#### THE INTERNATIONAL CADMIUM ASSOCIATION

**REGULATORY UPDATE**

**July 28, 2016**[[1]](#footnote-1)

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**FEDERAL ISSUES**

**CAA ISSUES**

**House Appropriations Bill Would Block RMP Rule**

On July 14, 2016, the House adopted an amendment to the Interior-Environment Appropriations bill (H.R. 5538) that would prohibit the use of any funds “to finalize, implement, administer, or enforce the proposed rule entitled ‘Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act.’” The appropriations bill includes other provisions opposed by the White House and Senate Democrats, including language that would block the Clean Power Plan, the Clean Water Rule, and other programs, and it is unlikely the spending bill will be passed by Congress in its current form. EPA issued an NPRM on March 14, 2016.

**CERCLA ISSUES**

**NGO Report Urges EPA To Ensure Mining Companies Pay For Clean-Up**

On July 12, 2016, Earthworks published a report entitled [*Making Polluters Pay: How EPA can ensure mining companies, not taxpayers, pay for mine clean-up*](https://www.earthworksaction.org/library/detail/making_polluters_pay#.V5VSVdLdVp8). According to the report, the most critical components for EPA’s forthcoming rulemaking concerning financial responsibility requirements under CERCLA Section 108(b) for classes of facilities in the hard rock mining industry include:

* EPA must not allow “self-bonding” or corporate guarantees;
* Sites that require water treatment for more than one hundred years, or “in perpetuity,” must be prioritized;
* The detailed calculation of the financial assurance must be accurate and complete;
* Deductions for engineering controls must be clearly demonstrated to reduce the estimated costs of clean-up and financial assurance; and
* Public review at all phases of the financial assurance process must be an integral part of the rules.

**Court Finds Canadian Smelter Not Liable As Arranger**

On July 27, 2016, the U.S. Court of Appeals for the Ninth Circuit held that a smelter in Canada is not liable as a CERCLA arranger once the airborne contaminants touch down at a Superfund site in Washington. *Pakootas v. Teck Cominco Metals, Ltd*., No. 15-35228. In 2015, the U.S. District Court for the Eastern District of Washington found that Teck, the owner of a smelter in BC, was liable as an arranger for contaminants that traveled by air from the smelter’s smokestacks to the Upper Columbia River Superfund Site. Teck appealed the decision, arguing that CERCLA is limited to disposals made directly onto land or into water. According to the appellate court, the owner-operator could not be said to have arranged for the “disposal” of hazardous substances that were emitted by the smelter into the air and contaminated land and water downwind. The owner-operator therefore could not be held liable for cleanup costs and natural resource damages. The court states that it found persuasive *Center for Community Action & Environmental Justice v. BNSF Railway Co*., 764 F.3d 1019 (9th Cir. 2014), which held that emitting diesel particulate matter into the air and allowing it to be “transported by wind and air currents onto the land and water” did not constitute “disposal” of waste within the meaning of RCRA. According to the court, it was also bound by the interpretation of the terms “deposit” and “disposal” in *Carson Harbor Vill Ltd. v. Unocal Corp*., 270 F.3d 863 (9th Cir. 2001) (*en banc*). The court remanded the case to the U.S. District Court for the Eastern District of Washington for the processing of plaintiffs’ remaining claims.

**TSCA ISSUES**

**President Signs Compromise TSCA Reform Bill, EPA Publishes FAQs And Implementation Plan**

President Obama signed the Frank R. Lautenberg Chemical Safety for the 21st Century Act on June 22, 2016. A detailed review of the compromise bill is available in B&C®’s June 22, 2016, memorandum, “[An Analysis of Key Provisions and Fundamental Shifts in the Amended TSCA](http://www.lawbc.com/regulatory-developments/entry/tsca-reform-an-analysis-of-key-provisions-and-fundamental-shifts-in-the-ame).” EPA announced on June 22, 2016, a [web page](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act) on the new law. EPA posted [FAQs](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act-0) that address issues such as EPA’s plans for meeting the deadlines under the law, when EPA will decide how to collect fees to support implementation of the new law, new requirements that affect EPA’s review of new chemicals, and the status of PMNs that were submitted to EPA for review prior to enactment of the new law. The FAQs include the following question and answer concerning CDR reporting for **2016**:

Are there any changes from the new law that affect CDR reporting for **2016**?

There are changes in the new law related to confidential information submitted under TSCA. For the **2016** CDR submitters, EPA changed the wording of the CBI certification statement to be consistent with the requirements in the new law. EPA is updating the guidance, instructions, and other information documents to be consistent with the new certification language.

More information is available in B&C’s June 23, 2016, memorandum, “[EPA Web Page on the Frank R. Lautenberg Chemical Safety for the 21st Century Act Includes FAQs Addressing PMNs and CDR Reporting for **2016**](http://www.lawbc.com/regulatory-developments/entry/tsca-reform-epa-web-page-on-the-frank-r-lautenberg-chemical-safety-for-the).” On June 29, 2016, EPA posted an [Implementation Plan](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act-2) that outlines EPA’s plans for early activities and actions under the Frank R. Lautenberg Chemical Safety for the 21st Century Act. EPA notes that the new law imposes new responsibilities on EPA, while providing “comparatively short” deadlines to implement them. EPA intends for the Implementation Plan to be a roadmap of the major activities on which EPA will focus during the initial year of implementation. EPA cautions that the Implementation Plan “is NOT intended to be a comprehensive listing of all requirements in the new law.” More information regarding the Implementation Plan is available in B&C’s June 29, 2016, memorandum, “[EPA Publishes First Year Implementation Plan](http://www.lawbc.com/regulatory-developments/entry/tsca-reform-epa-publishes-first-year-implementation-plan).”

EPA has created a [listserv](https://public.govdelivery.com/accounts/USAEPAOPPT/subscribers/qualify) to stakeholders to stay informed regarding EPA’s implementation of the new law. In addition to the memoranda listed above, B&C published a June 15, 2016, memorandum, “[What Effect Will the TSCA Amendments Have on Proposed and Future Rulemakings?](http://www.lawbc.com/regulatory-developments/entry/tsca-what-effect-will-the-tsca-amendments-have-on-proposed-and-future-rulem)” B&C, in collaboration with *Chemical Watch*, is holding a complimentary webinar series “‘The New TSCA’ -- What You Need to Know.” Webinar 1, “Overview and Summary of Major Changes: What to Expect and When to Expect It,” was presented June 13, 2016. Webinar 2, “Impacts on New and Existing Chemicals Programs,” was held July 14, 2016. Copies of the webinar recordings are available from [hlewis@lawbc.com](mailto:hlewis@lawbc.com). B&C’s TSCAblog™, [TSCAblog.com](http://www.tscablog.com), offers timely updates, expert insight, and clear analysis on TSCA implementation matters.

