

# Torys on Mining and Metals

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## SEC Adopts Mine Safety Disclosure Rules

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The U.S. Securities and Exchange Commission has adopted rules implementing the mine safety disclosure requirements of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

The rules apply to mining companies that are SEC-reporting issuers, including foreign private issuers and issuers under the multijurisdictional disclosure system (MJDS). However, disclosure is required only about mines located in the United States and regulated by the U.S. *Mine Safety and Health Act of 1977* (the Mine Act). The SEC has cautioned issuers that material safety issues at non-U.S. mines may nonetheless need to be disclosed under existing requirements – for example, in management’s discussion and analysis, risk factors, or another relevant section of an issuer’s annual or other report.

### Disclosure in Annual Report on Form 40-F, 20-F or 10-K

Issuers must disclose the following, on a mine-by-mine basis, in their annual reports filed with the SEC:

- information about significant and substantial violations of mandatory health or safety standards under the Mine Act;
- information about citations and orders received under the Mine Act, including those for unwarrantable failures to comply with mandatory health or safety standards and imminent danger orders;
- the dollar value of proposed assessments from the U.S. Mine Safety and Health Administration;
- pending legal actions before the U.S. Federal Mine Safety and Health Review Commission; and
- mining-related fatalities.

### Form 10-Q and 8-K Reports (U.S. Issuers Only)

U.S. issuers must disclose the same information as described above in their quarterly reports on Form 10-Q and they must report on Form 8-K within four days of receiving an imminent danger order or a notice of a pattern or potential pattern of significant and substantial violations of mandatory health and safety standards under the Mine Act. These Form 10-Q and 8-K disclosure requirements do not apply to foreign private issuers, including MJDS issuers, that furnish reports to the SEC during the year on Form 6-K. ■

To discuss these issues, please contact the author.

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