

AMENDMENTS 001-102

by the Committee on the Environment, Public Health and Food Safety

Report**Stefan Eck****A8-0313/2016**

Mercury

Proposal for a regulation (COM(2016)0039 – C8-0021/2016 – 2016/0023(COD))

Amendment 1**Proposal for a regulation****Citation 1***Text proposed by the Commission*

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) **and Article 207** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Amendment 2**Proposal for a regulation****Recital 1***Text proposed by the Commission*

(1) Mercury is a highly toxic substance which represents a global and major threat to human health, including by methylmercury in fish and seafood resources, the ecosystems and wildlife. ***Due to the transboundary nature of mercury pollution, between 40% and 80% of total mercury deposition in the Union originates from outside of the Union and***

Amendment

(1) Mercury is a highly toxic substance which represents a global and major threat to human health, including by methylmercury in fish and seafood resources, the ecosystems and wildlife. ***Mercury exposure at high levels can harm the brain, heart, kidneys, lungs, and immune system of people of all ages. High levels of methylmercury in the***

therefore warrants action at local, regional, national and international levels.

bloodstream of unborn babies and young children can harm the developing nervous system, making children less able to think and learn and potentially reducing their IQ. The United Nations Environment Programme (UNEP) and the World Health Organization (WHO) list mercury among the "ten chemicals of major public health concern". It is necessary therefore to introduce measures on mercury and conditions for its use.

Justification

see US EPA 2014 and http://www.who.int/ipcs/assessment/public_health/chemicals_phc/en/

Amendment 3

Proposal for a regulation Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The use of mercury in production processes should be phased out and, to that end, incentives should be provided for research into alternative substances to mercury with characteristics that are innocuous, or in any case, less dangerous for the environment and for health.

Amendment 4

Proposal for a regulation Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Due to the transboundary nature of mercury pollution, between 40 % and 80 % of total mercury deposits in the Union originate from outside of the Union, while 70 % of the mercury contaminated sites are concentrated in industrial regions in Europe and North America; and therefore action at local, regional, national and international levels

is required.

Amendment 5

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Most mercury emissions and associated exposure risks result from anthropogenic activities, including primary mercury mining and processing, the use of mercury in products, industrial processes and artisanal and small-scale gold mining ("ASGM") and mercury emissions originating in particular from coal combustion and the management of mercury waste.

Amendment

(2) Most mercury emissions and associated exposure risks result from anthropogenic activities, including primary mercury mining and processing, the use of mercury in products, industrial processes and artisanal and small-scale gold mining ("ASGM"), ***contaminated sites*** and mercury emissions originating in particular from coal combustion and the management of mercury waste. ***Fossil fuel combustion in power plants and industrial boilers together with residential heating constitute almost half of global mercury emissions. Therefore, the transition to renewable energy production along with energy efficiency measures should be accelerated in order to reduce significantly the release of mercury into the atmosphere.***

Amendment 6

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The European Pollutant Release and Transfer Register (E-PRTR) established by Regulation (EC) No 166/2006 of the European Parliament and of the Council^{1a} aims to provide competent authorities, policymakers, scientists and the general public with a coherent and Union-wide industrial release and transfers database that also covers mercury. Users are given access to information on releases and transfers

from industrial facilities in their neighbourhood or country, which can be compared with other facilities all over the Union. That access to data has the potential to ensure a real participation of citizens in environmental matters. The E-PRTR contributes to greater transparency and that already existing tracking tool for pollutants should therefore be extended to mercury waste flows, in order to minimise the risk of fraud and to improve the control of mercury transfers in waste.

^{1a} Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 033, 4.2.2006, p.1).

Justification

The use of the E-PRTR will minimise the risk of fraud and will contribute to the overall picture that we expect to achieve from our request on an EU-wide inventory.

Amendment 7

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Significant progress has been achieved in the Union in the past 10 years in the field of mercury management following the adoption of the Strategy and of a wide range of measures concerning mercury emissions, supply, demand and use and the management of mercury surplus and stocks.

Amendment

(5) Significant progress has been achieved in the Union in the past 10 years in the field of mercury management following the adoption of the Strategy and of a wide range of measures concerning mercury emissions, supply, demand and use and the management of mercury surplus and stocks. ***Nonetheless, further action is required as currently the demand in the market for mercury is estimated at 260-400 metric tonnes per year and even after the foreseen phase-out of the use of mercury in the chlor-alkali industry by 2017 the projected demand for mercury in 2025-2030 is estimated at 40-220 metric***

tonnes per year. It is necessary, therefore, that particular attention is devoted to the full implementation of this Regulation in accordance with the applicable rules.

Justification

See Commission staff working document SWD, impact assessment accompanying this proposal 2016 final p.26/ 186.

Amendment 8

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) The Strategy establishes that the negotiation and conclusion of an international legally-binding instrument should be a priority *as Union action alone cannot* guarantee *effective* protection of *the citizens of the Union against* the negative health effects of mercury.

Amendment

(6) ***In addition to*** the Strategy, ***which*** establishes that the negotiation and conclusion of an international legally-binding instrument should be a priority, ***the Union should endeavour to excel among its global partners in order to*** guarantee a protection of ***its*** citizens ***from*** the negative health effects of mercury ***that is truly effective, by setting best practice examples to all countries that are Parties to the Minamata Convention on Mercury.***

Amendment 9

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In order to reflect the current scientific understanding of risks from methylmercury, the Commission should evaluate the current health-based intakes and should establish new mercury health benchmarks, when undertaking the review of this Regulation.

Amendment 10

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) Swift ratification of the Convention by the Union and its Member States will encourage major global mercury users and emitters, that are signatories of the Convention, to ratify and implement it.

Amendment

(8) Swift ratification of the Convention by the Union and its Member States will encourage major global mercury users and emitters that are signatories of the Convention, to ratify and implement it. ***Further action undertaken by the Union, going beyond the Convention requirements, would lead the way, as it was the case with Regulation (EC) No 1102/2008 of the European Parliament and of the Council^{1a}, for mercury-free products and processes.***

^{1a} ***Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury (OJ L 304, 14.11.2008, p. 75).***

Amendment 11

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) As Union legislation already transposes many of the obligations of the Convention, this Regulation should ***only*** lay down provisions that complement the Union acquis and that are needed to ensure its full alignment with the Convention and, accordingly, to enable the Union and its Member States to ratify and implement it.