**EPA Will Hold Public Meetings On Risk Evaluation And Prioritization Process Under Amended TSCA; EWG Calls Early Action On Cadmium**

EPA announced on July 25, 2016, that it will hold public meetings on **August 9-10, 2016**, to obtain input on the processes that will be used to prioritize and evaluate chemicals under TSCA as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act. EPA states that the input obtained during these meetings will be considered as EPA develops its proposed procedural regulations for risk evaluation and chemical prioritization. The public meeting on **August 9, 2016**, will inform EPA’s proposed rule on conducting risk evaluations to determine whether a chemical presents an unreasonable risk of injury to health or the environment. The meeting on **August 10, 2016**, will inform EPA’s proposed rule to establish a risk-based process for chemical prioritization. The Act requires that, 180 days after enactment, EPA must ensure that risk evaluations are being conducted on ten chemicals from the [2014 update of the TSCA Work Plan](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-work-plan-chemical-assessments-2014-update), and that three and a half years after enactment, risk evaluations are to be underway for a least 20 high-priority designations and that at least 20 chemicals have been designated as low-priority substances. In designating high-priority chemicals, EPA is to give preference to highly persistent/highly bioaccumulative chemicals on the 2014 TSCA Work Plan and chemicals that are “known human carcinogens and have high acute and chronic toxicity.” The 2014 update includes **cadmium** and **cadmium compounds**, and provides the following information:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Hazard Criteria Met** | **Hazard Score** | **Exposure Criteria Met** | **Exposure Score** | **Persistence and Bioaccumulation Criteria Met** | **Persistence and Bioaccumulation Score** | **Use** | **Risk Assessment Status and Other Actions** |
| Known human carcinogens  Chronic cardiovascular, renal and musculoskeletal effects  Acute and chronic toxicity from inhalation exposures | 3 | Widely used in consumer products  Present in biomonitoring, drinking water, surface water, ambient air, soil  High reported releases to the environment | 3 | High environmental persistence  Moderate bioaccumulation potential | 3 | Consumer  Industrial | Not yet initiated |

EPA requests that people planning to participate, either in person or remotely, [register](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/meetings-and-webinars-amended-toxic-substances-control) in advance. Registered participants will receive information on how to connect remotely to the meetings. The registration site also provides an option for participants to indicate if they wish to make comments at this meeting. EPA announced the meetings in a July 26, 2016, *Federal Register* notice. According to the notice, EPA will accept written comments and materials until **August 17, 2016**.

EWG published an article on July 21, 2016, entitled “[Under New Safety Law, 20 Toxic Chemicals EPA Should Act On Now](http://www.ewg.org/research/under-new-safety-law-20-toxic-chemicals-epa-should-act-now).” EWG states that its scientists “scrutinized the chemicals listed on the TSCA Work Plan, analyzed studies by researchers in the U.S. and around the world, and consulted experts in environmental health. They considered each chemical's health risks, the number of Americans exposed to it and the likelihood of EPA action under the terms of the new law.” EWG lists ten chemicals on which EPA should act now, and ten more chemicals, including **cadmium**, for early action. Regarding **cadmium**, EWG states:

**Cadmium** is a toxic metal found in some imported children’s products, including jewelry, clothing accessories and paints on toys. It has been linked to delayed brain development, kidney and bone damage, and cancer. The [Centers for Disease Control and Prevention] has found it in more than three-quarters of Americans. The EPA has not scheduled a risk assessment.

**MINING AND MINERAL ISSUES**

**MSHA Proposes To Amend Standards For Examination Of Working Places In Metal And Nonmetal Mines, Holds Public Hearings**

MSHA proposed on June 8, 2016, to amend its standards for the examination of working places in metal and nonmetal mines. MSHA states that the purpose of this proposed rule is to ensure that mine operators identify and correct conditions that may adversely affect miners’ safety or health. MSHA proposes to require that an examination of the working place be conducted before miners begin work in an area and that the operator notifies miners in the working place of any conditions found that may adversely affect their safety or health. MSHA also proposes that the competent person conducting the examination sign and date the examination record before the end of each shift, that the record includes information regarding adverse conditions found and corrective actions taken, and that operators make such records available to miners and their representatives. According to MSHA, the proposal would enhance the quality of working place examinations in metal and nonmetal mines and help assure that violations of mandatory health or safety standards are identified and corrected, thereby improving protections for miners. Comments are due **September 6, 2016**. MSHA held public hearings on the proposed rule on July 19, 2016, in Salt Lake City and July 21, 2016, in Pittsburgh, Pennsylvania. MSHA will hold hearings on **July 26, 2016**, in Arlington, Virginia, and **August 4, 2016**, in Birmingham, Alabama. Post-hearing comments are due **September 6, 2016**.

**WGA Adopts Policy Resolution Concerning Clean Up Of Abandoned Mines**

On June 14, 2016, the WGA published Policy Resolution 2016-07, “[Cleaning Up Abandoned Mines in the West](http://westgov.org/policies/305-mining/1214-cleaning-up-abandoned-mines-in-the-west).” The WGA calls on Congress to protect legally volunteer remediating parties, including local and state government agencies, that conduct clean up from becoming legally responsible under CWA Sections 301(a) and 402 for any continuing discharges from the abandoned mine site after completion of a cleanup project, provided that the remediating party does not otherwise have liability for that abandoned or inactive mine site. The WGA urges Congress and federal agencies to consider legislative and administrative remedies to address potential CERCLA and RCRA liabilities. Additionally, remedies for liabilities associated with remining, which deter those best suited in terms of equipment, technology, and expertise from improving conditions at abandoned mine sites, should also be considered. As the costs to clean up abandoned hardrock mines are significant, the WGA states that it supports efforts by Congress and the Administration to encourage public-private partnerships that would facilitate cleanups by good Samaritans.

**Discussion Draft Of Senate Bill Would Repeal Rules Requiring Disclosures Concerning Conflict Minerals And Extractive Industries**

On June 23, 2016, the House Financial Services Committee released for public review a discussion draft of the Financial Creating Hope and Opportunity for Investors, Consumers, and Entrepreneurs (CHOICE) Act, “the Republican plan to replace the failed Dodd-Frank Act and promote economic growth.” The Committee created a [web page](http://www.financialservices.house.gov/choice/) concerning the Financial CHOICE Act, which includes a [Comprehensive Summary](http://financialservices.house.gov/UploadedFiles/Financial_CHOICE_Act_Comprehensive_Outline.pdf). The Comprehensive Summary states:

* Title XV of the Dodd-Frank Act imposes a number of overly burdensome disclosure requirements related to conflict minerals, extractive industries, and mine safety that bear no rational relationship to the SEC’s statutory mission to protect investors, maintain fair, orderly, and efficient markets, and promote capital formation. The Financial CHOICE Act repeals those requirements;
* There is overwhelming evidence that Dodd-Frank’s conflict minerals disclosure requirement has done far more harm than good to its intended beneficiaries -- the citizens of the DRC and neighboring Central African countries; and
* SEC Chair Mary Jo White, an Obama appointee, has conceded the SEC is not the appropriate agency to carry out humanitarian policy. The provisions of Title XV of the Dodd-Frank Act are a prime example of the increasing use of the federal securities laws as a cudgel to force public companies to disclose extraneous political, social, and environmental matters in their periodic filings.

