#### THE INTERNATIONAL CADMIUM ASSOCIATION

**REGULATORY UPDATE**

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

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**FEDERAL ISSUES**

**CERCLA ISSUES**

**Surety & Fidelity Association, Congress Express Concerns With EPA’s Rulemaking Concerning Financial Responsibility Requirements For Hardrock Mines**

On July 14, 2016, the Surety & Fidelity Association of America sent a letter to EPA regarding its proposed implementation of the CERCLA Section 108(b) financial assurance requirements for the hardrock mining industry. According to the Association, whose member companies “collectively write the majority of surety and fidelity bonds” in the U.S., based on presentations and discussions regarding the proposed parameters of the bond thus far, it has identified certain aspects of the bond requirement that could restrict availability. A “significant concern” is EPA’s proposal to make the financial assurance available to multiple potential claimants through the direct action provisions of Section 108(c). The Association submitted suggestions for reducing the amount of required financial assurance. On August 9, 2016, House Energy and Commerce Committee Chair Fred Upton (R-MI) and Natural Resources Committee Chair Rob Bishop (R-UT) sent a [letter](https://energycommerce.house.gov/news-center/letters/letter-epa-administrator-mccarthy-hard-rock-mining-risk-management-and-financial) to EPA Administrator Gina McCarthy. The Representatives asked EPA to provide both Committees with documentation related to the formulation of EPA’s current model for creating a regulatory regime for financial assurance for the hardrock mining industry. The representatives outlined their concerns with increased costs on the mining industry, and stated: “If the Agency fails to reduce the amount of the CERCLA financial assurance obligation to account for [other financial assurance] programs, it will result in the unnecessary and duplicative imposition of many billions of dollars of financial assurance requirements on the mining industry.” An EPA spokesperson stated on August 18, 2016, that EPA is “considering” assurance requirements to cover response costs for hazardous discharges or the threat of discharge, natural resource damages, and to cover health assessments. The public, states, tribes, and other government agencies “could” claim directly against a financial surety. EPA is preparing a study evaluating the ability of financial institutions to make available CERCLA-compliant sureties, and expects to publish the study before issuing a proposed rule. Senators Jeff Flake (R-AZ) and John McCain (R-AZ) sent a [letter](http://www.flake.senate.gov/public/index.cfm/press-releases?ID=8FA420CD-7AF0-42C4-821E-DC319CDEBD4E) on August 23, 2016, to McCarthy. The Senators state that Arizona has a “long history” of hardrock mining and “the industry plays a key role in the state’s economy.” The Senators urge EPA to work with Arizona to ensure the proposed rule “does not undermine financial responsibility programs already in place.” As reported in our March 28, 2016, Update, on January 29, 2016, the U.S. Court of Appeals for the District of Columbia Circuit approved a joint motion filed by the NGO petitioners and EPA for an order on consent. *In re Idaho Conservation League*, No. 14-1149. The agreement includes a schedule for a rulemaking for the hardrock mining industry and a timetable by which EPA would consider whether other industries would be involved with a financial assurance rulemaking. Under the agreement, EPA will begin the rulemaking process for the hardrock mining industry by **December 1, 2016**, and publish its notice of final action by **December 1, 2017**. In their letter, Flake and McCain suggest EPA seek an extension from the court to allow EPA time to consult better with the states.

**Sites Added To NPL Include Bonita Peak Mining District**

EPA [announced](https://www.epa.gov/superfund/current-npl-updates-new-proposed-npl-sites-and-new-npl-sites) on September 7, 2016, that it is adding ten and proposing to add eight hazardous waste sites to the NPL. The sites have contamination from a variety of sources, including manufacturing, mining, battery recycling, and dry cleaning. EPA added the Bonita Peak Mining District site in San Juan County, Colorado, to the NPL. The site, which includes the Gold King Mine, consists of historic and ongoing releases from mining operations in three drainages: Mineral Creek, Cement Creek, and Upper Animas, which converge into the Animas River near Silverton, Colorado. Mining began in the area in the 1860s and both large- and small-scale mining operations continued into the 1990s, with the last mine ceasing production in 1991. The site includes 35 mines, seven tunnels, four tailings impoundments, and two study areas where additional information is needed to evaluate environmental concerns. EPA states that since 1998, Colorado has designated portions of the Animas River downstream from Cement Creek as impaired for heavy metals, including lead, iron, and aluminum. EPA has waste quantity data on 32 of Bonita Peak’s 48 sources. These 32 sources have waste rock and water discharging out of mining adits at a combined rate of 5.4 million gallons per day. **Cadmium**, copper, manganese, and zinc are the known contaminants associated with these discharges.