Amendment

(9) As Union legislation already transposes many of the obligations of the Convention, this Regulation should ***as a priority*** lay down provisions that complement the Union acquis and that are needed to ensure its full alignment with the Convention and, accordingly, to enable the Union and its Member States to ratify and implement it. ***This Regulation should also lay down new provisions that go beyond the Convention, in line with the Strategy and Union legislation on the environment and the protection of human health,***

particularly in the field of waste.

Justification

The new regulation should not restrict itself to adapting Union legislation to the Convention. The Union could move forward more quickly on some aspects of the Convention, thus setting the foundations for the Convention in the future.

Amendment 12

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The Member States are considered to be developed countries under the Convention, and the Union is not only advanced with its legislation but also in possession of alternative available technologies; therefore, the Union should adopt as many of the options and measures proposed and provided by the Convention in order to set an ambitious direction for all the other Parties to the Convention.

Amendment 13

Proposal for a regulation

Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) Additional measures at Union level which have a level of ambition that goes beyond that of the Convention should be able to be adopted where they make it possible to reduce the harmful effects of mercury efficiently and effectively, in accordance with the scientific state of the art. By way of example, the Union should encourage the use of recycled mercury for industrial purposes.

Justification

In order to reduce global mercury production and send a positive signal, recycling and the use of recycled mercury should be encouraged in the Union.

Amendment 14

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) The mercury export ban set out in Regulation (EC) No 1102/2008 *of the European Parliament and of the Council*³⁹ should be complemented by *restrictions* on the import of mercury *depending on the source, the intended use and the place of origin of mercury*. The national authorities designated in accordance with Regulation (EU) No 649/2012 of the European Parliament and of the Council⁴⁰ should perform the administrative functions linked to the implementation of *such restrictions*.

³⁹ *Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury (OJ L 304, 14.11.2008, p. 75).*

⁴⁰ Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

Amendment

(10) The mercury export ban set out in Regulation (EC) No 1102/2008 should be complemented by *a ban* on the import of mercury *for purposes other than disposal as waste. Such a derogation for mercury imported for disposal as waste should apply until 31 December 2027. In the meantime, the Commission in collaboration with Member States and the relevant stakeholders should promote and facilitate the capacity building of third countries with regard to the treatment of mercury*. The national authorities designated in accordance with Regulation (EU) No 649/2012 of the European Parliament and of the Council⁴⁰ should perform the administrative functions linked to the implementation of *those prohibition measures*.

⁴⁰ Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

Amendment 15

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) The export, import and manufacturing of a range of mercury-added products ***accounting for a significant share of the use of mercury and mercury compounds within the Union and globally*** should be prohibited.

Amendment

(11) The export, import and manufacturing of a range of mercury-added products ***which do not comply with the limits established by the applicable Union legislation, should be phased out with an ultimate short-term target that all products containing intentionally added mercury should be prohibited; in the meantime, continued use should be strictly monitored and should meet the conditions set out in Articles 3 and 4 of this Regulation.***

Amendment 16

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) ***This Regulation should therefore have a twofold legal basis, Articles 192(1) and 207 of the TFEU, as it seeks to protect both the environment and human health and to ensure uniformity in respect of its trade aspects through the export and import prohibition and restrictions affecting mercury, mercury compounds and mercury-added products.***

Amendment

deleted

Amendment 17

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) With the aim of reducing imports of mercury and storage of mercury waste, either stabilised or partially stabilised, the use of mercury obtained by means of

recycling should be encouraged where possible.

Amendment 18

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) In accordance with Article 193 of the Treaty on the Functioning of the European Union (TFEU), this Regulation should not prevent Member States from maintaining or introducing more stringent protective measures, provided that such measures are compatible with the Treaties and the Commission has been notified.

Amendment 19

Proposal for a regulation Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) This Regulation aims to protect human health. Therefore, it should not prevent the export, import and manufacturing of homeopathic medical products, provided that such products confer significant health benefits and there are no mercury-free active substances available as alternatives. The anthroposophic medicinal products described in an official pharmacopoeia and prepared by a homeopathic method should be treated, for the purpose of this Regulation, in the same way as homeopathic medicinal products.

Amendment 20

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In the absence of relevant available mercury-free production processes, ***operating conditions for the production of sodium or potassium methylate or ethylate involving the use of mercury should be set.***

Amendment

(14) ***The production of alcoholates involving the use of mercury as an electrode should be phased out and replacement by feasible mercury-free production processes should take place as soon as possible.*** In the absence of relevant available mercury-free production processes ***for*** potassium methylate or ethylate, ***the period for their phasing out should be longer. In order to enable industry to make investments sufficiently in advance, a date should be set as soon as possible for the introduction of a ban on mercury in the production of sodium or potassium methylate or ethylate.***

Amendment 21

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) The manufacturing and placing on the market of new mercury-added products and the establishment of new mercury-based manufacturing processes would increase the use of mercury and of mercury compounds and mercury emissions within the Union. Such new activities should therefore be prohibited unless an assessment demonstrates that these uses would provide significant environmental and health benefits and that no technically ***and economically*** feasible mercury-free alternatives providing such benefits are available.

Amendment

(15) The manufacturing and placing on the market of new mercury-added products and the establishment of new mercury-based manufacturing processes would increase the use of mercury and of mercury compounds and mercury emissions within the Union. Such new activities should therefore be prohibited unless an assessment ***of the risks and the benefits*** demonstrates that these uses would provide significant ***net*** environmental and health benefits and that no technically feasible mercury-free alternatives providing such benefits are available.

Amendment 22

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The use of mercury and mercury compounds in ASGM accounts for a significant share of mercury use and emissions worldwide, and should therefore be regulated.

Amendment

(16) The use of mercury and mercury compounds in ASGM accounts for a significant share of mercury use and emissions worldwide ***with negative effects both for the local communities and globally***, and should therefore be ***eliminated in the Union and regulated at international level. It is estimated that small-scale gold mining is practised in 77 countries. Globally, small-scale miners produce between 20 % and 30 % of all gold that is mined. The Union should encourage, within the framework of the Convention, all other Parties to the Convention to cooperate in order to monitor closely through accurate and strict reporting of export and import activity the trade of surplus mercury intended for use in ASGM and to track the transportation of mercury in waste.***

Amendment 23

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) It is essential that mercury waste is traceable to ensure that it is properly treated and disposed of and to prevent its illegal use. An effective traceability system throughout the mercury waste management chain should therefore be introduced at Union level.

