China Environment and Energy

Compliance and Advocacy

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Holland & Knight
Overview

I. U.S. China Relation and Background

II. Compliance with China’s Environment and Energy Laws

III. Advocacy regarding China’s Environment and Energy Laws
I. U.S. China Relation and Background

➢ China's "two sessions" - the annual meetings of the national legislature and the top political advisory body (March 5-20, 3-15)

▪ Institutional reform plan of the State Council: Ministry of Environmental Protection → Ministry of Ecological Environment
I. U.S. China Relation and Background

President Proclamation on Adjusting Imports of Steel into the United States

President Proclamation on Adjusting Imports of Aluminum into the United States
I. U.S. China Relation and Background

➢ U.S. to impose 25% tariff on steel and 10% on aluminum (March 8)
   ▪ “trade protection”
   ▪ “firm opposition”
   ▪ “serious communications”
   ▪ Reciprocal taxes on import, e.g. tariff on U.S. coal and grain.
II. Compliance

1. Management of Chemicals
2. Energy Efficiency
3. Waste Management
4. Carbon Trading
5. Green Power Procurement
6. Consumer Product Standards
1. Management of Chemicals

❖ New Chemicals

• Measures for Environmental Management of New Chemical Substances (2010) [新化学物质环境管理办法]
  • Not listed in China’s Current Catalog of Chemical Substances [中国现有化学物质名录]
    • Updated on 2016
    • About 46,000 types
  • Companies’ application and registration
  • Government’s follow up control and enforcement

• Adjustment to data requirements on toxicology for application and registration (2017)
1. Management of Chemicals

❖ Hazardous Chemicals

- Regulations on Safe Management of Hazardous Chemicals (2011) [危险化学品安全管理条例]
  - Definition: highly toxic chemicals and other chemicals which are toxic, corrosive, explosive, flammable or combustion-supporting and can harm people, facilities or the environment.
  - Identify and classify, e.g. Measures on Identification and Classification of Chemicals’ Physical Hazardous Risks [化学品物理危险性鉴定与分类管理办法] (2013)
- Registration—manufacturers and importers
- Manufacturing, storing, using, selling, transporting
- Emergency plans and responses
- Increased enforcement
2. Energy Efficiency

❖ Energy Efficiency Law (2016) [节约能源法]

• Products can only be manufactured, imported or sold if they meet the relevant energy efficiency standards.

• Product Catalogue of Energy Efficiency Labeling
  • Have a standard “China Energy Label” (CEL)
  • 12 batches of products
  • Over 30 types of products
2. Energy Efficiency

- Administrative Regulations on Energy Efficiency Labeling (2016) [能源效率标识管理办法]
  - Manufacturer’s name
  - Product model
  - Energy efficiency
  - Energy index
  - National standard
  - QR Code
3. Waste Management

❖ Hazardous Waste

• 13th Five Year Plan (2016-2020)
  • Special enforcement program on hazardous waste

• 13th Five Year Work Plan on Supervision, Inspection and Assessment of Hazardous Waste [“十三五”全国危险废物规范化管理督查考核工作方案] (2017)
3. Waste Management

❖ Hazardous Waste

• Hazardous waste v. non-hazardous waste
  • corrosivity, toxicity, ignitability, reactivity and infectivity

• Categorization
  • National Hazardous Waste Catalogue (2016)
  • Uncertainty → testing

• More requirements on identification, recordkeeping, collection, storage, transportation, disposal, etc.
3. Waste Management

❖ Electronic Waste

- Administrative Measures on Prevention of Electronic Waste Pollution (2008)
  - Generating, storing, dismantling, reclamation, disposal, etc.

- Can be hazardous waste → additional requirements
4. Carbon Trading

❖ Early Stage:
   • 7 pilot programs since 2011: Beijing, Tianjin, Shanghai, Chongqing, Guangdong, Hubei, and Shenzhen

❖ National Program Launched
   • On December 19, 2017, the National Development and Reform Commission launched a trading plan in power sector.
   • Over 1,700 companies
   • Quotas for power generating companies (2018)
   • Buy or sell credits (2019)
4. Carbon Trading

❖ Future Plans:

• Lay the foundations (1 year)
  o Data collection
  o Registration system
  o Trading system

• Trial operation (1 year)
  o Mock trading of credits

• Development period
  o Real trading of credits
  o Expand to other industries
  o China Certified Emission Reduction (CCER), if possible
5. Green Power Procurement

❖ Voluntarily Purchasing Green Power Certificates (2017)
5. Green Power Procurement

❖ Green Power Certificates
- Issued by National Renewable Energy Information Management Center
- Solar and wind power
- 1 certificate = 1 MWh

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5. Green Power Procurement

❖ Wind v. Solar Power
6. Consumer Product Standards

1) Substances of Very High Concern in Consumer Products (Draft) [消费品中高关注化学物质列表]
   • a list of 205 types of chemical substances of very high concern
   • no legal implications on its own

2) Safety Requirements for Hazardous Chemicals in Consumer Products (Draft) [消费品化学危害限制要求]
   • 103 types of chemicals
   • restrictions and prohibitions in consumer products
III. Advocacy

1. China RoHS
2. Clean Production Index
3. Emission Standard - Water
China RoHS II Conformity Assessment

• Our engagement with Ministry of Industry and Information Technology (MIIT), Certification and Accreditation Administration of the P.R.C. (CNCA) and China Electronic Standardization Institute (CESI).

• CNCA shared that they are working with MIIT to identify 12 categories of products and then select which will be eligible to use Supplier Declaration of Conformity (SDoC), and which must be subjected to Third-Party Certification.

Next Step: We are working to update our white paper on RoHS conformity assessment so we can share that with the Chinese officials.
Clean Production Index for Semiconductor Manufacturing

• The CESI officials told us that the government is currently evaluating an updated CPI draft for semiconductors. Their goal is to release the final CPI for semiconductor manufacturing by the end of 2018 and added that they do not intend to solicit comment.

Next Step: ITI prepared a brief comment highlighting our key points and commitment to this regulation, USITO is translating.
Emission Standards – Water use

• The meeting with the Ministry of Environmental Protection (MEP) primarily focused on China’s proposed water use and emissions standards for semiconductor manufacturing.

• Our company experts noted that the current proposal from MEP is problematic, as it still relies on a metric that considers the area of the wafer, rather than its volume.

*Next Step: MEP contacted USITO saying they would call for comments very soon. Our experts are preparing our responses.*
Questions & Comments

Are there any questions?

Thank you