoid government duplication and to use transparent and systematic assessments, NIOSH will evaluate existing cancer hazard assessments completed by NTP, EPA’s IRIS, and IARC.

**White House Issues Memorandum On Regulatory Freeze Pending Review**

On January 20, 2017, Reince Priebus, Assistant to the President and White House Chief of Staff, issued a [memorandum](https://www.whitehouse.gov/the-press-office/2017/01/20/memorandum-heads-executive-departments-and-agencies) on “Regulatory Freeze Pending Review.” The memorandum asks departments and agencies to:

* Send no regulations to the *Federal Register* until a department or agency head appointed or designated by the President after noon on January 20, 2017, reviews and approves the regulation.
* For regulations that have been sent to the *Federal Register*, but not yet published, immediately withdraw them;
* For regulations that have been published in the *Federal Register* but have not taken effect, temporarily postpone their effective date for 60 days for the purpose of reviewing questions of fact, law, and policy.

Regulations subject to statutory or judicial deadlines are excluded. As reported above, on January 26, 2017, EPA published a *Federal Register* notice delaying the effective date of the RMP rule from **March 14, 2017**, to **March 21, 2017**. EPA’s final TSCA Section 8(a) reporting and recordkeeping rule for nanoscale materials, which has an effective date of **May 12, 2017**, and MSHA’s final rule amending its standards for the examination of working places in metal and nonmetal mines, which has an effective date of **May 23, 2017**, are outside the scope of the memorandum.

**STATE ISSUES**

**States Collaborating On Children’s Products Regulations**

According to a January 24, 2017, e-mail from WDOE, WDOE, VDOH, and OHA have been collaborating on children’s products regulations. The e-mail states that those efforts include:

* Working with the Interstate Chemicals Clearinghouse on a multistate manufacturer reporting database;
* Discussing similarities and differences across the three regulations; and
* Sharing manufacturer reported data -- including contact information (with the exception of data identified as confidential).

**Cadmium** and **cadmium compounds** are included on Washington’s list of chemicals of high concern to children, Vermont’s list of chemicals of high concern to children, and Oregon’s list of high priority chemicals of concern for children’s health.

***California***

**CDTSC Releases Draft Alternatives Analysis Guide For Public Comment**

On December 19, 2016, CDTSC announced the release of a [draft Alternatives Analysis Guide](https://calsafer.dtsc.ca.gov/Comments/PackageDetail.aspx?PID=11811). CDTSC states that it developed the Guide to assist manufacturers identify safer alternatives for hazardous ingredients in consumer products. The Alternatives Analysis Guide is written to assist manufacturers and Alternatives Analysis practitioners comply with CDTSC Safer Consumer Products Regulations. According to CDTSC, it provides guidelines on each component of the Alternatives Analysis requirements and will help “responsible entities” navigate the CDTSC Safer Consumer Products Alternatives Analysis process, “providing useful approaches, methods, resources, tools and examples” of how to fulfill CDTSC Safer Consumer Products’ regulatory requirements. CDTSC held a [webinar](http://www.dtsc.ca.gov/SCP/AlternativesAnalysisGuidance.cfm) on the draft Guide on January 10, 2017. Comments are due **February 3, 2017**.

***Kansas***

**KDHE And KDWPT Issue 2017 Fish Consumption Advisories**

On January 5, 2017, Kansas [issued](http://ksoutdoors.com/KDWPT-Info/News/Weekly-News/1-5-17/2017-Fish-Consumption-Advisories) revised fish consumption advisories for 2017. The waterbody specific advisories for all consumers include:

* The Spring River from the confluence of Center Creek to the Kansas/Oklahoma border (Cherokee County); shellfish because of lead and **cadmium**; and
* Shoal Creek from the Missouri/Kansas border to Empire Lake (Cherokee County); shellfish because of lead and **cadmium**.

***Maine***

**MBEP Approves Draft Mining Rules**

On January 5, 2017, MBEP approved draft mining rules that would allow mining on private and state-owned lands. The Joint Standing Committee on Environment and Natural Resources will vote on the rules. No date has been set for their consideration. Governor Paul LePage (R) sought the rules update after J.D. Irving Ltd approached the state about mining for gold and other metals. NRCM criticized the draft rules as generally too weak and unclear about the requirements for handling mining waste. A spokesperson stated: “The [M]DEP is refusing to clarify what they are proposing. I think they are deliberately obfuscating. It's very frustrating.” An MDEP spokesperson described NRCM’s comments as “a gross mischaracterization” and stated that the rulemaking process has been deliberative and public. The legislature has rejected similar rules in 2014 and 2015.