Amendment 24

Proposal for a regulation

Recital 16 b (new)

Text proposed by the Commission

Amendment

(16b) Member States and the Union should seek to reduce the human and environmental impact of ASGM activities that use mercury. In developing policy solutions in that regard, the Union and Member States should take account of the role that poverty plays as a cause of ASGM activities. Member States should therefore aim to develop economic alternatives to ASGM activities. In addition, the Union should firmly commit to cooperating with, and providing technical assistance to, the other Parties to the Convention.

Amendment 25

Proposal for a regulation

Recital 16 c (new)

Text proposed by the Commission

Amendment

(16c) When developing policy solutions for the problem of mercury use in ASGM, Member States should aim, in parallel with addressing economic and social factors, to protect communities from the criminal structures involved in ASGM activities and to develop solutions to tackle illegal mining activities in general.

Amendment 26

Proposal for a regulation

Recital 16 d (new)

Text proposed by the Commission

Amendment

(16d) Member States that have ASGM activities in which mercury is used on their territory should develop a national action plan as also required by Article 7(3) of the Convention.

Amendment 27

Proposal for a regulation Recital 16 e (new)

Text proposed by the Commission

Amendment

(16e) In order to highlight the problem of mercury use in ASGM and allow consumers to make informed decisions when purchasing gold products, the Union should take the steps necessary to promote, among the other Parties to the Convention, the creation of a labelling scheme for gold that has been extracted without recourse to the use of mercury.

Amendment 28

Proposal for a regulation Recital 16 f (new)

Text proposed by the Commission

Amendment

(16f) The use and the transport of mercury involves health and environmental risks. In order to track mercury use in ASGM activities, the Commission should encourage the Parties to the Convention to create a worldwide tracking tool. The Commission should aim to model that new tracking tool on the E-PRTR in terms of performance and effectiveness.

Amendment 29

Proposal for a regulation Recital 17

Text proposed by the Commission

Amendment

(17) The use of dental amalgam in an encapsulated form and the implementation of amalgam separators should be made mandatory to protect dental practitioners

(17) Pending a total elimination of the use of mercury in dentistry, the use of dental amalgam in an encapsulated form and the implementation of amalgam

and patients from mercury exposure and to ensure that resulting mercury waste *are not* released into the environment, but *are* collected and subjected to sound waste management. *Given the size of the undertakings from the dentistry sector concerned by this change, it is appropriate to provide sufficient time to adapt to the new provision.*

separators, *which are already widespread in the Union, with a minimum retention efficiency* should be made mandatory to protect dental practitioners and patients from mercury exposure and to ensure that resulting mercury waste *is, under no circumstances* released into the environment, but *is* collected and subjected to sound *and legal* waste management. *To ensure that amalgam separators are effective, minimum requirements for the performance of equipment and for amalgam waste management by dental practitioners as well as the training of dental practitioners should be ensured at Union level. In order to protect dental practitioners, patients and the environment from mercury exposure, the use of dental amalgam should be phased out in the Union as is already the case in several European countries.*

Amendment 30

Proposal for a regulation Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Bucodental health awareness-raising and education is the most effective way of preventing tooth cavities and decay and, hence, of reducing the use of a dental restoration such as dental amalgam. Member States ought to promote bucodental health, for example by setting national objectives.

Amendment 31

Proposal for a regulation Recital 17 b (new)

Text proposed by the Commission

Amendment

(17b) Parties to the Convention have

committed to take measures to encourage professional organisations and dental schools to educate and train dental professionals and students on the use of mercury-free dental restoration alternatives and on promoting best management practices; such measures should be taken into account when reviewing Directive 2005/36/EC of the European Parliament and of the Council^{1a}.

^{1a} Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Amendment 32

Proposal for a regulation Recital 17 c (new)

Text proposed by the Commission

Amendment

(17c) Member States should be called on to support the training of students and dentists on the use of mercury-free alternatives, in particular for vulnerable groups such as pregnant women and children, and to encourage buccodental health research and innovation in order to improve knowledge of existing materials and restoration techniques and to develop new materials.

Justification

Research into restoration materials ought to be encouraged, in particular as regards new materials, about which knowledge remains limited and a complete risk analysis cannot be carried out. It is one of the recommendations made by the Convention.

Amendment 33

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) *Most of the criteria established in Council Directive 1999/31/EC⁴¹ for the temporary storage of mercury waste should apply to the permanent storage of mercury waste in underground storage facilities. The applicability of some of those criteria should depend on the specific characteristics of each underground storage facility, as determined by the competent authorities of the Member States in charge of the implementation of Directive 1999/31/EC.*

⁴¹ *Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182 of 16.7.1999, p. 1).*

Amendment

(18) *Due to the hazardous properties of mercury, its high market value and its compact volume as a result of which it is very attractive for black market procurement, the criteria for its temporary storage should be different from those for its permanent disposal. In order to ensure its long-term safe disposal, the permanent disposal of metallic mercury should be prohibited and it should be transformed into mercury sulfide in its most irreversible form prior to permanent disposal. If, after the conversion of the mercury into mercury sulfide, the mercury waste is as safe as after solidification, no further treatment is required. That would also ensure its non-availability as a commodity. Over 6 000 metric tonnes of metallic mercury waste are expected to be generated in the Union by 2017, mainly as a result of the mandatory decommissioning of mercury cells in the chlor-alkali industry in accordance with Commission Implementing Decision 2013/732/EU^{41a}. Given the limited available capacity for undertaking the transformation of liquid mercury waste, the temporary storage of liquid mercury waste should still be allowed under this Regulation for a period of time sufficient to ensure the transformation of all such waste generated, but only in above-ground facilities.*

^{41a} *Commission Implementing Decision 2013/732/EU of 9 December 2013 establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions, for the production of chlor-*

Amendment 34

Proposal for a regulation Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The permanent disposal without pre-treatment of metallic mercury that is considered as waste should be ruled out owing to the risks that such disposal poses, as it is an extremely hazardous substance in its liquid form. Prior to the permanent disposal of mercury waste, the relevant operations to convert it into mercury sulfide and solidify such waste should be carried out in order to reduce these risks, in accordance with Article 6 of Directive 1999/31/EC. The permanent disposal of mercury waste should be allowed only after it has been converted into mercury sulfide and solidified.