**TSCA ISSUES**

**NGO Coalition Urges EPA To Select Cadmium And Cadmium Compounds For Review**

In an August 9, 2016, letter, a coalition of NGOs led by Safer Chemicals, Healthy Families urged EPA to select the following chemicals as its first ten for review: asbestos; lead and lead compounds; **cadmium** and **cadmium compounds**; 1‐bromopropane; 1,4‐dioxane; styrene; cyclic aliphatic bromides cluster of flame retardants; octamethylcyclotetrasiloxane; nonylphenol and nonylphenol ethoxylates; and tetrachloroethylene. According to the letter, the NGOs evaluated EPA’s TSCA Work Plan list with the goal of achieving the earliest maximum benefit to public health and the environment. The TSCA amendments require EPA to select ten chemicals from the TSCA Work Plan for review.

**EPA Seeks Nominations For Science Advisory Committee On Chemicals**

On August 26, 2016, EPA published a *Federal Register* notice giving notice that, pursuant to the Frank R. Lautenberg Chemical Safety for the 21st Century Act, EPA is establishing the Science Advisory Committee on Chemicals. EPA states that the purpose of the Committee is to provide independent advice and expert consultation, at the request of the EPA Administrator, with respect to the scientific and technical aspects of risk assessments, methodologies, and pollution prevention measures or approaches supporting implementation of the Act. According to the notice, nine of the 14 members of the Committee will potentially be selected from interested and available members of the existing EPA Chemical Safety Advisory Committee. In addition, EPA anticipates selecting five new members for the Science Advisory Committee on Chemicals, and invites the public to nominate experts to be considered. Nominations and comments are due **October 11, 2016**.

**NIH Will Investigate Environmental Influences On Child Health**

NIH [announced](https://www.nih.gov/news-events/news-releases/nih-awards-more-150-million-research-environmental-influences-child-health) on September 21, 2016, $157 million in awards in FY **2016** to launch ECHO, a seven-year initiative that will investigate how exposure to a range of environmental factors in early development -- from conception through early childhood -- influences the health of children and adolescents. According to NIH, the research will focus on factors that may influence health outcomes around the time of birth, as well as into later childhood and adolescence, including upper and lower airway health and development, obesity, and brain and nervous system development. A critical component of ECHO will be to use the NIH-funded Institutional Development Awards Program to build state-of-the art pediatric clinical research networks in rural and medically underserved areas, so that children from these communities can participate in clinical trials. An NIH spokesperson stated that the goals of ECHO are the same as the National Children’s Study, which would have followed 100,000 children from womb through age 21. NIH Director Francis Collins terminated the study in 2014, however, after advisers concluded that it would not be feasible.

**MINING AND MINERAL ISSUES**

**Financial CHOICE Act Would Repeal Rules Requiring Disclosures Concerning Conflict Minerals, Mine Safety, And Extractive Industries**

On September 9, 2016, Representative Job Hensarling (R-TX), Chair of the House Financial Services Committee, introduced the Financial Creating Hope and Opportunity for Investors, Consumers, and Entrepreneurs (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. On September 13, 2016, the Committee approved the bill by a vote of 30-26. The House Financial Services 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). More information about the bill is available in our July 28, 2016, Update.

**Gold King Mine Spill**

***OIG Pauses Program Evaluation Of Gold King Mine Spill, Continues Criminal Investigation***

EPA’s OIG [announced](http://go.usa.gov/xg5nk) on July 29, 2016, that due to high public interest in the Gold King Mine release of water containing heavy metals into a tributary to the Animas River in August 2015, it posted to its website letters recently sent to Congressional members regarding the status of the OIG’s related work. Based on requests from several members of the House and Senate, OIG is conducting both a program evaluation and a criminal investigation of the Gold King Mine spill. In letters to those members, OIG stated that “there is investigative material that we cannot reveal in any report about our program evaluation until the investigation reaches a point where the U.S. Department of Justice and the EPA’s OIG’s Office of Investigations inform us that we may do so. Many of your questions to us, including those that go to the heart of what you asked us to address, directly implicate and will have to be answered in part by investigative results that are not currently releasable.” OIG states that it plans to prepare the final program evaluation report once it can incorporate investigative results. OIG notes that its criminal investigation of the Gold King Mine spill “is still ongoing.”