***Missouri***

**House Resolution Calls For Study Of Operation Large Area Coverage**

H.C.R. 14, which was introduced on January 18, 2017, calls for the U.S. Army to hold town hall sessions in the St. Louis region to explain the testing that occurred as a result of Operation Large Area Coverage in the 1950s and 1960s in St. Louis. The resolution also calls for EPA and DHHS to conduct a study to track the health effects on populations exposed to Operation Large Area Coverage testing. The resolution states that, during the 1950s and 1960s, as part of a series of Cold War experiments, the U.S. Army dusted chosen American cities from coast to coast with a fine powder of a fluorescent, potentially toxic chemical. The powder scattering was part of Operation Large Area Coverage, a series of tests intended to assess the threat of biological attacks by simulating the airborne dispersion of germs. According to the resolution, the experiments exposed large portions of the U.S., and parts of Mexico and Canada, “to flurries of a synthesized chemical called **zinc cadmium sulfide**.”

***New York***

**Bill Would Provide Greater Regulation Of Children’s Products**

A bill (S. 1454) introduced on January 9, 2017, would provide greater regulation of children’s products. Chemicals of high concern would include **cadmium** and **cadmium compounds**, and **cadmium** would be designated as a priority chemical. Manufacturers who offer a children’s product for sale or distribution that contains a priority chemical would be required to report such chemical use. Effective **January 1, 2020**, the sale of a product containing a priority chemical would be prohibited.

**Bill Would Prohibit Cadmium-Added Novelty Consumer Products**

On January 10, 2017, a bill (S. 1607) was introduced that would prohibit the sale of jewelry, toys, or ornaments to which **cadmium** has been added intentionally during formulation or manufacturing. A **cadmium**-added consumer novelty product would mean a product intended for personal use or adornment that contains **cadmium** in an amount equal to or in excess of .0075 percent by weight.

**Bill Would Regulate Cadmium In Certain Substrate Components Of Children’s Jewelry**

On January 13, 2017, a Senate bill (S. 2440) was introduced that would regulate **cadmium** in certain substrate components of children’s jewelry. Jewelry that contains **cadmium** in accessible plastic or metal components in excess of 300 ppm would be required to meet specified migration limits. For the purposes of the bill, children’s jewelry would be defined as jewelry designed and intended primarily for use by children 12 years of age or younger. It would not include toys or other products intended for use when a child plays; accessories; apparel; footwear; or any other product whose purpose is primarily functional and not ornamental.

**Bill Would Amend Hazardous Toy Prohibitions**

A bill (S. 2710) was introduced on January 17, 2017, that would amend the current provisions of the hazardous toy prohibitions to include the definition of a toy contaminated by a toxic substance. A toy would be defined as contaminated with a toxic substance if it meets certain circumstances, including if it is coated with paints and lacquers containing soluble compounds of antimony, arsenic, **cadmium**, mercury, selenium, or barium.

**Coalition Obtains Stay Of Suffolk County’s Toxic Free Toys Act**

The Toy Industry Association [announced](https://www.toyassociation.org/PressRoom2/News/2016_News/Enforcement_Delayed_for_Suffolk_Countys_Toxic_Free_Toys_Act.aspx) on December 2, 2016, that enforcement has been delayed for Suffolk Country’s Toxic Free Toys Act of 2015. Under the Act, retailers may not knowingly distribute, sell, or offer for sale a children’s product containing certain heavy metals -- lead, mercury, antimony, arsenic, cobalt, and **cadmium** -- above specified levels. The Act was scheduled to take effect December 1, 2016. On November 29, 2016, the U.S. District Court for the Eastern District of New York ordered a stay of enforcement of the law, pending a court decision regarding a lawsuit filed by the Safe to Play Coalition. The Coalition, which consists of the American Apparel and Footwear Association Inc., the Halloween Industry Association Inc., the Juvenile Products Manufacturers Association Inc., and the Toy Industry Association, claims that its members will suffer economic damages due to the Toxic Free Toys Act. The Coalition asked the court to declare that the Toxic Free Toys Act violates the supremacy clause and the New York Constitution.

