

Dangerous substances, metallic mercury: banning of exports, safe storage

2006/0206(COD) - 26/10/2006 - Legislative proposal

PURPOSE: to ban the export of metallic mercury from the community and to introduce provisions for its safe storage.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTENT: this proposed Regulation is seeking to achieve three objectives. Firstly, to ban the export of mercury from the Community. Secondly to prevent the re-entry of mercury onto the market. Thirdly, to guarantee its safe storage. The Regulation is being proposed in a bid to contain the “global pool” of mercury.

Mercury and its compounds are highly toxic to humans, animals and ecosystems. The EU’s strategy on mercury, which is spelt out in its 2005 Communication (see **INI/2005/2050**) severely restricts but does not prohibit the use of mercury in the EU. The EU’s strategy is to control the use of mercury subject to strict regulatory conditions. The main lines of action are: to reduce mercury emissions; to cut supply and demand and to protect against exposure – especially to methyl mercury found in fish. This strategy requires special conditions.

Global demand for mercury is declining. In the EU only the chlor-alkali industry remains a significant user of mercury. Yet, they too are progressively phasing out the use of mercury-containing cells. A main global supplier of mercury is the Spanish state-owned firm MAYASA, which supplies around 1000 tonnes of mercury (of the global 3 400 tonnes) per year. With the chlor-alkali industry beginning to phase out the use of mercury in cells, MAYASA is buying mercury from them, which it then re-sells. It is estimated that between now and 2020 some 12 000 tonnes of mercury will become available due to this phase-out. Hence the need to introduce provisions now which regulate and control the expected surplus of unused mercury.

Proposed provisions:

The proposal contains two basic elements: an export ban for metallic mercury and an obligation to store mercury in a way that is safe for human health and for the environment. The proposal responds to the principles of “Better Legislation”. It is short, clear and avoids, as much as possible, grey areas subject to contradictory interpretations. In summary, the Commission is proposing:

- The introduction of an export ban on mercury as from 1 July 2011. Although controversial, the Commission has opted for this date since it is most likely to rally support from the majority of the Member States as well as from interested parties.
- Metallic mercury which is no longer used in the chlor-alkali industry; mercury gained from the cleaning of natural gas; and mercury gained as a by-product from non-ferrous mining and smelting operations, must be stored. It must be stored in a way that is safe for human health and for the environment.
- Metallic mercury (that might under normal circumstances would be considered as waste) will be allowed to be stored in appropriate containment. This means that it can be stored either in an underground salt mine specifically adopted to waste disposal or in a facility exclusively dedicated

to and equipped for the temporary storage of metallic mercury prior to its final storage. This provision (Article 3) offers a number of derogations from existing EU legislation, namely: Directive 75/442/EEC on *waste*, Regulation 259/93/EC on *waste shipments* and Directive 1999/31/EC on the *landfill of waste*. What this means is that any “waste” which contains mercury will be subject to the normal provisions. This provision, however, will allow the storage of metallic mercury (which is normally liquid) to derogate from the rules that would normally apply. This is being proposed on the grounds that one of the Regulation’s main aims is to ensure that mercury does not re-enter the market and is therefore introducing additional provisions that deal specifically with the *storage* of mercury.

- Metallic mercury will be subject to safety assessments as set out in Decision 2003/33/EC. The safety assessment will then be submitted to the competent authorities for the temporary storage in a facility exclusively dedicated and equipped for the storage of metallic mercury. Requirements are being proposed that would allow for regular visual inspections of the containers and the installations of appropriate vapour detection equipment in order to detect any potential leaks.
- Provisions will be put in place that guarantee the exchange of information between the Member States.
- The Member States will be obliged to submit copies of permits and shall inform the Commission on the application and market effects of this Regulation in their territories.
- The Commission will report on the Regulation’s application by 30 June 2015. The Commission will also keep the Council and Parliament abreast of progress in multilateral activities and negotiations on mercury.