***EPA Publishes Report On Efforts To Restore And Protect Impacted Communities***

EPA published an August 1, 2016, report entitled [*One Year After the Gold King Mine Incident: A Retrospective of EPA’s Efforts To Restore and Protect Impacted Communities*](https://www.epa.gov/goldkingmine/one-year-after-gold-king-mine-incident-retrospective-epas-efforts-restore-and-protect). In an August 1, 2016, blog item entitled “[A Reflection on the Gold King Mine Incident](https://blog.epa.gov/blog/2016/08/a-reflection-on-the-gold-king-mine-incident/),” Mathy Stanislaus, Assistant Administrator for EPA’s Office of Land and Emergency Management, states that the report details EPA’s efforts, including the projects and groups that EPA has funded, to protect the areas around the Gold King Mine and prevent a similar spill from happening at other EPA work sites at mines across the country. According to Stanislaus, EPA continues to be accountable for the release, which Stanislaus states occurred as a result of its work to investigate the mine. Since the accident, EPA has dedicated more than $29 million to respond to the release and to provide for continued monitoring in the area. Stanislaus states: “The legacy of abandoned hardrock mines continues to be a source of complex challenges for our and the other federal and state agencies working to address this impact over the long-term. . . . We are strongly committed to working together to achieve long-term solutions to prevent future releases and protect our vital water resources.”

***EPA Provides $602,000 To Navajo Nation Government For Gold King Mine Response Costs***

EPA announced on August 5, 2016, that it is awarding more than $445,000 to reimburse the Navajo Nation for response costs for actions associated with the August 5, 2015, Gold King Mine release. This is in addition to $157,000 awarded in March 2016. According to EPA, the funds include costs incurred for various activities associated with the release response, including field evaluations, water quality sampling, laboratory analyses, and personnel. EPA states that it continues to evaluate state, tribal, and local response costs and has reimbursed approximately $3 million to date through cooperative agreements established with partners.

***Navajo Nation Files Suit Against EPA And Other Co-Defendants***

On August 16, 2016, the Navajo Nation filed suit in the U.S. District Court for the District of New Mexico against EPA and multiple co-defendants. *Navajo Nation v. EPA*, No. 1:16-cv-00931. The Navajo Nation claims that the Gold King Mine spill caused long-term and perhaps irreparable damage to the tribe’s agriculture, religious customs, and way of life. The complaint asks that the court enter an order and judgment against all defendants who it claims are jointly and severally liable under CERCLA for all costs incurred by the tribe in responding to the release.

**MISCELLANEOUS ISSUES**

**OSHA And HC Plan To Align Labeling And Classification Requirements For Hazardous Workplace Chemicals**

On September 1, 2016, OSHA announced that it jointly developed with HC, through the RCC, a [2016-2017 Workplace Chemicals Work Plan](https://www.osha.gov/dsg/hazcom/rcc_work_plan.pdf). The purpose of the Work Plan is to ensure that current and future requirements for classifying and communicating the hazards of workplace chemicals will be acceptable in the U.S. and Canada without reducing worker safety. The Work Plan involves activities that support:

* Developing materials to assist stakeholders with implementing the GHS and understanding the interpretation of technical issues and requirements in Canada and the U.S.;
* Coordinating opinions on issues that arise from international discussions on the GHS; and
* Maintaining alignment between the U.S. and Canadian requirements for implementing the GHS when revisions are made.