The Committee’s June 23, 2016, [press release](http://financialservices.house.gov/news/documentsingle.aspx?DocumentID=400837) states that a group of Nobel Prize winning economists, former Treasury secretaries, and former senior economic policy officials have announced their support for the Financial CHOICE Act.

**SEC Proposed Rule Intended To Modernize Property Disclosures For Mining Registrants**

As reported in our July 5, 2016, e-mail, on June 27, 2016, the SEC published a proposed rule intended to modernize the disclosure requirements for mining properties by aligning them with current industry and global regulatory practices and standards. The proposed rule would:

* Provide one standard requiring registrants to disclose mining operations that are material to the company’s business or financial condition;
* Require a registrant to disclose mineral resources and material exploration results in addition to its mineral reserves;
* Permit disclosure of mineral reserves to be based on a preliminary feasibility study or a final feasibility study;
* Provide updated definitions of mineral reserves and mineral resources;
* Require, in tabular format, summary disclosure for a registrant’s mining operations as a whole, as well as more detailed disclosure for material individual properties;
* Require that every disclosure of mineral resources, mineral reserves, and material exploration results reported in a registrant’s filed registration statements and reports be based on, and accurately reflect information and supporting documentation prepared by, a “qualified person”; and
* Require a registrant to obtain a technical report summary from the qualified person that identifies and summarizes for each material property the information reviewed and conclusions reached by the qualified person about the registrant’s exploration results, mineral resources, or mineral reserves.

Comments are due **August 26, 2016**.

**SEC Adopts Rule For Resource Extraction Issuers**

The SEC [announced](http://www.sec.gov/news/pressrelease/2016-132.html) on June 27, 2016, the adoption of a final rule to require resource extraction issuers to disclose payments made to governments for the commercial development of oil, natural gas, or minerals. The rule, mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, is intended to further the statutory objective to advance U.S. foreign policy interests by promoting greater transparency about payments related to resource extraction. The final rule requires an issuer to disclose payments made to the U.S. federal government or a foreign government if the issuer engages in the commercial development of oil, natural gas, or minerals and is required to file annual reports with the SEC. The issuer must also disclose payments made by a subsidiary or entity controlled by the issuer. Under the final rule, resource extraction issuers must disclose payments that are made to further the commercial development of oil, natural gas, or minerals; “not *de minimis*”; and within the types of payments specified in the rule. The final rule defines commercial development of oil, natural gas, or minerals as exploration, extraction, processing, and export, or the acquisition of a license for any such activity. The rule defines “not *de minimis*” as any payment, whether a single payment or a series of related payments, that equals or exceeds $100,000 during the same FY. Payments that must be disclosed include taxes; royalties; fees (including license fees); production entitlements; bonuses; dividends; payments for infrastructure improvements; and, if required by law or contract, community and social responsibility payments. The disclosure must be made at the project level, similar to the approach adopted in the EU and Canada. The final rule includes two targeted exemptions to the reporting obligations:

* A resource extraction issuer that has acquired a company not previously subject to the final rule will not be required to report payment information for the acquired company until the filing of a Form SD for the first FY following the acquisition; and
* A one-year delay in reporting payments related to exploratory activities.

The SEC also could exercise its existing authority to provide exemptive relief from the requirements of the rules on a case-by-case basis. A resource extraction issuer may use a report prepared for other disclosure regimes to comply with the rule if the SEC determines that the requirements applicable to those reports are substantially similar. In a separate order issued June 27, 2016, the SEC determined that the current reporting requirements of the EU Accounting and Transparency Directives (as implemented in an EU or EEA Member State), Canada’s Extractive Sector Transparency Measures Act, and the USEITI are substantially similar to the SEC’s rules, subject to certain conditions specified in the order and in the final rule. A resource extraction issuer must comply with the final rule and form for FYs ending on or after **September 30, 2018**.

**House Passes Package Of Mining Bills**

On July 5, 2016, the House passed a three-bill package that a House Committee of Natural Resources [press release](http://naturalresources.house.gov/newsroom/documentsingle.aspx?DocumentID=400930) describes as intended “to comprehensively address the existing funding, technical and legal impediments” to reclaim abandoned mine lands. The BLM Foundation Act (H.R. 3844) would establish a new foundation to assist federal land management agencies, state agencies, and non-profit organizations with raising funds for abandoned mine land cleanup on federal and non-federal lands. The Mining Schools Enhancement Act (H.R. 3734) would addresses the “nationwide deficiency in mining expertise.” The Locatable Minerals Claim Location and Maintenance Fees Act (H.R. 3843) would provide limited liability protections for industry and non-profit groups with the technical expertise to reclaim abandoned mine lands competently.

**Gold King Mine Spill**

***New Mexico Files Suit Against Colorado***

New Mexico Attorney General Hector Balderas (D) and Governor Susana Martinez (R) issued a June 23, 2016, [press release](http://www.nmag.gov/uploads/PressRelease/48737699ae174b30ac51a7eb286e661f/NM_Sues_Colorado_in_U.S._Supreme_Court_over_Gold_King_Mine_Spill_and_Historical_Acid_Mine_Drainage.pdf), announcing that New Mexico filed a complaint in the U.S. Supreme Court against Colorado, claiming that the state is responsible for the downstream contamination of the Animas and San Juan watersheds in New Mexico that was caused by continuing acid mine drainage and the 2015 Gold King Mine spill. In a June 23, 2016, [statement](http://coag.gov/press-room/press-releases/06-23-16), Colorado Attorney General Cynthia Coffman (R) stated that “it was EPA’s actions that sent acid mine drainage pouring into the Animas River last August. It’s unclear to me how suing Colorado furthers the states’ mutual goal of holding the EPA to its promise to ‘take full responsibility’ for turning our rivers yellow.” According to Coffman, an interstate lawsuit “just gives the EPA another excuse to delay and does nothing for the environment or the citizens that have been impacted.”