Justification

Metallic mercury is a liquid, and the management of such waste poses greater risks than is the case for solids. Directive 1999/31/EC prohibits the acceptance of liquid waste in landfills. By analogy and in view of its hazardous nature, the same should apply to mercury waste. To minimise the risks, permanent storage should be permitted only where mercury waste has first undergone stabilisation and solidification treatment.

Amendment 35

Proposal for a regulation Recital 18 b (new)

Text proposed by the Commission

Amendment

(18b) Contaminated sites contribute to re-mobilisation and re-emissions and releases of mercury to air, soil and water. In the absence of comprehensive information about abandoned contaminated sites, the development of an inventory and guidelines for the management of all contaminated sites in

the Union is necessary. In order to allow for that development, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of laying down the methods and approaches for the ecologically sustainable management and remediation of sites contaminated by mercury or mercury compounds, in line with the polluter pays principle, when possible.

Amendment 36

Proposal for a regulation Recital 18 c (new)

Text proposed by the Commission

Amendment

(18c) Any type of incineration of mercury waste should be prohibited as it is incompatible with the environmentally sound management of mercury waste.

Amendment 37

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In order to allow for adaptation to the latest innovation and technological progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of prohibiting or allowing new products and processes using mercury.

Amendment 38

Proposal for a regulation Recital 20

Text proposed by the Commission

Amendment

(20) In order to ensure uniform

deleted

conditions for the implementation of this Regulation with regard to prohibiting or allowing new mercury using products and processes and reporting obligations, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council⁴².

⁴² *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

Amendment 39

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

This Regulation establishes measures and conditions concerning the trade, manufacture, use and *interim* storage of mercury, mercury compounds, mixtures, mercury-added products and the management of mercury waste.

Amendment

This Regulation establishes measures and conditions concerning the trade, manufacture, use and storage of mercury, mercury compounds, mixtures, mercury-added products and the management of mercury waste *in order to ensure a high level of protection of human and animal health and the environment from mercury. Where appropriate, Member States may apply stricter requirements than those laid down in this Regulation.*

Amendment 40

Proposal for a regulation Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

1a. 'mercury compound' means any

substance consisting of atoms of mercury and one or more atoms of other chemical elements that can be separated into different components only by chemical reactions;

Amendment 41

Proposal for a regulation

Article 2 — paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

6a. ‘temporary storage’ means the storage of mercury or mercury compounds, defined as mercury waste, for a limited period of time before it is converted into mercury sulfide with the best available technology and solidified and before being disposed of permanently.

Amendment 42

Proposal for a regulation

Article 3 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The first subparagraph shall not apply to the export of the mercury compounds listed in Annex I for laboratory-scale research.

The first subparagraph shall not apply to the export of the mercury compounds listed in Annex I for laboratory-scale research **and, when such compounds are used as active substances for the manufacturing of homeopathic medicinal products as defined in Article 1(5) of Directive 2001/83/EC of the European Parliament and of the Council^{1a}.**

^{1a} *Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).*

Amendment 43

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

1. The import of mercury and of mixtures listed in Annex I *for uses other than disposal as waste* shall be prohibited.

By way of derogation from the first subparagraph, import *shall be allowed in any of the following circumstances:*

– *the exporting country is a Party to the Convention and the exported mercury is not from primary mercury mining as set out in Article 3(3) and (4), of that Convention;*

– *the exporting country not being a Party to the Convention has provided certification that the mercury is not from*

Amendment

1. The import of mercury and of *mercury compounds and* mixtures listed in Annex I shall be prohibited.

The first subparagraph shall not apply to the import of mercury compounds listed in Annex I when such compounds are used as active substances for the manufacturing of homeopathic medicinal products as defined in Article 1(5) of Directive 2001/83/EC.

By way of derogation from the first subparagraph, import *of mercury and of mercury compounds and mixtures listed in Annex I for disposal as waste shall be allowed until 31 December 2027. The Commission is empowered to adopt delegated acts in accordance with Article 17 to amend this Regulation by extending this derogation, taking into account the conclusions of the report referred to in subparagraph 5.*

The Commission in collaboration with Member States and relevant stakeholders shall promote and facilitate the development, transfer and diffusion of, and access to, up-to-date environmentally sound alternative technologies for developing countries which are Parties to the Convention, in particular the least developed countries. The Commission shall identify the financial and technical means for contributing to the capacity-building and the transfer of technical assistance and technology, pursuant to the obligations deriving from the Convention, in relation to all areas and phases of the treatment of mercury, including the disposal as waste.

By 1 January 2026, the Commission shall present an implementation and feasibility report which evaluates the capacity-

primary mercury mining and not from the chlor-alkali industry, and the importing Member State has granted its written consent to the import.

building and technical assistance provided by the Union, its Member States and by relevant stakeholders to third countries, and evaluates whether the situation in the various regions allows for the treatment of mercury as a waste on a regional basis.

By way of derogation from the first subparagraph, the import of recycled mercury in the Union shall be allowed until ... [three years after the date of entry into force of this Regulation].

By ... [18 months after the date of entry into force of this Regulation], the Commission shall submit to the European Parliament and the Council a report on the use of recycled mercury in the Union, the availability of recycled mercury and estimations on the future demand for recycled mercury based on the trends and the obligations arising from this Regulation, accompanied, where appropriate, by a legislative proposal for the extension of the derogation for the import of recycled mercury.

The import of recycled mercury shall be allowed only when the exporting country is a Party to the Convention and the economic operator has provided certification about the life-cycle of the recycled mercury and the recycling has been done in a licenced recycling facility in accordance with Union standards.

Amendment 44

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

1. Without prejudice to stricter requirements set out in other applicable Union legislation, the export, import and the manufacturing in the Union of the mercury-added products as set out in Annex II shall be prohibited from *I*

Amendment

1. Without prejudice to stricter requirements set out in other applicable Union legislation, the export, import and the manufacturing in the Union of the mercury-added products as set out in Annex II shall be prohibited *as from the*

January 2021.

dates specified therein.

Amendment 45

Proposal for a regulation Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission shall by 1 January 2018 establish a list of all mercury-added products imported, exported or manufactured in the Union which are not listed in Annex II.