**STATE ISSUES**

***California***

**Amendments To Clear And Reasonable Warnings Regulation Will Be Effective August 30, 2018**

OEHHA [announced](http://oehha.ca.gov/proposition-65/crnr/notice-adoption-article-6-clear-and-reasonable-warnings) on September 2, 2016, that OAL approved the adoption of amendments to CCR Article 6, Clear and Reasonable Warnings. The amendments repeal all the regulatory provisions of Article 6 except those added via an emergency rulemaking in April 2016 related to warnings for exposures to BPA in canned foods and beverages. The amendments replace the repealed sections with a new regulation divided into two new Subarticles to Article 6. The repealed and new regulations provide, among other things, methods of transmission and content of warnings deemed to be compliant with Proposition 65. The regulation will be operative on **August 30, 2018**. OEHHA states that, in the interim, businesses may comply with the regulation in effect on August 30, 2016, or the provisions of the new regulation. This is intended to allow for a reasonable transition period for businesses to begin providing warnings under the new provisions. More information is available in B&C®’s September 22, 2016, memorandum, “[OEHHA Adopts Revisions to Its Proposition 65 Warning Regulations](http://www.lawbc.com/regulatory-developments/entry/proposition-65-oehha-adopts-revisions-to-its-proposition-65-warning-regulat).”

***Maine***

**MDEP Proposes New Mining Rule**

MDEP is [proposing](http://www.maine.gov/dep/rules/index.html#603931) to promulgate a new mining rule that would repeal and replace the existing regulations, and provide a comprehensive application and permitting process within the statutory framework for exploration, advanced exploration, and mining activities established in the Mining Act. Under the proposal, exploration activities would not require a permit, but companies would instead submit a work plan and meet a number of performance standards designed to protect natural resources and properly restore the exploration site. Advanced exploration activities, which involve more extensive sampling, would require an MDEP permit. Under an advanced exploration mining permit, the on-site processing of samples would be limited to mechanical size alteration (crushing) and sorting. Mining activities that involve the excavation of 10,000 tons or more of material would be subject to more extensive permitting requirements that include a quality assurance plan, monitoring plan, and reactive mine and hazardous materials monument plans.

***Massachusetts***

**House Passes Bill Requiring Children’s Jewelry To Meet Requirements Of ASTM F2923-14**

On August 4, 2016, the House passed H. 253, which would require all children’s jewelry sold in Massachusetts to meet the requirements of ASTM F2923-14. Children’s jewelry would be defined as jewelry intended primarily for use by children 12 years of age or younger, and would not include toys, accessories, apparel, footwear, or any other product whose purpose is primarily functional and not ornamental. The bill would take effect 180 days after enactment. ASTM F2923-14 includes specifications for antimony, arsenic, barium, **cadmium**, chromium, mercury, and selenium in paint and surface coatings of children’s jewelry, as well as specifications for **cadmium** in substrate materials of children’s jewelry.

***Minnesota***

**MDH Adds Several Cadmium Compounds To List Of Chemicals Of High Concern**

On September 13, 2016, MDH announced the availability of an updated [list of chemicals of high concern](http://www.health.state.mn.us/divs/eh/hazardous/topics/toxfreekids/highconcern.html#list). Chemicals [added](http://www.health.state.mn.us/divs/eh/hazardous/topics/toxfreekids/chclist/chc2016add.pdf) to the list of chemicals of high concern include **cadmium oxide**, **cadmium sulphide**, and **cadmium sulphate**. MDH added these chemicals based on their designation as SVHCs under REACH. Under the Toxic Free Kids Act, a chemical of high concern is a chemical identified on the basis of credible scientific evidence by a state, federal, or international agency as being known or suspected with a high degree of probability to:

(1) Harm the normal development of a fetus or child or cause other developmental toxicity;

(2) Cause cancer, genetic damage, or reproductive harm;

(3) Disrupt the endocrine or hormone system;

(4) Damage the nervous system, immune system, or organs, or cause other systemic toxicity;

(5) Be PBT; or

(6) Be vPvB.

MDH will also “consider chemicals listed as a suspected carcinogen, reproductive or developmental toxicant, or as being persistent, bioaccumulative, and toxic, or very persistent and very bioaccumulative by a state, federal, or international agency.” MDH designated **cadmium** as a priority chemical as of January 31, 2011.

***Oregon***

**ODEQ Proposes That OEQC Approve Proposed Permanent Rules For Colored Art Glass Manufacturers**

ODEQ announced on September 23, 2016, that it proposes that the OEQC approve proposed permanent rules for colored art glass manufacturers. ODEQ states that this proposal is based on the temporary rules adopted by OEQC in April 2016, with modifications based on new information and public comment. The permanent rules are intended to ensure that air emissions from colored art glass manufacturers do not cause unsafe levels of glassmaking hazardous air pollutants (arsenic, **cadmium**, chromium, lead, manganese, nickel, and selenium) in the air nearby. ODEQ posted the [staff report](http://www.deq.state.or.us/about/eqc/agendas/2016/09292016-StaffReport.pdf) for the proposed art glass permanent rules. The staff report contains the proposed rules, summary of comments received, ODEQ’s response to comments, and the estimated fiscal impact of the proposed rules. A copy of the staff report can be found on the OEQC meetings page. OEQC will take action on the proposed rules at their **September 29, 2016**, meeting.