***Oregon***

**OHA Issues Rule Regarding Manufacturer Reporting Requirements Under The Toxic Free Kids Act**

In December 2016, OHA issued a [final rule](https://public.health.oregon.gov/HealthyEnvironments/HealthyNeighborhoods/ToxicSubstances/Documents/OAR%20333-016%20FINAL%20text%2012-01-16.pdf) regarding manufacturer reporting requirements under the Toxic Free Kids Act. The Act requires manufacturers of children’s products to report to OHA the products they manufacture that contain chemicals on the [list of high priority chemicals of concern for children’s health](https://public.health.oregon.gov/HealthyEnvironments/HealthyNeighborhoods/ToxicSubstances/Pages/childrens-chemicals-of-concern.aspx) and identify which chemicals they contain. **Cadmium** and **cadmium compounds** are included on the list. The first round of manufacturer reporting is due to OHA by **January 1, 2018**, unless OHA approves the successful submission of a Manufacturing Control Program exemption request. From then on, non-exempt manufacturers will be required to report every other year until they remove the chemicals of concern from their products, or they stop marketing the products containing those chemicals in Oregon.

***Washington***

**WDOE Continues Work To Update The Children’s Safe Products Reporting Rule**

On December 12, 2016, WDOE published a [revised preliminary draft rule](http://www.ecy.wa.gov/programs/hwtr/laws_rules/CSP_ReportingRule/pdfs/WAC173-334edited121216.pdf) that would update the Children’s Safe Products Reporting Rule. On January 4, 2017, WDOE hosted a public webinar to discuss the draft rule and the proposed changes to the list of chemicals of high concern to children. WDOE has posted [draft chemical evaluations](http://www.ecy.wa.gov/programs/hwtr/laws_rules/CSP_ReportingRule/1608chemeval.html), [presentation slides](http://www.ecy.wa.gov/programs/hwtr/laws_rules/CSP_ReportingRule/pdfs/CSPARulePresentationJan2017.pdf) from the webinar, and [webinar questions and answers](http://www.ecy.wa.gov/programs/hwtr/laws_rules/CSP_ReportingRule/pdfs/Jan4WebinarQ&A.pdf). Comments on the revised preliminary draft rule were due January 13, 2017. According to WDOE’s [timeline](http://www.ecy.wa.gov/programs/hwtr/laws_rules/CSP_ReportingRule/1608time.html), WDOE intends to publish the final proposed rule in **March 2017**. WDOE will hold one or more public hearings in **April/May 2017**. WDOE intends to adopt a final rule in **fall 2017**.

**INTERNATIONAL ISSUES**

**AUSTRALIA**

**Australia Begins Public Consultation On Draft National Standard For The Environmental Risk Management Of Industrial Chemicals**

On November 24, 2016, the Australian Department of the Environment and Energy began a [public consultation](http://www.environment.gov.au/protection/chemicals-management/national-standard/draft-national-standard-environmental-risk-management-industrial-chemicals) on the [Draft National Standard for the Environmental Risk Management of Industrial Chemicals](http://www.environment.gov.au/system/files/consultations/7a1a9189-af0c-48cc-a480-2f3fafa18a23/files/draft-national-standard-environmental-risk-mgt-industrial-chemicals.pdf) and a supporting [Draft Explanatory Document](http://www.environment.gov.au/system/files/consultations/7a1a9189-af0c-48cc-a480-2f3fafa18a23/files/draft-national-standard-environmental-risk-mgt-industrial-chemicals-explanatory-doc.pdf). According to the Department, the primary purpose of the papers is to outline the design and operation of the National Standard. The Draft National Standard contains risk management measures applicable for each Environment Schedule under the Standard. The Draft Explanatory Document provides supporting information for the scheduling criteria and risk management measures and outlines the processes that will support decision-making under the Standard. The National Standard will apply to all industrial chemicals, and is intended to fill a gap identified for the environmental management of industrial chemicals. Therefore, the Draft National Standard does not explicitly manage risks to human health. The Draft National Standard categorizes industrial chemicals into one of seven Environment Schedules depending on their level of concern to the environment. Chemicals will be considered to be low, intermediate, or high concern to the environment, and management responses will be proportionate to this level of concern. The Draft Explanatory Document includes an explanation of questions in the categorization decision trees. Question 3 is whether the substance is an inorganic species containing a metal of concern to the environment. Metals that are not of the same level of concern but still may require management to prevent harm to the environment include those that display toxicity to organisms above certain concentrations and can exist in the environment in a bioavailable form that means they are available for consumption or absorption by organisms. According to the Draft Explanatory Note, metals that meet the criteria for answering yes to this question include **cadmium**. Comments on the Draft National Standard are due **March 3, 2017**.