**MISCELLANEOUS ISSUES**

**EWG Report On Cancer-Causing Chemicals In Americans’ Bodies Includes Cadmium And Cadmium Compounds**

On June 14, 2016, EWG posted a report entitled [*The Pollution in People: Cancer-Causing Chemicals in Americans’ Bodies*](http://www.ewg.org/cancer/the-pollution-in-people.php). According to the report, through a review of the scientific literature and publicly available human biomarker datasets, EWG compiled the first comprehensive inventory of known or likely carcinogens that have been measured in people. EWG found that up to 420 known or likely carcinogens have been measured in a diverse array of populations. The report states that carcinogens detected in biomonitoring studies come from a wide range of sources, including industrial chemicals; commercial products; pesticides; heavy metals; byproducts of combustion, heating and disinfection; and solvents. The list of metals/alloys includes **cadmium** and **cadmium compounds** with the following information:

|  |  |  |  |
| --- | --- | --- | --- |
| **Detections in NHANESa** | **Associated Cancer(s)** | **Source and Exposure** | **Agency and Classification** |
| 77.60 percent | Strong evidence: lung  Some evidence: prostate, kidney | Source/Use batteries, plating, stabilizers of plastics, natural occurrence.  Exposure environmental: ingestion of food, ambient air (minor), contaminated drinking water;  occupational: inhalation during cadmium production and refining, alloy production, other smelting/plating industry | IARC (Known)  NTP (Known)  EPA (Probable)  CA Prop 65 |

**ITA Announces Release Of U.S.-Canada RCC 2016 Work Plans**

On July 15, 2016, ITA announced that the first batch of 2016 U.S.-Canada Work Plans are live on its [website](http://www.trade.gov/rcc/). The website states that, in addition to the Work Plans, the Regulatory Partnership Statements outline the framework for how cooperative activities will be managed between agencies, including high-level governance, opportunities for stakeholder input/engagements, and annual review of Work Plans. Additional work plans will be released as they are prepared in final, and the website suggests checking back “in the following days and weeks for additional updates.” The RCC Regulatory Partnership Statements and Work Plans on the website include:

* OSHA-Health Canada [Regulatory Partnership Statement](http://www.trade.gov/rcc/documents/c-rps-hc-osha-rps.pdf)
* Workplace Chemicals
* EPA-Environment and Climate Change Canada [Regulatory Partnership Statement](http://www.trade.gov/rcc/documents/RCC-RPS-EPA-EC-April-8-2015.pdf)
* [Chemicals Management](http://www.trade.gov/rcc/documents/2016_RCC_Chemicals_Management_Work_Plan.pdf)

**OSHA Preparing Compliance Resources To Assist With GHS Implementation**

During a May 2016 conference, Maureen Ruskin, Deputy Director, Directorate of Standards and Guidance, OSHA, described OSHA’s development of new compliance resources to assist with implementing the GHS. OSHA is working with DOT, HMIS, and the Canadian government to produce guidance that will include training modules on GHS labeling requirements and SDSs, as well as instructions for site-specific information for workplaces. Ruskin stated that OSHA recently updated the hazard communication safety and health topic page on its website. The guidance could be published as early as **fall 2016**.

**OSHA Announces Extension Of OMB Approval For Cadmium In General Industry ICR**

On July 21, 2016, OSHA published a *Federal Register* notice announcing that OMB extended its approval for a number of ICRs in OSHA’s standards and regulations. The approved ICRs include “**Cadmium** in General Industry,” which will expire **December 31, 2018**. Under the PRA, a federal agency generally cannot conduct a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB and displays a currently valid OMB Control Number. OMB authorization for an ICR cannot be for more than three years without renewal.

**STATE ISSUES**

***California***

**As You Sow Continues Settlement Discussions With Chocolate Manufacturers**

According to As You Sow’s summer 2016 [newsletter](http://www.asyousow.org/category/2016-summer-newsletter/), As You Sow is continuing settlement discussions with chocolate manufacturers regarding their alleged failure under Proposition 65 to warn consumers about lead and **cadmium** in chocolate products. As You Sow states that it filed legal notices with 23 manufacturers and/or retailers, including Trader Joe’s, Hershey’s, and Ghirardelli, for failing to warn consumers. As You Sow claims that industry has been reluctant to take action. According to As You Sow, Trader Joe’s, the first company with which it filed a legal complaint, “appears willing to litigate rather than provide warnings.” As You Sow states that it continues settlement discussions and “it is our hope that we can work with these chocolate companies to address this ongoing and important problem.”

***New York***

**Bills Would List Cadmium And Cadmium Compounds As Chemicals Of High Concern To Children**

On June 13, 2016, companion bills (A.B. 10715 and S.B. 8105) were introduced in the Assembly and Senate. The Chemicals in Children’s Products Act is intended to protect consumers from toxic chemicals found in children’s products. The bill includes a list of chemicals, including **cadmium** and **cadmium compounds**, that would be designated as chemicals of high concern to children. The bill would require manufacturers to report if a chemical of high concern to children is intentionally added to a children’s product component at a level above the PQL or is present as a contaminant at a concentration above 100 ppm. Manufacturers would also be required to provide notice to retailers of the presence of a chemical of high concern to children.

***Oregon***

**Court Signs Consent Decree Concerning Water Quality Criteria For Pollutants, Including Cadmium**

On June 9, 2016, the U.S. District Court for the District of Oregon signed a consent decree to settle NWEA’s suit against EPA for failing to promulgate replacement aquatic life toxics criteria for Oregon. *NWEA v. EPA*, No. 3:15-cv-0663. The consent decree includes the following schedule for EPA action for **cadmium** criteria:

* By **January 16, 2017**, EPA will either:
* Approve state copper and/or **cadmium** criteria for Oregon submitted to address EPA’s January 31, 2013, disapproval; or
* To the extent criteria are not approved under III.4.a.i., sign a notice of final rulemaking.

**ODEQ Seeks Comment On Permanent Art Glass Rulemaking**

On June 15, 2016, ODEQ issued an [NPRM](http://www.deq.state.or.us/nwr/docs/metalsem/artglass2016pnp.pdf) that would make the temporary art glass rules adopted by the EQC in April 2016 permanent, although with some potential modifications. Based on sampling undertaken in October 2015, and more recently in 2016, ODEQ concluded that “uncontrolled furnaces used in such colored art glass manufacturing are more likely than not to emit potentially unsafe levels of certain metals, including arsenic, **cadmium**, hexavalent chromium and nickel.” The temporary rules are intended to protect the public health and the environment immediately by ensuring the air emissions from colored art glass facilities do not cause unsafe levels of metals in the air nearby. The proposed rule would apply to facilities that meet certain requirements, including manufacturing ten tons or more per year of colored glass using raw materials that contain any of the following metal HAPs: arsenic, **cadmium**, chromium, lead, manganese, and nickel. Comments on the proposed rule are due **July 29, 2016**.

**Oregon Proposes To Add Disease Reporting Requirement For Cadmium Detected In Urine**

On June 15, 2016, OHA published a proposed rule that would amend the rules in Chapter 333, Divisions 17, 18, and 19 pertaining to new or modified definitions and to new disease reporting requirements. The proposed new disease reporting requirements include the addition of “**cadmium** demonstrated by laboratory testing of urine.” According to the notice, the proposed rule would make reportable within one local health department working day “cadmium demonstrated by laboratory testing of urine” to allow the Public Health Division to better understand the extent of elevated **cadmium** levels in the population and to develop strategies to reduce exposures. The notice states: “Elevated **cadmium** levels are typically linked to occupational exposures. The Division is looking into the possibility of developing a data sharing agreement with the Oregon Occupational Safety and Health Administration, who could use the data to target inspections of facilities where employees have high **cadmium** levels.” Comments were due July 22, 2016.