***Texas***

**Final DSD Available For Cadmium And Cadmium Compounds**

As reported in our September 2, 2016, e-mail, TCEQ announced on September 2, 2016, that the DSD for **cadmium** and **cadmium compounds** is now final. The DSD, which details how effects screening levels, inhalation reference values, and inhalation unit risk factors were derived, is available at <https://www.tceq.texas.gov/toxicology/dsd/final.html/#cd>. A [fact sheet](http://www.tceq.texas.gov/assets/public/implementation/tox/dsd/facts/cadmium.pdf) provides a summary of the DSD for the development of the regulatory guidelines for ambient exposure to cadmium and cadmium compounds. The fact sheet provides the following information for how cadmium is released into ambient air:

Particulate **cadmium** (as **elemental cadmium** and **cadmium oxide**, **sulfide**, or **chloride**) is emitted to the atmosphere from both natural and anthropogenic sources. Weathering and erosion of **cadmium**-bearing rocks is the most important natural source of **cadmium**. Other natural sources include volcanoes, sea spray, and forest fires. However, the majority (85-90%) of airborne **cadmium** emissions worldwide are from anthropogenic sources. The principal anthropogenic sources are non-ferrous metal production and fossil fuel combustion, followed by ferrous metal production, waste incineration, and cement production.

**INTERNATIONAL ISSUES**

**BANGLADESH**

**NGO Finds High Levels Of Cadmium In Children’s Jewelry**

ESDO, a Bangladesh NGO, [issued](http://esdo.org/high-level-of-toxin-found-in-jewellery/) a report on August 13, 2016, entitled *Toxic Jewellery: High Risk to Health and Environment in Bangladesh*. According to ESDO, jewelry purchased in shopping malls and from retail shops contains high levels of arsenic, lead, titanium, **cadmium**, nickel, bromine, mercury, and zinc. Children’s jewelry items were found to contain high levels of **cadmium**, bromine, lead, nickel, arsenic, and titanium. The NGO states that in Bangladesh, no research has been done to date on jewelry and the harmful effect of heavy metals. The report includes the following recommendations:

* Government should ban the import and manufacture of jewelry that contains toxic materials in excess of the tolerance limit;
* Concerned authorities should enlist the shops where jewelry containing toxic chemicals is found and should immediately take steps against it;
* Awareness should be raised among general consumers of toxic jewelry;
* Retailers, wholesalers, and importers should be aware and should not import jewelry containing heavy metals;
* Media, NGOs, and other organizations should promote awareness on the use of heavy metals in jewelry;
* Warning label should be put on packaging for such products;
* Eco-friendly alternative jewelry or non-toxic material in jewelry should be promoted;
* If SMEs need technical assistance to produce jewelry without toxic elements, authorities should provide it to them;
* More comprehensive study is needed;
* Establish and increase laboratory testing facilities in future; and
* Treat waste water containing heavy metals through using activated sludge.

**CANADA**

**Canada Begins Consultation On Proposed Prioritization Approach For Nanoscale Forms Of DSL Substances**

On July 27, 2016, ECCC and HC began a [consultation](http://www.ec.gc.ca/lcpe-cepa/default.asp?lang=En&n=FA3C8DBF-1) on a proposed prioritization approach for nanoscale forms of substances on the DSL. Canada will use the proposed approach to: (1) establish a list of existing nanomaterials in Canada for prioritization; (2) identify how the information available will be used to inform prioritization of nanomaterials for risk assessment; and (3) outline the proposed outcomes of the prioritization process. In 2015, Canada conducted a mandatory survey under CEPA Section 71. The survey applied to persons who manufactured or imported any of [206 nanomaterials](http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=28ABBAC9-1#s1) at a quantity greater than 100 kg during the 2014 calendar year, including:

|  |  |
| --- | --- |
| **CAS Number** | **Substance Name** |
| 1306-23-6 | Cadmium sulfide (CdS) |
| 1306-24-7 | Cadmium selenide (CdSe) |
| 1306-25-8 | Cadmium telluride |
| 12014-14-1 | Cadmium titanium oxide (CdTiO3) |
| 12214-12-9 | Cadmium selenide sulfide (Cd2SeS) |
| 12442-27-2 | Cadmium zinc sulfide ((Cd,Zn)S) |
| 12626-36-7 | Cadmium selenide sulfide (Cd(Se,S)) |
| 68512-49-2 | Cadmium zinc sulfide ((Cd,Zn)S), copper chloride-doped |