**Australia Publishes Terms Of Reference For 2017 NPI Review**

On December 21, 2016, DEE published the terms of reference for an [independent review](http://www.npi.gov.au/resource/national-pollutant-inventory-review-2017-terms-reference) of the NPI to be undertaken in **2017**. The National Environment Protection Council agreed to the terms of reference at a November 25, 2016, meeting. During the meeting, the Council noted the importance of robust information to support the management of pollution in Australia and the role of the NPI in providing this to governments, industry, and the community. The Council acknowledged that the list of 93 substances reported under the scheme had been almost unchanged since its inception. **Cadmium** and **cadmium compounds** are included on the list of substances. The Council agreed to review the NPI, focusing on identifying whether the right substances are being reported, the most valuable information is being collected, and whether its collection is cost effective.

**CANADA**

**Canada Proposes To Limit Cadmium in Children’s Jewelry**

As reported in our December 5, 2016, e-mail, Canada published a [notice](http://www.canadagazette.gc.ca/rp-pr/p1/2016/2016-12-03/html/reg3-eng.php) in the December 3, 2016, *Canada Gazette* that would amend the Children’s Jewelry Regulations under the Canada Consumer Product Safety Act to: (1) add a 130 mg/kg total **cadmium** limit for children’s jewelry items small enough to be swallowed by a child; and (2) replace the current 600 mg/kg total lead limit and 90 mg/kg migratable lead limit with a single 90 mg/kg total lead limit for all children’s jewelry items. According to the notice, **cadmium** is “a very toxic metal. High levels of **cadmium** have been found in children’s jewellery on the Canadian marketplace within the last five years.” The notice states that the proposed **cadmium** limit is comparable to the EU limit of 100 mg/kg total **cadmium** for costume jewelry. Comments are due **February 16, 2017**.

**Canada Publishes Technical Guidance On HPA And HPR Requirements**

In December 2016, Health Canada published [*Technical Guidance on the Requirements of the Hazardous Products Act (HPA) and the Hazardous Products Regulations (HPR) -- WHMIS 2015 Supplier Requirements*](http://www.hc-sc.gc.ca/ewh-semt/pubs/occup-travail/technical-guidance-whmis-2015-guide-technique-simdut/index-eng.php). Health Canada states that the purpose of the document is to provide guidance on the requirements of HPA and HPR to suppliers of hazardous products destined for Canadian workplaces. The document also provides suppliers with information on HMIRA and its regulations and the mechanism to protect CBI.

**CHINA**

**National Plan On Environmental Improvements Addresses Chemical Management**

On December 5, 2016, the State Council published a national plan on environmental improvements as part of the 13th Five-Year Plan period. The national plan will guide future environmental protection over the next several years. The national plan includes the following details regarding the future direction of chemical management:

* Existing chemical substances will be assessed based on their risk to the environment. A list of chemical substances subject to priority control will be released before the **end of 2017**. Chemicals that pose a high environmental risk will be restricted in manufacture, import, and use before they are phased out;
* Stockholm Convention chemicals will be phased out by **2020**; and
* The use of environmental hormones should be investigated and assessed before the **end of 2017**, especially in water source areas, agricultural products cultivated areas, and aquatic products breeding areas.

**HONG KONG**

**CFS Announces Food Safety Report For October**

CFS [announced](http://www.info.gov.hk/gia/general/201611/30/P2016113000451.htm) on November 30, 2016, the findings of its food safety report for October 2016. According to CFS, approximately 13,800 food samples were found to be satisfactory, with the exception of 21 unsatisfactory samples. The overall satisfactory rate was 99.8 percent. The samples comprised about 3,900 samples of vegetables and fruit and their products; 900 samples of meat and poultry and their products; 1,600 samples of aquatic and related products; 1,100 samples of milk, milk products, and frozen confections; 800 samples of cereals, grains, and their products; and 5,500 samples of other food commodities (including beverages, bakery products, and snacks). The 21 unsatisfactory samples included seven crab samples detected with excessive **cadmium**. CFS states: “The edible portion of crabs’ cephalothorax (mainly consists of internal organs like crab roes and hepatopancreas) are generally tainted with higher levels of **cadmium** and other contaminants. People who consume more crabs should avoid consuming crabs’ cephalothorax.”