Amendment 46

Proposal for a regulation Article 5 – paragraph 2 – indent 2

Text proposed by the Commission

Amendment

– products for research, ***calibration of instrumentation***, for use as reference standard.

– products for research, for use as reference standard.

Amendment 47

Proposal for a regulation Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Based on the list established pursuant to paragraph 1a, the Commission is empowered to adopt delegated acts in accordance with Article 17 to amend Annex II in order to prohibit the manufacturing, import and export of mercury-added products by 1 January 2020.

Amendment 48

Proposal for a regulation Article 5 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission shall undertake an expert assessment of mercury use in the manufacture of vaccines, as also mentioned in the Council conclusions of 24 June 2005 and the European Parliament Resolution of 14 March 2006, with a view to achieving a restriction of such use and, when appropriate and safe alternatives exist, a total ban, and to support research into viable options for the future delivery of thiomersal-free multi-dose vaccines in developing countries.

Amendment 49

Proposal for a regulation Article 7 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission **shall be** empowered to adopt delegated acts in accordance with Article 17 in order to set out requirements for environmentally sound interim storage of mercury and mercury compounds adopted by the Conference of the Parties to the Convention, **where the Union has supported the Decision concerned.**

The Commission **is** empowered to adopt delegated acts in accordance with Article 17 **to supplement this Regulation** in order to set out requirements for environmentally sound interim storage of mercury and mercury compounds adopted by the Conference of the Parties to the Convention.

Amendment 50

Proposal for a regulation Article 8 – paragraph – 1 (new)

Text proposed by the Commission

Amendment

-1. By ...[one year after the date of entry into force of this Regulation], economic operators shall notify the competent authorities of all their existing products

and manufacturing processes containing or using mercury and/or mercury compounds, including data on the total quantities as well as the quantities per product of mercury and/or mercury compounds used for the previous year.

Amendment 51

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

1. The manufacture and placing on the market of mercury-added products not *covered by any known use prior to 1 January 2018* shall be prohibited.

Amendment

1. The manufacture and placing on the market of mercury-added products *that were not notified to the competent authorities by ...[one year after the date of entry into force of this Regulation]* shall be prohibited.

Amendment 52

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. Manufacturing processes involving the use of mercury and/or mercury compounds that *did not exist prior to 1 January 2018* shall be prohibited.

Amendment

2. Manufacturing processes involving the use of mercury and/or mercury compounds that *were not notified to the competent authorities by...[one year after the date of entry into force of this Regulation]* shall be prohibited.

This paragraph shall not apply to processes manufacturing and/or using mercury added products others than those falling under paragraph 1.

Amendment 53

Proposal for a regulation

Article 8 – paragraph 3 – introductory part

Text proposed by the Commission

3. By way of derogation from paragraphs 1 and 2, **where** an economic operator intends to manufacture and/or place on the market a new mercury-added product or to operate a new manufacturing process, the operator shall notify the competent authorities of the Member State concerned and provide them, with the following:

Amendment

3. By way of derogation from paragraphs 1 and 2 **and only where a new mercury-added product or new manufacturing process would provide significant net environmental and health benefits and where no technically feasible mercury-free alternatives providing such benefits are available, in the event that** an economic operator intends to manufacture and/or place on the market a new mercury-added product or to operate a new manufacturing process, the operator shall notify the competent authorities of the Member State concerned and provide them with the following:

Amendment 54

Proposal for a regulation

Article 8 – paragraph 3 – indent - 1 (new)

Text proposed by the Commission

Amendment

– **evidence demonstrating the absence of technically feasible mercury-free alternatives providing significant net environmental and health benefits;**

Amendment 55

Proposal for a regulation

Article 8 – paragraph 3 – indent 2

Text proposed by the Commission

Amendment

– an assessment of its environmental and health risks;

– an assessment of its environmental and health risks **and benefits;**

Amendment 56

Proposal for a regulation

Article 8 – paragraph 3 – indent 3

Text proposed by the Commission

– a detailed explanation of the manner in which such product or process must be manufactured, used and operated to ensure a high level of protection of the environment and of human health.

Amendment

– a detailed explanation of the manner in which such product or process must be manufactured, used and operated **and, disposed of after use as waste in order** to ensure a high level of protection of the environment and of human health.

Amendment 57

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. Upon notification by the Member State concerned, the Commission shall verify in particular whether it has been demonstrated that the new mercury-added product or new manufacturing process would provide significant environmental and health benefits and that no technically **and economically** feasible mercury-free alternatives providing such benefits are available.

The Commission shall adopt **decisions, by means of implementing** acts, in view of specifying whether the relevant new mercury-added product or new manufacturing process is allowed.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).

Amendment

4. Upon notification by the Member State concerned, the Commission shall verify in particular whether it has been demonstrated that the new mercury-added product or new manufacturing process would provide significant **net** environmental and health benefits and that no technically feasible mercury-free alternatives providing such benefits are available.

The *Commission* shall adopt **delegated** acts **in accordance with Article 17 to supplement this Regulation** in view of specifying whether the relevant new mercury-added product or new manufacturing process is allowed.

Amendment 58

Proposal for a regulation Article 9

Text proposed by the Commission

Member States on the territory of which

Amendment

Member States on the territory of which

more than insignificant artisanal and small-scale gold mining and processing activities are carried out shall:

- **take steps to reduce, and where feasible eliminate**, the use of mercury and mercury compounds in, and the emissions and releases to the environment of mercury from, such mining and processing;
- develop and implement a national plan in accordance with Annex IV.

artisanal and small-scale gold mining and processing activities **using mercury or mercury compounds** are carried out shall:

- **eliminate** the use of mercury and mercury compounds in, and the emissions and releases to the environment of mercury from, such mining and processing;
- develop and implement a national plan in accordance with Annex IV.

The Commission shall encourage the Parties to the Convention to create a worldwide tracking tool, so that mercury use for ASGM purposes is tracked.

The Commission shall promote among the Parties to the Convention the creation and implementation of a labelling scheme that develops consumer awareness worldwide of the availability of mercury-free extracted gold.

Amendment 59

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. From **1 January 2019 onwards** dental amalgam shall only be used in **an** encapsulated form.

Amendment

1. From **...[one year after the date of entry into force of this Regulation]**, dental amalgam shall only be used in **pre-dosed** encapsulated form.