Based on the results of the survey, ECCC and HC will prepare a final list of confirmed existing nanomaterials in Canada and will use the list for subsequent prioritization. ECCC and HC propose that, where possible, the substances identified via the survey be “rolled up into” their broader parent nanomaterial groups for the purposes of prioritization. According to ECCC and HC, this will allow, when possible, a more robust look at the hazard, volume, and use data as appropriate, rather than considering an individual substance-by-substance approach. ECCC and HC state that further consideration for sub-grouping (such as by use, unique property, or functionalization) may need to be considered for prioritization and/or risk assessment. Comments on the proposed prioritization approach were due September 25, 2016. More information is available in B&C’s August 4, 2016, blog item, “[Canada Begins Consultation on Proposed Prioritization Approach for Nanoscale Forms of DSL Substances](http://nanotech.lawbc.com/2016/08/canada-begins-consultation-on-proposed-prioritization-approach-for-nanoscale-forms-of-dsl-substances/).”

**Canada Determines 612 Substances Do Not Meet CEPA Section 64 Criteria**

The August 27, 2016, issue of the *Canada Gazette* includes a [notice](http://www.gazette.gc.ca/rp-pr/p1/2016/2016-08-27/html/notice-avis-eng.html#nb1) publishing the final decision of the Department of the Environment and the Department of Health after screening assessment of 612 substances specified on the DSL. According to the notice, the 612 substances do not meet any of the criteria set out in CEPA Section 64, as they are not entering the environment in a quantity or concentration or under conditions that have or may have an immediate or long-term harmful effect on the environment or its biological diversity or that constitute or may constitute a danger to the environment on which life depends. The list of substances identified as not meeting any of the CEPA Section 64 criteria include:

| **CAS Number** | **DSL Name** |
| --- | --- |
| 542-83-6 | Cadmium cyanide (Cd(CN)2) |
| 7790-80-9 | Cadmium iodide (CdI2) |
| 12014-14-1 | Cadmium titanium oxide (CdTiO3) |
| 69012-57-3 | Flue dust, cadmium-refining |
| 69029-63-6 | Calcines, cadmium residue |
| 69029-91-0 | Slimes and Sludges, cadmium sump tank |

**CHINA**

**Resource Tax Reform Took Effect July 1**

A comprehensive reform of the resource tax system took effect on July 1, 2016. SAT and MOF intend the reform to modernize and strengthen China’s approach to natural resources. Since 2010, China has experimented with taxes based on price instead of quantity for six mineral products: coal, gas, molybdenum, oil, rare earth, and tungsten. China implemented the *ad valorem* taxation method to standardize the interaction between resource taxes and administration fees to establish a fairer and more efficient resource taxation system. Because of the success of the 2010 pilot, the main feature of the reform is to implement fully the *ad valorem* taxation method. As of July 1, 2016, it is now extended to most mineral products, although clay and sandstone will still be taxed by volume. Metals and mineral products not listed will be taxed at a rate not exceeding 20 percent on unprocessed ore. Minerals extracted from low grade ore, waste rock, slag, sewerage, waste gas, and other such waste mineral products will receive a resource tax exemption or a reduced tax rate at the provincial level government’s discretion. Resources obtained by backfill mining methods will receive a 50 percent reduction on resource tax, and resources derived from exhaustion stage mines and low abundance oilfields will receive a 30 percent reduction on resource tax. The reform canceled funding and charges related to mineral resources, including all types of mineral subsidies and the mineral resources administration fee.