**CFS Issues Food Safety Report For November**

On December 30, 2016, CFS [issued](http://www.info.gov.hk/gia/general/201612/30/P2016123000624.htm) the findings of its food safety report for November 2016. The results of about 14,000 food samples tested were found to be satisfactory, except for 22 unsatisfactory samples that were announced earlier. The overall satisfactory rate was 99.8 percent. The samples comprised about 3,900 samples of vegetables and fruit and their products; 800 samples of meat and poultry and their products; 1,400 samples of aquatic and related products; 1,100 samples of milk, milk products, and frozen confections; 900 samples of cereals, grains, and their products; and 5,900 samples of other food commodities (including beverages, bakery products, and snacks). The 22 unsatisfactory samples included a prepackaged dried mushroom sample detected with **cadmium** at a level exceeding the legal limit.

**JAPAN**

**Ministries Begin Review Of CSCL**

The CSCL, which was last revised in 2011, mandates that it be reviewed every five years. METI, MHLW, and MOE have begun to review CSCL. The agenda for review includes:

* Accelerating screening tests and risk assessments;
* Amending requirements for the notification systems for small amounts of chemical substances and low volume chemical substances; and
* Managing chemicals that are potentially very highly hazardous but currently do not fall in the categories of priority assessment chemical substances or Class II chemical substances due to the small amounts released into the environment.

By **2020**, Japan intends to address these concerns:

* By finishing most screening tests of chemicals that have been deemed hazardous, based on scientific evidence;
* By designating substances that pose a risk of long-term toxicity to health and the ecosystem, as well as widening assessments of Class II specified chemical substances; and
* By establishing assessment methods for substances that currently lack data.

The focus of the review will be changes to the current risk assessment structure to meet the **2020** goal set by the World Summit on Sustainable Development to minimize the adverse effects of chemicals to health and the environment through updated risk assessment and management regulations. A [joint ministerial commission](http://www.meti.go.jp/committee/summary/0003776/h28_02_haifu.html), consisting of ministry officials, academics, and industry representatives, intends to publish a report on the review agenda in **March 2017**.

**NEPAL**

**Chemical Standards For Children’s Toys Will Take Effect In July**

MPE has adopted standards setting mandatory maximum levels for 12 chemical substances, including **cadmium**, in children’s toys. The standards will take effect **July 16, 2017**. The standards apply to the following toys imported, produced, stored, sold, and distributed in Nepal for children 16 years and younger:

* Construction sets;
* Dolls and miniatures;
* Flying, scrolling, and walking vehicles;
* Puzzles;
* Collectibles;
* Promotional merchandise;
* Electric and electronic toys; and
* Educational (writable and erasable).

The standard specifies testing methods for:

* Toxic heavy metals: SRF spectroscopy or atomic absorption spectrometry;
* Bisphenol A: High performance liquid chromatography; and
* Phthalates: Gas chromatography mass spectrometry.

The Center for Public Health and Environmental Development published a January 16, 2017, [press release](http://ipen.org/sites/default/files/documents/CEPHED_Press_%20Release_and_Standard_Jan_2017_EN.pdf) that includes an English translation of the *Nepal Gazette* notice.

**THE PHILIPPINES**

**NGO Warns Consumers To Avoid Toxic Toys “Laden” With Heavy Metals, Including Cadmium**

EcoWaste Coalition posted a blog item on December 1, 2016, entitled “[EcoWaste Coalition Sounds the Alarm Over Hazardous Toys in the Market](http://ecowastecoalition.blogspot.com/2016/12/ecowaste-coalition-sounds-alarm-over.html).” To assist consumers in selecting kid-safe toys, EcoWaste Coalition offers a number of tips, including to “[w]atch out for toxic toys or play things laden with health-damaging chemicals such as antimony, arsenic, **cadmium**, chromium, lead, mercury and phthalates.”