Amendment 60

Proposal for a regulation Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. From ...[one year after the date of entry into force of this Regulation], the use of dental amalgam in any form shall be prohibited for the treatment of pregnant or breastfeeding women or

individuals who undergo treatment on their deciduous teeth.

Amendment 61

Proposal for a regulation Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The use of dental amalgam shall be phased out by 31 December 2022.

Amendment 62

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

Amendment

2. From **1 January 2019** onwards dental facilities shall be equipped with amalgam separators aimed at retaining and collecting amalgam particles. Those separators shall be maintained as required to ensure a high level of retention.

2. From ...***[one year after the date of entry into force of this Regulation]***, dental facilities shall be equipped with amalgam separators aimed at retaining and collecting ***all*** amalgam particles, ***including those contained in used water***. Those separators shall be maintained as required to ensure a high ***and ongoing*** level of retention ***of at least 95 % of amalgam particles***.

Amendment 63

Proposal for a regulation Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By way of derogation from paragraph 1b, the use of dental amalgam shall continue to be allowed in respect of specific medical needs and only if it is strictly necessary for patient-related health reasons and there is no satisfactory alternative.

Amendment 64

Proposal for a regulation

Article 10 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Notwithstanding paragraphs 1 to 2 a, Member States may further restrict the use of dental amalgam, in accordance with Article 193 TFEU.

Amendment 65

Proposal for a regulation

Article 10 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. By...[two years after the date of entry into force of this Regulation], the Member States shall set out how they intend to implement the phase-out of dental amalgam under paragraphs 1a and 1b, and shall also set national objectives for oral health, and communicate how they intend to implement that phase-out and those objectives to the Commission.

Amendment 66

Proposal for a regulation

Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Dental practitioners shall be responsible for the conditioning and disposal of their waste and shall make sure that these stages are carried out in an environmentally sound manner. They shall ensure that the service providers that collect their waste comply with the applicable rules.

Amendment 67

Proposal for a regulation Chapter IV - title

Text proposed by the Commission

Storage and disposal of mercury waste

Amendment

Storage and disposal of mercury waste **and contaminated sites**

Amendment 68

Proposal for a regulation Article 11 – paragraph 1 – introductory part

Text proposed by the Commission

Without prejudice to Commission Decision 2000/532/EC⁴⁴, the following shall be considered as waste and be disposed of without endangering human health or harming the environment in accordance with Directive 2008/98/EC:

Amendment

The following shall be considered as waste and be disposed of without endangering human health or harming the environment in accordance with Directive 2008/98/EC:

⁴⁴ *Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ L 226, 6.9.2000, p. 3).*

Amendment 69

Proposal for a regulation Article 12 – title

Text proposed by the Commission

Reporting on mercury waste **from large sources**

Amendment

Reporting on mercury waste

Justification

The measure for the reporting shall not be the size of the source but the size of the emissions and releases. The transfer of waste should also be included as well as the transfer of waste from the contaminated sites.

Amendment 70

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

1. The companies operating within the industry sectors referred to in points (a), (b) and (c) of Article 11 shall send each year by 31 May to the competent authorities of the Member States concerned data related to the total amount of mercury waste stored in each installation and sent to individual temporary *or permanent* storage facilities as well as the location and contact details of those facilities.

Amendment

1. The companies operating within the industry sectors referred to in points (a), (b) and (c) of Article 11 shall send each year by 31 May to the competent authorities of the Member States concerned data related to the total amount of mercury waste ***and the mercury content of such waste*** stored in each installation and sent to individual temporary storage facilities, ***conversion and solidification facilities and final disposal facilities*** as well as the location and contact details of those facilities.

Amendment 71

Proposal for a regulation Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. By 30 June 2018, the Commission shall adopt delegated acts in accordance with Article 17, supplementing this Regulation by establishing a tracing tool in order to register information concerning the waste transfers from the contaminated sites. Where the threshold of total mercury and its compounds in waste produced exceeds 5 kg per year, the operator of the decontamination or the managing authority of the contaminated sites shall use that tracing tool and shall communicate on a yearly basis the

amount of mercury waste and its mercury content;

Amendment 72

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12 a

Contaminated sites

- 1. By... [one year after the date of entry into force of this Regulation], Member States shall identify the sites contaminated by mercury or mercury compounds within their territory, and communicate the list of those sites to the Commission and identify the nature of the contamination.**
- 2. By 30 June 2018, the Commission shall adopt delegated acts in accordance with Article 17 supplementing this Regulation by laying down methods and approaches for the ecologically sustainable management and remediation of sites contaminated by mercury or mercury compounds, which shall include:**
 - (a) engagement of the public;**
 - (b) assessment of human health and environmental risk;**
 - (c) decontamination measures, taking into account the different national approaches for decontamination;**
 - (d) evaluation of outcomes.**
- 3. By 1 January 2020, the Member States shall adopt and submit to the Commission their national strategies for the decontamination of the identified sites within their territory. Those strategies may be integrated into national decontamination strategies covering several substances.**
- 4. By ... [18 months after the date of entry into force of this Regulation], the**

Commission shall set up an inventory of the sites contaminated by mercury or mercury compounds and by 1 June 2021 the national strategies shall also be included in the inventory. This information shall be publicly available including on the internet. The Commission shall monitor the implementation of the national strategies.

Amendment 73

Proposal for a regulation Article 13 – paragraph - 1 (new)

Text proposed by the Commission

Amendment

-1. Mercury waste shall be permanently disposed of - in an environmentally sound manner according to the Technical Guidelines of the Basel Convention - and according to the following conditions:

(a) prior to its disposal, the mercury waste is converted into mercury sulfide using the best available technology and solidified; and

(b) the mercury waste is disposed of in licenced salt mines that are adapted for the disposal of mercury waste, or in licenced deep underground hard rock formations that provide a level of safety and confinement equivalent to or higher than that of such salt mines. The mercury waste has been placed in disposal batches and placed in a storage disposal chamber that is sealed and not left open for more than six months; or

(c) the mercury waste is disposed of in licenced above-ground or in licenced subsurface facilities that are dedicated to and equipped for the permanent disposal of mercury waste and that provide a level of safety and confinement equivalent to or higher than that of such salt mines; and

(d) the specific requirements for the temporary storage of mercury waste as laid down in the first, third, fifth and sixth

indents of Section 8 of Annex I and in Annex II to Council Directive 1999/31/EC^{1a} shall also apply to permanent disposal facilities for solidified mercury sulfide; and

(e) the specific requirements for the temporary storage of mercury waste as laid down in the second and fourth indents of Section 8 of Annex I and in Section 6 of Annex III to Directive 1999/31/EC shall apply to permanent disposal facilities for solidified mercury sulfide where deemed appropriate by the competent authorities of the Member States in charge of implementing that Directive.