**Government Reportedly Buys Cadmium-Tainted Wheat For Ethanol And Industrial Use**

On August 29, 2016, a spokesperson for the local Environmental Protection Bureau stated that the Xinxiang government purchased all **cadmium**-tainted wheat in Xinxiang, Henan Province, with the intention of using it for ethanol production and to make industrial starch used in paper mills and textile manufacturing. At least ten hectares of land are contaminated by **cadmium**, yet farmers have continued to grow wheat on the land. A local NGO has been tracking the contamination levels of wheat grown on the identified land, with results showing six to 34 times more **cadmium** than allowed by national food safety standards. The NGO claims that part of the wheat could have reached the local market before authorities bought it up.

**HONG KONG**

**Mushroom Samples Contain Excessive Cadmium**

On July 29, 2016, CFS announced its June 2016 food safety report. The results of about 10,100 food samples were found to be satisfactory except for 15 unsatisfactory samples. The overall satisfactory rate was 99.9 percent. According to CFS, about 800 food samples were collected for microbiological tests, some 3,700 samples were taken for chemical tests, and the remaining 5,600 (including about 5,300 taken from food imported from Japan) were collected to test radiation levels. The samples included about 3,300 samples of vegetables and fruit and their products; 500 samples of meat and poultry and their products; 1,400 samples of aquatic and related products; 500 samples of milk, milk products, and frozen confections; 600 samples of cereals, grains, and their products; and 3,800 samples of other food commodities (including beverages, bakery products, and snacks). The unsatisfactory samples included five edible mushroom samples detected with **cadmium** at levels exceeding the legal limit.

**Excessive Cadmium Found In Black Rice Imported From Thailand**

CFS announced on August 9, 2016, that excessive **cadmium** was detected in a sample of pre-packaged black rice imported from Thailand. The sample contained 0.16 ppm **cadmium**, exceeding the limit of 0.1 ppm **cadmium**. A CFS spokesperson stated: “Based on the level of **cadmium** detected in the sample, adverse health effects will not be caused by usual consumption.” CFS called for the trade to stop using or selling the affected batch of the product immediately.

**INDIA**

**Cabinet Approves Extension Of Contract For Exploration Of Polymetallic Nodules**

On September 12, 2016, the Union Cabinet [announced](http://pib.nic.in/newsite/PrintRelease.aspx?relid=149713) it approved the contract extension between the Ministry of Earth Sciences, the government of India, and ISA for exploration of polymetallic nodules for a further period of five years (**2017-22**). According to the Cabinet, by extending the contract, India’s exclusive rights for exploration of polymetallic nodules in the allotted area in the Central Indian Ocean Basin will continue and would open up new opportunities for resources of commercial and strategic value in an area beyond national jurisdiction. Further, it would provide strategic importance for India in terms of enhanced presence in the Indian Ocean where other international players are also active. The Cabinet states that polymetallic nodules contain manganese, iron, nickel, copper, cobalt, lead, molybdenum, **cadmium**, vanadium, titanium, of which nickel, cobalt, and copper are considered to be of economic and strategic importance.

**PHILIPPINES**

**NGO Urges Regulation Restricting The Content Of Hazardous Substances, Including Cadmium, In Jewelry**

In a September 12, 2016, [blog post](http://ecowastecoalition.blogspot.com/2016/09/ecowaste-coalition-pitches-for-legal.html), the EcoWaste Coalition urged the government, the jewelry industry, and the civil society to develop a regulation that will restrict the content of hazardous substances in jewelry. The EcoWaste Coalition recommended the regulation after detecting high concentrations of **cadmium** and lead in cheap earrings, bracelets, necklaces, rings. and rosaries bought from retailers in Divisoria, Quiapo, and Santa. Cruz, Manila. EcoWaste Coalition conducted its latest product screening following the market withdrawal of some jewelry items in France, Germany, Latvia, and Sweden that contain levels of **cadmium**, lead, mercury, or nickel in violation of national and EU regulations as reported in RAPEX.

**SINGAPORE**

**RoHS Regulation Will Take Effect June 1, 2017**

MEWR promulgated a RoHS-like regulation that will take effect **June 1, 2017**. The regulation prohibits the use of the following substances in electrical and electronic products:

* **Cadmium** and **cadmium compounds**;
* Hexavalent chromium;
* Lead and lead compounds;
* Mercury and mercury compounds;
* Polybrominated biphenyls; and
* Polybrominated diphenyl ethers.