***Vermont***

**Chemical Disclosure Program Online Reporting System Now Available**

VDOH announced on July 1, 2016, that the Chemical Disclosure Program [online reporting system](http://healthvermont.gov/enviro/chemical/cdp.aspx#resources) is now available for use. The reporting deadline is **January 1, 2017**. VDOH published a final guidance document after updating it in response to comments received in March 2016. The guidance document provides the following response to the question who needs to report:

Manufacturers of children’s products are required to report the use of chemicals of high concern to children to the Department when they are offered for sale in Vermont, including Internet sales. The term “manufacturer” usually means the entity whose name is affixed to the product, if that entity has a physical presence in the US. If the entity whose name is affixed to the children’s product does not have a physical presence in the US, then the entity who sells the product in Vermont is considered the manufacturer. Therefore, “manufacturer” may include other entities that may not technically fabricate a product, but rather assemble product components or import a final product for sale in the US. The definition of a manufacturer, and the reporting requirements of the manufacturer, apply only to products offered for sale in Vermont, not products that are given away for free. It is only necessary for one entity to provide notice with respect to a particular children's product.

**Cadmium** and **cadmium compounds** are included on the list of chemicals of high concern to children. Chemicals that are intentionally added to a product must be reported when present above the PQL for that chemical. The [PQL](http://healthvermont.gov/enviro/chemical/documents/PQL.pdf) for **cadmium** and **cadmium compounds** is 1.0 ppm.

**INTERNATIONAL ISSUES**

**BRAZIL**

**Draft Bill Would Establish Chemical Regulatory Scheme**

As reported in our July 18, 2016, e-mail, on June 30, 2016, MOE published a draft bill establishing a chemical regulatory scheme that includes a registry of chemical production and imports; a risk assessment process; and a risk management program authorized to regulate chemicals and impose use restrictions. Under the draft bill, an industrial chemical substance would be defined as “a chemical element and its compounds, in a natural state or obtained through a manufacturing process, including any additive necessary to preserve its stability and any impurity that derives from the process used, but excluding any solvent that can be separated without affecting the substance’s stability or modifying its composition.” The following categories would be excluded from regulation:

* Radioactive chemical substances;
* Chemicals in development or intended exclusively for research;
* Intermediate reactions (defined as non-isolated substances, as well as impurities, contaminants, and substances produced by unintended reactions, including those produced in storage or by environmental factors);
* Metals and their alloys;
* Active ingredients of pesticides;
* Active ingredients of human and veterinary drugs; and
* Ores and concentrates (including coal, coke, crude oil, natural gas, and gas and mineral components of production processes) except for those that are chemically modified or that consist of substances classified as hazardous according to GHS.

The bill would create a National Register of Industrial Chemicals to collect information about covered chemicals. Companies that produce or import any covered chemical in a quantity of one ton or more annually would be required to submit information to the Register, including the name of the producing company or importer, the chemical’s name and CAS Number, the amount of annual production or import, the chemical’s uses, and any applicable GHS hazard classification. Lower threshold quantities may be established for particular chemicals based on their risks to the environment and human health. The deadline for registration would be three years after the date when the Register is established. After the deadline, the production and import of covered chemicals would be conditioned on prior registration. Comments are due **August 14, 2016**. After it reviews submitted comments, MOE will send a revised version of the bill to Congress. While Article 6 of the draft bill would allow for a three-year transition period, Article 15 directs the Executive Branch to “regulate” (promulgate) the law within 180 days of the date of its publication -- **December 27, 2016**. Therefore, full compliance would be required as of **December 27, 2019**. More information is available in Acta®’s June 29, 2016, memorandum, “[Brazil Moves Closer to National Chemical Inventory](http://www.actagroup.com/regulatory-developments/entry/brazil-moves-closer-to-national-chemical-inventory),” and July 5, 2016, memorandum, “[A Critical Review of Brazil's Just-Published Industrial Chemicals Regulation (Regulação de Substâncias Químicas Industriais)](http://www.actagroup.com/regulatory-developments/entry/a-critical-review-of-brazils-just-published-industrial-chemicals-regulation).”

**CANADA**

**Canada Publishes List Of Substances In Next Phase Of The CMP And Two-Year Rolling Risk Assessment Publication Plan**

On May 30, 2016, Environment and Climate Change Canada published the [list of substances](http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=2A33EEC9-1) in the next phase of the CMP (**2016-2020**) and two-year rolling risk assessment publication plan. The list of substances includes the following within the proposed group **cadmium**:

| **Substance Name** | **Type of Approach for Ecological Assessment** | **Type of Approach for Human Health Assessment** | **Draft Assessment Start Date** | **Draft Assessment Publication Date** | **Sort by Draft Assessment Start Date** | **Sort by Draft Publication Date** |
| --- | --- | --- | --- | --- | --- | --- |
| Hexanoic acid, 2-ethyl-, cadmium salt | 1 | 1 | Year 3-5 | Year 3-5 | 10 | 8 |

The list of substances includes the following within the proposed group zinc:

| **Substance Name** | **Type of Approach for Ecological Assessment** | **Type of Approach for Human Health Assessment** | **Draft Assessment Start Date** | **Draft Assessment Publication Date** | **Sort by Draft Assessment Start Date** | **Sort by Draft Publication Date** |
| --- | --- | --- | --- | --- | --- | --- |
| Cadmium zinc sulfide ((Cd,Zn)S) | 3 | 3-1 | Underway | Year 3-5 | 1 | 8 |

The list of substances includes the following within the proposed group sector-specific inorganic UVCBs:

| **Substance Name** | **Type of Approach for Ecological Assessment** | **Type of Approach for Human Health Assessment** | **Draft Assessment Start Date** | **Draft Assessment Publication Date** | **Sort by Draft Assessment Start Date** | **Sort by Draft Publication Date** |
| --- | --- | --- | --- | --- | --- | --- |
| Cadmium, dross | 2 | 2 | Underway | Jan-Mar 2017 | 1 | 5 |
| Cadmium, sponge | 2 | 2 | Underway | Jan-Mar 2017 | 1 | 5 |

The [Risk Assessment Toolbox](http://www.chemicalsubstanceschimiques.gc.ca/fact-fait/ra-tool-outils-er-eng.php) delineates the various types of approaches that can be considered for assessing a substance or group. It states:

**Type 1** approaches are used to address substances or groups of substances with a science-based policy response. These approaches are used when it is considered that a formal conclusion under section 64 of the Canadian Environmental Protection Act, 1999 (CEPA 1999) is not appropriate at the time. Examples of Type 1 approaches include referral of the assessment to a better-placed federal risk assessment program, or documentation of a substance or group as having been previously addressed by an existing action or initiative under CEPA 1999.