^{1a} Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

Amendment 74

Proposal for a regulation Article 13 – paragraph - 1 a (new)

Text proposed by the Commission

Amendment

-1a. By 31 December 2018, the Commission shall draw up a report assessing the safety of the various alternatives for the permanent disposal of mercury waste, including above-ground, subsurface and underground disposal. The report shall take into account the risks and benefits of all options. On the basis of the conclusions of the report, the Commission shall identify and present criteria concerning the permanent disposal of mercury waste. By 31 December 2019, the Commission shall, where appropriate, submit legislative proposals in order to introduce those criteria in the Annexes to Directive 1999/31/EC and for the amendment of this Regulation.

Amendment 75

Proposal for a regulation Article 13 – paragraph 1

Text proposed by the Commission

1. By way of derogation from point (a) of Article 5(3) of Directive 1999/31/EC, mercury waste may be stored in **one of the following ways**:

(a) **temporarily stored for more than one year or permanently stored in salt mines that are adapted for the disposal of mercury, or in deep underground hard rock formations providing a level of safety and confinement equivalent to that of those salt mines;**

(b) **temporarily stored in above-ground facilities dedicated to and equipped for the temporary storage of mercury.**

Amendment 76

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

2. The **specific requirements** for the temporary storage of mercury waste, as **laid down in Annexes I, II and III to Directive 1999/31/EC shall apply to the permanent storage facilities referred to in point (a) of paragraph 1 of this Article under the following conditions laid down in the following Annexes to that Directive**:

(a) **Annex I, Section 8 (first, third and**

Amendment

1. By way of derogation from **paragraph -1 and from point (a)** of Article 5(3) of Directive 1999/31/EC, mercury waste may be **temporarily** stored in **liquid form, while awaiting to be converted into mercury sulfide and solidified, for up to three years, after it becomes waste, subject to the specific requirements for the temporary storage of mercury waste as laid down in Annexes I, II and III to that Directive provided that such storage**:

(a) **occurs only in licenced above-ground facilities dedicated to and equipped for the temporary storage of mercury waste, in the proximity either of the last user of the mercury or the economic operator that will convert the mercury waste into mercury sulfide and solidify it; and**

(b) **is accompanied by a plan, including a timeframe, for this conversion to mercury sulfide, its solidification and the permanent disposal of the mercury waste.**

Amendment

2. The **operators of facilities undertaking** the temporary storage **or carrying out conversion into mercury sulfide and solidification** of mercury waste **shall, as part of the record-keeping required under Article 35 of Directive 2008/98/EC, keep a register containing the following information**:

(a) **for each shipment of mercury waste**

fifth indents) and Annex II to Directive 1999/31/EC shall apply;

(b) Annex I, Section 8 (second, fourth and sixth indents) and Annex III, Section 6, to Directive 1999/31/EC shall only apply where deemed appropriate by the competent authorities of the Member States in charge of implementing that Directive.

received:

- (i) the origin and quantity of the mercury waste received;*
- (ii) the name and contact information of the supplier and the owner of the temporarily stored waste.*

(b) for each shipment of converted mercury waste leaving the facility:

- (i) the quantity of mercury waste that is converted into mercury sulfide and solidified and its mercury content;*
- (ii) the destination and the intended disposal operations for the mercury waste that is converted into mercury sulfide and solidified;*

(iii) the certificate provided by the operator undertaking the permanent disposal of the mercury waste that is converted into mercury sulfide and solidified as referred to in paragraph 2a;

(c) for each shipment of mercury waste leaving the temporary storage facility:

(i) the amount of mercury waste and its mercury content;

(ii) the destination and intended disposal operation of the mercury waste;

(iii) the certificate provided by the operator undertaking the temporary storage of the mercury waste;

(d) the amount of mercury waste stored at the facility at the end of each month.

The operator of the facility shall transmit the register to the authority designated by the Member State concerned every year, by 31 January.

Amendment 77

Proposal for a regulation

Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Once the disposal operation has been completed, facility operators responsible for the permanent disposal of mercury waste shall issue a certificate stipulating that the entire shipment of mercury waste has been disposed of permanently in accordance with the specific requirements for the permanent disposal of mercury waste as laid down in this Regulation and Directive 1999/31/EC. That certificate shall include information concerning the place of disposal.

Amendment 78

Proposal for a regulation

Article 13 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Any type of incineration or co-incineration of mercury waste shall be prohibited.

Amendment 79

Proposal for a regulation

Article 13 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. Member States in which companies that offer conversion technology are established, shall promote the use of conversion of liquid mercury waste into mercury sulfide in third countries.

Amendment 80

Proposal for a regulation

Article 13 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. By 1 January 2019, the Commission shall create a tool to ensure the traceability of mercury waste throughout the chain and covering all parties involved, in accordance with this Regulation and the applicable Union law.

The tool shall log inflows and outflows of mercury waste for each party involved in the chain, particularly waste producers, waste collection operators, temporary storage operators, conversion facility operators and permanent disposal operators. The tool shall state the quantity of mercury waste held by each person or entity at all stages in the chain.

Amendment 81

Proposal for a regulation

Article 13 – paragraph 2 e (new)

Text proposed by the Commission

Amendment

2e. The Commission shall report to the European Parliament and the Council before 1 January 2019 on whether the period set out in paragraph 1 for the temporary storage of mercury waste needs to be changed. The Commission shall, where appropriate, accompany this report with a legislative proposal.

Amendment 82

Proposal for a regulation

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall lay down the rules on

Member States shall lay down the rules on

penalties applicable to infringements *of the provisions* of this Regulation and shall take all measures necessary to ensure that they are *applied*. The penalties provided for *must* be effective, proportionate and dissuasive. *The* Member States shall notify those *provisions to the Commission by [xxx]* and shall notify it without delay of any subsequent amendment affecting them.

penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are *implemented*. The penalties provided for *shall* be effective, proportionate and dissuasive. Member States shall, *by the date of application of this Regulation*, notify *the Commission of those rules and of those measures* and shall notify it, without delay, of any subsequent amendment affecting them.