**SOUTH KOREA**

**South Korea Proposes To Revise K-REACH**

On December 28, 2016, MOE began a [public consultation](http://www.kcma.or.kr/bbs/view.asp?bbs_idx=5160&bbs_code=14&bbs_class=&bbs_search_type=1&bbs_search_word=&page=1) on proposed revisions to K-REACH, including:

* Abolishing the annual reporting system ;
* Adopting a pre-registration system;
* Deleting the system for designating PECs in three batches for registration. Instead, a phase-in registration mechanism for approximately 7,000 existing chemical substances manufactured or imported in volumes greater than or equal to one ton per year would be applied. Phase-in deadlines would be set based on tonnage band (one to ten tons per year; ten to 100 tons per year; 100 to 1,000 tons per year; and greater than 1,000 tons per year), similar to EU REACH;
* Improving management of substances subject to authorization;
* Providing more hazard information through the supply chain and to consumers;
* Expanding the application scope for notification of products containing hazardous substances. In addition to hazardous chemical substances defined under K-REACH, CMR and PBT substances would also be subject to product notification; and
* Imposing penalties for the manufacture, importation, or sale of chemicals that cause any harm to human health or the environment and that should have been registered.

If the proposed changes are adopted, they would likely take effect one year after being issued in final. The **June 30, 2017**, deadline for annual reporting would still be a requirement. According to MOE, the **June 30, 2018**, deadline to register 510 PECs will remain in effect. Comments are due **February 6, 2017**.

**TAIWAN**

**Taiwan Creates Bureau For Toxics And Chemical Substances**

On December 9, 2016, the legislature approved a bill creating a Bureau for Toxics and Chemical Substances. The Bureau’s duties will include forming, implementing, and enforcing policies on toxic and chemical substance regulation, chemical accidents and emergency response, and environmental agent regulation. The Bureau will also promote the integration and use of chemical information; technological advances related to toxic chemical regulation; and international cooperation on chemical substance regulation. The Bureau will coordinate the almost dozen government agencies involved in enforcing a number of laws regulating toxic and chemical substances.

\* \* \* \* \*

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

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

**CAA** -- Clean Air Act

**CBI** -- Confidential Business Information

**CDR** -- Chemical Data Reporting

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

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

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

**CFS** -- Center for Food Safety

**CFSI** -- Conflict-Free Sourcing Initiative

**CHOICE** -- Financial Creating Hope and Opportunity for Investors, Consumers, and Entrepreneurs

**CMR** -- Carcinogenic, Mutagenic, or Toxic to Reproduction

**CRA** -- Congressional Review Act

**CSCL** -- Chemical Substances Control Law

**CWA** -- Clean Water Act

**DEE** -- Department of the Environment and Energy

**DHHS** -- United States Department of Health and Human Services

**EICC** -- Electronic Industry Citizenship Coalition

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

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

**EU** -- European Union

**FDA** -- United States Food and Drug Administration

**HMIRA** -- Hazardous Materials Information Review Act

**HPA** -- Hazardous Products Act

**HPR** -- Hazardous Products Regulations

**IARC** -- International Agency for Research on Cancer

**ICdA** -- International Cadmium Association

**IRIS** -- Integrated Risk Information System

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

**KDHE** -- Kansas Department of Health and Environment

**KDWPT** -- Kansas Department of Wildlife, Parks, and Tourism

**LOQ** -- Limit of Quantification

**MBEP** -- Maine Board of Environmental Protection

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

**METI** -- Ministry of Economy, Trade, and Industry

**mg/kg** -- Milligram Per Kilogram

**MHLW** -- Ministry of Health, Labor, and Welfare

**MOE** -- Ministry of Environment

**MPE** -- Ministry of Population and Environment

**MSHA** -- Mine Safety and Health Administration

**NAICS** -- North American Industry Classification System

**NAMC** -- North American Metals Council

**NGO** -- Non-Governmental Organization

**NIEHS** -- National Institute of Environmental Health Sciences

**NIOSH** -- National Institute for Occupational Safety and Health

**NPDWR** -- National Primary Drinking Water Regulation

**NPI** -- National Pollutant Inventory

**NPRM** -- Notice of Proposed Rulemaking

**NRCM** -- Natural Resources Council of Maine

**NTP** -- National Toxicology Program

**OECD** -- Organization for Economic Cooperation and Development

**OHA** -- Oregon Health Authority

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

**PEC** -- Priority Existing Chemical

**ppm** -- Part Per Million

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

**REL** -- Recommended Exposure Limit

**RML-CA** -- Risk Management Limit for Carcinogens

**RMP** -- Risk Management Program

**SDWA** -- Safe Drinking Water Act

**SRF** -- Spectral Response Function

**TRI** -- Toxics Release Inventory

**TSCA** -- Toxic Substances Control Act

**UN** -- United Nations

**VDOH** -- Vermont Department of Health

**WDOE** -- Washington Department of Ecology

**WRDA** -- Water Resources Development Act

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)