**Type 2** approaches are used to address substances using a broad-based approach. These approaches are typically applied to substances that have lower potential for exposure and risk. The assessments may use either qualitative or quantitative approaches to assess the substances, applying conservative (protective) assumptions. Assessments using this approach may or may not make a formal conclusion under section 64 of CEPA 1999. The Rapid Screening Approach and Polymer Rapid Screening Approach are past examples of Type 2 approaches. In upcoming assessments, the proposed approach for ecological risk classification of organic substances (ERC) and the health approach based on threshold of toxicological concern (TTC) are two other examples.

**Type 3** approaches are used to address substances using a standard risk assessment approach that considers both hazard and exposure, for either the ecological assessment and/or health assessment, in more detail. Documents may have a similar structure to the typical screening assessments that have been completed under the CMP to date. This type of approach can be sub-divided into three levels representing a continuum of increasingly complex assessment approaches. They may include consideration of a combination of qualitative and quantitative lines of evidence in determining whether a substance or group of substances meet the criteria under section 64 of CEPA 1999. Assessments will be conducted according to a fit-for-purpose approach to focus efforts.

* Type 3-1 approaches are streamlined to allow assessment of a substance or group of substances with a reduced effort on either, or both, the hazard or exposure characterization. Examples include adoption of existing hazard characterizations from international organizations, or use of Biological Equivalents (BE) for substances for which biomonitoring (exposure) data are available.

The [two-year rolling risk management activities and consultations schedule](http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=8727ECCE-1) provides a high level summary of risk management activities, including opportunities for stakeholder consultations and engagement, and is a source of information on risk management activities that are scheduled to occur during the next two years for substances managed under the CMP. Canada will periodically publish more detailed notifications as it updates the work plan to specify the substances for which additional information is needed, the associated timelines, and details on how to provide this information.

**Canada’s New Cribs, Cradles, And Bassinets Regulations Restrict Coatings Containing Cadmium**

On June 29, 2016, Canada promulgated new cribs, cradles, and bassinets regulations that are intended to improve the safety of these products for infants and young children. The new regulations, which will replace the current cribs, cradles, and bassinets regulations, will come into force on **December 29, 2016**. The new regulations introduce new requirements and test methods for accessories and stands that are used with cribs, cradles, and bassinets. Under the new regulations, every crib, cradle, bassinet, accessory, and stand must be free from any surface coating material that contains any listed substances, including any compound of antimony, arsenic, **cadmium**, selenium, or barium if more than 0.1 percent w/w of the compound dissolves in five percent hydrochloric acid after being stirred for ten minutes at 20°C.

**Amended Glazed Ceramics And Glassware Regulations Include Migratable Limits For Cadmium**

On July 13, 2016, Canada amended the glazed ceramics and glassware regulations. Under the regulations, a product means a product that meets several requirements, including being “completely or partly covered with a coating, glaze or decoration that contains lead or **cadmium**.” The regulations include migratable limits for **cadmium** for flatware, small hollowware, large hollowware, cups or mugs, pitchers, and drinking vessels. The regulations permit a product not intended to be used for food to release cadmium in excess of the migratable limits if it is identified by a design feature that renders the product unsuitable for the storing, preparing, or serving of food; or it displays a permanent warning.

**Canada Publishes Draft Screening Assessment And Risk Management Scope Document For Boric Acid, Its Salts, And Its Precursors**

On July 22, 2016, Canada published the [draft screening assessment](http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=2A581398-1) and [risk management scope document](http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=2AA865DC-1) for [boric acid, its salts, and its precursors](http://www.chemicalsubstanceschimiques.gc.ca/group/boron-bore-eng.php). Canada states that the current screening assessment focuses on boric acid, and therefore includes boric acid, its salts, and its precursors, that is, boron-containing substances that release boric acid. Canada identified 14 substances as priorities for further action during categorization, including **borate(1-), tetrafluoro-, cadmium (2:1)**. The draft screening assessment states that boric acid, its salts, and its precursors of commercial significance in Canada were considered in terms of their contribution to the combined exposure to boric acid but were not individually assessed. The assessment considers total exposure of humans and other living organisms to boric acid, whether it is present in environmental media (*e.g*., water, sediment, soil, or air), food, or products. The draft screening assessment proposes to conclude that boric acid, its salts, and its precursors are harmful to the environment as set out in CEPA Section 64(a). It also proposes to conclude that boric acid, its salts, and its precursors are harmful to human health as set out in CEPA Section 64(c). The proposed risk management actions would address cosmetics, arts and crafts materials and toys, cleaning products, and swimming pool/spa water treatment chemicals. Comments are due **September 21, 2016**.

**CHINA**

**China Will Strengthen Environmental Oversight Of Industrial Parks**

MEP issued a May 27, 2016, [notice](http://wfs.mep.gov.cn/gzdt/201505/t20150527_302375.htm) soliciting comment on its plans to strengthen environmental oversight and protection inside industrial parks over the next five years. MEP would fully implement environmental impact assessment regulations for planning future industrial parks. Follow-up impact assessments would be conducted every five years at existing industrial parks. Significant issues to date at industrial parks include a lack of wastewater treatment facilities, air pollution, and noise pollution. Several sectors, including heavy metals production enterprises, would be required to move operations into industrial parks, in accordance with provincial and local government orders. Specific areas will be required to implement the policies first: the Beijing-Tianjin-Hebei region; the Yangtze River Delta region around Shanghai; and the Pearl River Delta region in South China. Comments were due June 6, 2016.

**State Council Releases Soil Pollution Cleanup Action Plan**

The State Council [released](http://www.gov.cn/zhengce/content/2016-05/31/content_5078377.htm) on May 31, 2016, a ten-point soil pollution cleanup action plan. The plan is intended to halt serious soil pollution by **2020** and complete the clean-up of many areas by **2030**. Under the plan, the government will conduct a comprehensive soil pollution survey to determine the extent of the problem, increase the pace of implementing a soil pollution law and regulations, and establish a classification system for contaminated agricultural land. Plan elements include strengthening monitoring systems, launching major pilot remediation projects, and setting up standardized soil pollution treatment systems. The State Council acknowledged that it could take until **2050** to improve fully land around some old industrial sites, agricultural areas subject to overuse of pesticides and fertilizers, and areas used as dumping grounds for unregulated recycling workshops for electronic waste and lead-acid batteries. China’s central government will establish separate funds to help pay for cleanup and for the technology needed to remediate sites. Responsibility for cleanup will continue to rest with the polluter. The new pools of money are intended to be used only in cases when the polluters cannot pay. For companies that no longer exist or that have merged or been bought by others, responsibility for the cleanup will fall mainly on the new owners. Where legal responsibility is unclear, the onus will likely be on the local government. Many local governments are already facing economic hardship, however.