While the restricted substances have been adapted from the EU RoHS Directive, the regulation applies to a narrower list of products: mobile phones; laptops; refrigerators; air conditioners; panel television sets; and washing machines. Products excluded from the regulation include batteries and accumulators, and products designed for industrial use only.

**TAIWAN**

**Taiwan OSHA Consults On Amendments To Inventory Of Existing Chemicals**

On September 9, 2016, Taiwan OSHA [announced](https://csnn.osha.gov.tw/content/home/News-in.aspx?enc=ft1Rvcxg9d5VT/vX5d4YGA==https://csnn.osha.gov.tw/content/home/News-in.aspx?enc=ft1Rvcxg9d5VT/vX5d4YGA==) that companies have until **October 31, 2016**, to amend entries on TCSI. Companies may propose changes to:

* CAS numbers;
* Serial numbers; and
* Chemical names.

To propose a change, companies must submit a document indicating the current TCSI entry and the requested correction, with justification and supporting documents. Amendments will be accepted subject to approval by Taiwan EPA.

**BSMI Will Stagger RoHS Deadlines For Product Compliance**

BSMI will implement CNS 15663, Taiwan’s RoHS-like regulation, using the following compliance deadlines:

* **December 1, 2016**: Drinking fountains;
* **July 1, 2017**: IT equipment, including automatic data processing machines, printers, photocopying machines, televisions, and monitors. Also proposed for this date are projectors and lighting equipment, such as fluorescent tubes; and
* **January 1, 2018**: Word processors, including typewriters (43 items in total) and wireless items, such as keyboards, mice, and scanners (48 items in total).

Once fully implemented, the standard will cover 102 electric and electronic products. All products will need to be registered and obtain a registration of product certification, include the BSMI mark and RoHS label on packaging, and comply with the testing standard CNS 15050. CNS 15663 restricts the same substances as EU RoHS -- lead, mercury, **cadmium**, hexavalent chromium, polybrominated biphenyls, and polybrominated diphenyl ethers.

**THAILAND**

**Thailand Publishes Preliminary Inventory Of Existing Chemicals**

DIW recently published a preliminary inventory of existing chemicals that it has since taken offline due to server issues. The preliminary inventory combined the hazardous substance list; the most recent hazardous chemical notification list; chemicals listed in DIW’s consultation database; and the national single window list from the Customs Department. DIW expects to publish a final inventory of existing chemicals in **2017**. Chemicals not listed on the inventory would be considered new chemicals. More information is available, in Thai, on [DIW’s website](http://www.diw.go.th/hawk/content.php?mode=eservice).

\* \* \* \* \*

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

## ACRONYMS

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

**BPA** -- Bisphenol A

**BSMI** -- Bureau of Standards, Metrology, and Inspection

**CAS** -- Chemical Abstracts Service

**CCR** -- California Code of Regulations

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

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

**CFS** -- Center for Food Safety

**DIW** -- Department of Industrial Works

**DSD** -- Development Support Document

**DSL** -- Domestic Substances List

**ECCC** -- Environment and Climate Change Canada

**ECHO** -- Environmental Influences on Child Health Outcomes

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

**ESDO** -- Environment and Social Development Organization

**EU** -- European Union

**FY** -- Fiscal Year

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

**HC** -- Health Canada

**ICdA** -- International Cadmium Association

**ISA** -- International Seabed Authority

**IT** -- Information Technology

**kg** -- Kilogram

**MDH** -- Minnesota Department of Health

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

**MEWR** -- Ministry of the Environment and Water Resources

**MOF** -- Ministry of Finance

**NGO** -- Non-Governmental Organization

**NIH** -- National Institutes of Health

**NPL** -- National Priorities List

**OAL** -- Office of Administrative Law

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

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

**OEQC** -- Oregon Environmental Quality Commission

**OIG** -- Office of Inspector General

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

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

**ppm** -- Part Per Million

**RAPEX** -- Rapid Alert System for Non-Food Dangerous Products

**RCC** -- Regulatory Cooperation Council

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

**RoHS** -- Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment

**SAT** -- State Administration of Taxation

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

**SVHC** -- Substances of Very High Concern

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

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

**TCEQ** -- Texas Commission on Environmental Quality

**TCSI** -- Taiwan Chemical Substance Inventory

**TSCA** -- Toxic Substances Control Act

**vPvB** -- Very Persistent and Very Bioaccumulative

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)