**Mandatory Textile Standard For Children’s Clothing Bans Cadmium**

On June 1, 2016, GB 31701-2015, China’s first mandatory national textile standard for children’s clothing, took effect. A spokesperson for the General Administration of Quality Supervision, Inspection, and Quarantine stated that the standard is intended to prompt manufacturers to improve the safety and quality of children’s clothing to ensure infants’ and children’s health and safety. The standard categorizes textiles into materials for infants aged 36 months or below and for children aged three to 14 years. The standard bans the use of six plasticizers, as well as lead and **cadmium**. There is a two-year transition period for full compliance, until **May 30, 2018**. Until then, products manufactured before June 1, 2016, that meet the previous national standard for textile products can remain on the market.

**National Human Rights Action Plan Assessment Report States Heavy Metal Pollution Is Effectively Under Control**

On June 14, 2016, the State Council Information Office published the Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-15). According to the Report, heavy metal pollution has effectively been brought under control. The Report states that between 2010 and 2015, the central government appropriated 17.2 billion yuan to support control over heavy metal pollution. In 2014, the total pollutant discharge of the heavy metals lead, mercury, **cadmium**, chromium, and arsenic decreased by 20 percent as compared with that in 2007. The number of heavy metal pollution incidents decreased from more than ten annually on average between 2010 and 2011 to an annual average of less than three between 2012 and 2015.

**Updated Inventory Of Hazardous Waste Would Include Catalogue Of Hazardous Chemicals**

On July 1, 2016, the State Council Safety Commission [announced](http://www.chinasafety.gov.cn/newpage/Contents/Channel_4976/2016/0701/272058/content_272058.htm) a revised draft Inventory of Hazardous Waste, a list of industry sectors handling hazardous chemicals that it will prioritize for supervision. The Inventory of Hazardous Waste, first published in 2008, is intended to regulate hazardous waste that poses a risk to human health and the environment. The revised draft includes all 2,828 chemicals listed in SAWS’ Catalogue of Hazardous Chemicals, as well as an exempt list for chemicals that pose a lower risk. As reported in our March 28, 2015, Update, the Catalogue of Hazardous Chemicals includes **cadmium**.

**HONG KONG**

**CFS Finds Excessive Cadmium In Prepackaged Dried Mushroom And Bamboo Fungus Samples**

In June 2016, CFS collected a dried mushroom sample from a supermarket in Tai Kok Tsui and the two bamboo fungus samples from a supermarket in Hung Hom and a retail shop in Tai Po for testing under its routine Food Surveillance Program. According to CFS, the dried mushroom sample contained **cadmium** at a level of 2.3 ppm while the two bamboo fungus samples contained **cadmium** at levels of 3.1 and 3.3 ppm. After applying the conversion factors for dried foods as recommended by the Codex Alimentarius Commission, the reported **cadmium** levels for the dried mushroom and bamboo fungus samples were 0.21, 0.28, and 0.30 ppm, respectively, exceeding the legal limit of 0.1 ppm. CFS announced on July 7, 2016, that a prepackaged bamboo fungus sample was detected with **cadmium** at a level exceeding the legal limit. CFS then sampled a prepackaged bamboo fungus of the same kind but from a different batch from the same supermarket for testing. The sample contained **cadmium** at a level of 2.8 ppm. After applying the conversion factors for dried foods as recommended by the Codex Alimentarius Commission, the reported **cadmium** level for the bamboo fungus sample was 0.252 ppm, exceeding the legal limit of 0.1 ppm. CFS informed the vendors concerned of the test results and instructed the vendors to stop the sale of all batches of the affected products. According to CFS, it will prosecute if there is sufficient evidence. A CFS spokesperson stated that CFS is tracing the source and distribution of the food item in question. Under the Food Adulteration (Metallic Contamination) Regulations, any person who sells food with metallic contamination above the legal limit is liable upon conviction to a fine of $50,000 and imprisonment for six months.

**INDIA**

**India Hosts National Conclave On Mines And Minerals**

On July 4-5, 2016, the Mines Ministry and the Chhattisgarh government held a national conclave on mines and minerals. Government and industry participants were expected to discuss policies concerning offshore minerals, atomic minerals, and national mineral exploration. A committee created by the Ministry is framing regulations under the Offshore Development and Regulation Act for the exploration and mining of offshore blocks that contain minerals such as zirconium, titanium, thorium, tungsten, and rare earth elements.

**INDONESIA**

**Indonesia Modifies Regulation Regarding Export Sales Of Processed And Purified Minerals**

On February 5, 2016, the Minister of Energy and Mineral Resources issued the Regulation on the Procedure for the Issuance of Recommendation for Export Sales of Processed and Purified Minerals. While the Regulation still requires exporters to obtain a recommendation from the Director General of Minerals and Coal, it has simplified the mineral export procedure, in part by revoking the requirement for mineral producers to be certified as a registered mining products exporter. The Regulation addresses export sales of minerals; the procedure for obtaining a recommendation; domestic refining facility construction plans; and the issuance of performance bonds to guarantee the construction of a refining facility. A recommendation from the Ministry of Trade for the export of minerals is required only for the export of metal minerals that have passed the minimum processing standard but have not passed the minimum refining standard, as well as for metal mineral mining contract holders that have conducted part of the refining process. The recommendation is a prerequisite for export approval.

**JAPAN**

**NITE Publishes FY 2015 GHS Classifications**

On June 8, 2016, NITE [published](http://www.safe.nite.go.jp/english/ghs/pdf/updated_info_20160608.pdf) GHS classifications by MHLW, METI, and MOE for FY 2015. MHLW, METI, and MOE conducted the classifications in accordance with GHS Classification Guidance for the Japanese Government. The classifications are intended to provide a reference for preparing GHS labeling and SDSs for users.

**OECD**

**OECD Seeks Comment On Draft Actions For Companies To Identify And Address The Worst Forms Of Child Labor In The Minerals Supply Chain**

As reported in our June 14, 2016, e-mail, OECD requested comment on draft [*Practical Actions for Companies to Identify and Address the Worst Forms of Child Labour in the Minerals Supply Chain*](http://www.oecd.org/daf/inv/investment-policy/child-labour-risks-in-the-minerals-supply-chain.htm). The Practical Actions would be for use by all companies in the minerals supply chain to identify, mitigate, and account for the risks of child labor in their mineral supply chains, in accordance with the due diligence framework of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. The Practical Actions draw on publications by OECD, the UN, the ILO, IOE, and UNICEF to help companies integrate due diligence of the risk of the worst forms of child labor into their supply chain operations. OECD seeks input from companies, industry associations, local and international civil societies, child rights experts, and government stakeholders active in the minerals supply chain. Comments were due July 15, 2016.

**OECD Publishes Policy Guidance On Resource Efficiency**

OECD published a [*Policy Guidance on Resource Efficiency*](http://www.oecd-ilibrary.org/environment/policy-guidance-on-resource-efficiency_9789264257344-en) in response to the request by G7 leaders for the OECD to develop policy guidance on resource efficiency. OECD states that establishing a resource efficient economy “is a major environmental, development and macroeconomic challenge today.” Improving resource efficiency by putting in place policies that implement the principles of reduce, reuse, and recycle “is crucial to improving resource use, security and competitiveness while diminishing the associated environmental impacts.” Two key messages are that:

* Resource efficiency policies should target the entire life-cycle of products; and
* National policies should put more emphasis on aligning sectoral policies in diverse areas like innovation, investment, trade, education, and skills development with resource efficiency objectives.

According to the Guidance, the G7 can also strengthen coordination and cooperation at the international level by:

* Facilitating integration of resource efficiency considerations in global value chains by supporting businesses in their supply chain management efforts;
* Addressing trade and investment related obstacles to resource efficiency in supply chains, including export restrictions on secondary raw materials, restrictions on trade in used products, and barriers to trade in environmental goods and services; and
* Calling for some degree of harmonization in the growing field of environmental labeling and information schemes, with the aim of maintaining high standards, allowing for increased mutual recognition of schemes, and countering increased costs associated with scheme multiplication across international markets.

**SOUTH KOREA**

**MOE Notifies WTO Of Revisions To K-REACH Enforcement Decree And Rules**

On May 26, 2016, MOE [notified](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S008.aspx?NotifyingCountryList=&CrnSubjectList=&IssuingDateFrom=16%2f05%2f2016&IssuingDateTo=31%2f12%2f2016&FullText=&IsFullTextFull=False&FullTextHash=371857150&SymbolList=&MeasureList=&AffectedCountryList=&ReceptionDateListFrom=&ReceptionDateListTo=&HSClassificationList=&ServicesClassificationList=&EnvironmentClassificationList=&ICSClassificationList=&ICSClassificationDescList%3aEnvironmentClassificationDescList%3aServicesClassificationDescList%3aHSClassificationDescList=&Language=ENGLISH&SourcePage=FE_S_S003&SearchPage=FE_S_S003&ShortNameMatchList=&languageUIChanged=true) WTO of proposed revisions to the revised enforcement decree and enforcement rules for K-REACH. According to the notification, the proposed revisions:

* Specify measures to manage the Chemical Substance Evaluation Committee;
* Expand exclusion from reporting obligations such as manufacturing;
* Broaden application of alternative tests;
* Identify details of government supports for SMEs;
* Revise regulations regarding approvals from authorities for using hazard assessment results and their cancellation;
* Ensure the grace period of 14 days, for confirming that a chemical substance imported for research or study is exempted from registration obligation; and
* Build a legal ground for supporting operation of joint registration consultative group.

The WTO notification states that the proposed date of adoption and entry into force is **July 31, 2016**.

**TAIWAN**

**Taiwan Will Announce Substances Subject To Phase Two Registration On December 31, 2017**

On **December 31, 2017**, Taiwan will release a list of substances subject to phase two registration. Taiwan EPA is currently reviewing the information collected during phase one, and will sort chemicals into three categories: highly hazardous chemicals according to GHS classifications; substances with a high exposure level, especially those used in large volumes; and chemicals with insufficient information. Taiwan EPA will prioritize these chemicals using a high to low risk matrix that will take into account usage and unknown hazards.

**THAILAND**

**Appellate Court Upholds Ruling Against Zinc Mining Companies, Awards Compensation To Plaintiffs For Cadmium Poisoning**

On July 12, 2016, the Southern Bangkok Civil Court upheld the lower court’s earlier ruling against zinc mining companies on the leakage of waste into the Mae Tao River Basin. The court upheld the previous court decision to sentence 84 people in three tambon of Tak’s Mae Sot district in a complaint filed against Padaeng Industry and Tak Mining Co. The court also ruled that the 20 plaintiffs be given Bt62,000 each in compensation for **cadmium** poisoning. Somchai Ameen, the plaintiffs’ lawyer, noted that the only difference in the new verdict was that the defendants had to pay Bt12,000 more to three of the 20 plaintiffs. He stated the court had still not ruled on compensation for environmental damage, unlike the case of another group, in which the appeals court ruled that the defendants put Bt50 million towards the cleaning up of **cadmium** contamination. Somchai stated: “We will certainly take the case to Supreme Court, as we want the mining companies to be responsible for the environmental damage and the health problems caused by the leakage of **cadmium** into the river.”

\* \* \* \* \*

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

**Acta** -- The Acta Group

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

**BC** -- British Columbia

**CA** -- California

**CAA** -- Clean Air Act

**CAS** -- Chemical Abstracts Service

**CDR** -- Chemical Data Reporting

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

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

**CFS** -- Center for Food Safety

**CMP** -- Chemicals Management Plan

**CWA** -- Clean Water Act

**DOT** -- United States Department of Transportation

**DRC** -- Democratic Republic of the Congo

**EEA** -- European Economic Area

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

**EQC** -- Environmental Quality Commission

**EU** -- European Union

**EWG** -- Environmental Working Group

**FAQ** -- Frequently Asked Question

**FY** -- Fiscal Year

**G7** -- Group of Seven

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

**HAP** -- Hazardous Air Pollutant

**HMIS** -- Hazardous Materials Identification System

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

**ICdA** -- International Cadmium Association

**ICR** -- Information Collection Request

**ILO** -- International Labor Organization

**IOE** -- International Organization of Employers

**ITA** -- United States International Trade Administration

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

**MEP** -- Ministry of Environmental Protection

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

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

**MOE** -- Ministry of the Environment

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

**NGO** -- Non-Governmental Organization

**NHANES** -- National Health and Nutrition Survey

**NITE** -- National Institute of Technology and Evaluation

**NPRM** -- Notice of Proposed Rulemaking

**NTP** -- National Toxicology Program

**NWEA** -- Northwest Environmental Advocates

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

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

**OHA** -- Oregon Health Authority

**OMB** -- Office of Management and Budget

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

**PMN** -- Premanufacture Notice

**ppm** -- Part Per Million

**PQL** -- Practical Quantitation Limit

**PRA** -- Paperwork Reduction Act of 1995

**RCC** -- Regulatory Cooperation Council

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

**RMP** -- Risk Management Program

**SAWS** -- State Administration of Work Safety

**SDS** -- Safety Data Sheet

**SEC** -- Securities and Exchange Commission

**SME** -- Small- and Medium-Sized Enterprises

**Taiwan EPA** -- Taiwan Environmental Protection Administration

**TSCA** -- Toxic Substances Control Act

**UN** -- United Nations

**UNICEF** -- United Nations Children’s Fund

**USEITI** -- United States Extractive Industries Transparency Initiative

**UVCB** -- Substance of Unknown or Variable Composition, Complex Reaction Products, or Biological Materials

**VDOH** -- Vermont Department of Health

**WGA** -- Western Governors’ Association

**WTO** -- World Trade Organization

**w/w** -- Weight/Weight

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)