Justification

Environmental crime is a serious and growing problem that needs to be tackled at European level. Very often, environmental crimes have a cross border aspect. In the EU, environmental crime covers acts that breach environmental legislation and cause significant harm or risk to the environment and human health. The most known areas of environmental crime include the illegal emission or discharge of substances into air, water or soil or dumping of waste. The level of sanctions for specific environmental crimes differs greatly between Member States as well as between directives and regulations.

Amendment 83

Proposal for a regulation

Article 15 – paragraph 1 – point b

Text proposed by the Commission

(b) information needed for the fulfilment by the Union and by the Member States of its reporting obligation established under *Article 21* of the *Minamata* Convention;

Amendment

(b) information needed for the fulfilment by the Union and by the Member States of its reporting obligation established under *Articles 8, 9 and 21* of the Convention;

Amendment 84

Proposal for a regulation

Article 15 – paragraph 1 – point c

Text proposed by the Commission

(c) a summary of the information gathered in accordance with Article 12;

Amendment

(c) a summary of the information gathered in accordance with Article 12 *and Article 13(2)*;

Amendment 85

Proposal for a regulation

Article 15 – paragraph 1 – point d

Text proposed by the Commission

(d) a list of ***individual*** stocks of mercury exceeding 50 metric tonnes, which are located in their territory ***and, where Member States are made aware, a list of sources of mercury supply generating annual stocks of mercury exceeding 10 metric tonnes.***

Amendment

(d) a list of stocks ***and sites*** of mercury, ***mercury compounds or mercury waste*** exceeding ***cumulatively*** 50 metric tonnes, which are located in their territory, ***as well as the amount*** of mercury, ***mercury compounds and mercury waste at each site;***

Amendment 86

Proposal for a regulation

Article 15 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) a list of sources of mercury supply generating annual stocks of mercury exceeding 10 metric tonnes.

Amendment

Amendment 87

Proposal for a regulation

Article 15 – paragraph 1 a (new)

Text proposed by the Commission

1a. Member States shall inform the Commission, via a public Union register, of the amounts and location of disposed mercury waste, and the assurances that these have been managed in an environmentally sound manner.

Any transfer of mercury and mercury compounds between industrial installations in a Member State shall be recorded by that Member State and reported to the Commission.

Amendment

Amendment 88

Proposal for a regulation

Article 15 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The Commission shall adopt decisions, by means of implementing acts, to **provide** a template for those questionnaires **and** to make an electronic reporting tool available to the Member States.

Amendment

The Commission shall adopt decisions, by means of implementing acts, to **lay down** a template for those questionnaires **in order** to make an electronic reporting tool available to the Member States.

Amendment 89

Proposal for a regulation

Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Reporting by the Commission and review

The Commission shall assess the alignment of this Regulation and of Directive 2010/75/EU of the European Parliament and of the Council^{1a}, with Articles 8 and 9 of the Convention and the Convention's provisions related to the use of Best Available Techniques and best environmental practices to control mercury releases from relevant mercury sources, such as the revised Best Available Techniques Reference Documents.

This assessment shall be communicated to the European Parliament and to the Council at the latest one month before the first Conference of the Parties to the Convention takes place, and at the latest on 7 January 2019 in accordance with Article 73(1) of Directive 2010/75/EU.

Within one year after the first Conference of the Parties to the Convention, the Commission shall re-assess if the Union legislation is aligned with the provisions adopted in the first Conference of the Parties, pursuant to Articles 8 and 9 as

well as relevant revised Best Available Techniques Reference Documents of the Convention.

The Commission shall report to the European Parliament and to the Council on its findings in relation to these assessments and, if appropriate, accompany them by a legislative proposal.

The Commission shall, no later than 31 December 2025 carry out a review of this Regulation, inter alia in light of the developments in relation to the Convention and the implementation of this Regulation. If appropriate, the review shall be accompanied by a legislative proposal amending this Regulation. The review shall consider the possibility of including measures to reduce the use of mercury in industrial activities and of phasing out its use as quickly as possible and in any event within 10 years of the entry into force of the Convention.

^{1a} Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p.17).

Amendment 90

Proposal for a regulation Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

Crematoria

By 1 July 2018, the Commission shall submit to the European Parliament and the Council a report regarding mercury emissions from crematoria, to be accompanied, where appropriate, by a legislative proposal to significantly reduce such emissions.

Justification

Crematoria are an important source of mercury emissions into the environment. The Commission should assess the situation and make a legislative proposal to significantly reduce such emissions by 1 July 2018.

Amendment 91

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

Amendment

It shall apply from **1st January 2018**.

It shall apply from ***the date of its entry into force***.

Justification

The new obligations of the Member States related to this Regulation are very limited and all phasing outs have a realistic deadline in the future. There is no reason to have a different date of application from the date of entry into force.

Amendment 92

Proposal for a regulation Annex I – point 1

Text proposed by the Commission

Amendment

Mercury compounds:

Mercury compounds:

Mercury (I) chloride (Hg₂Cl₂, CAS RN 10112-91-1)

Mercury (I) chloride (Hg₂Cl₂, CAS RN 10112-91-1)

Mercury (II) oxide (HgO, CAS RN 21908-53-2)

Mercury (II) oxide (HgO, CAS RN 21908-53-2)

Cinnabar ore

Cinnabar ore

Mercury (II) nitrate (Hg(NO₃)₂, CAS RN 10045-94-0)

Mercury sulfide (HgS, CAS RN 1344-48-5)

Mercury (II) sulfate (HgSO₄, CAS RN 7783-35-9)

Amendment 93

Proposal for a regulation Annex II – part A

Text proposed by the Commission

<i>Mercury-added products</i>
1. Batteries, <i>except for button zinc silver oxide batteries with a mercury content < 2%, button zinc air batteries with a mercury content < 2%.</i>
2. <i>Switches and relays, except very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of 20 mg per bridge, switch or relay.</i>
3. <i>Compact fluorescent lamps (CFLs) for general lighting purposes that are ≤ 30 watts with a mercury content exceeding 5 mg per lamp burner.</i>
4. <i>The following linear fluorescent lamps (LFLs) for general lighting purposes:</i> (a) <i>Triband phosphor < 60 watts with a mercury content exceeding 5 mg per lamp;</i> (b) <i>Halophosphate phosphor ≤ 40 watts with a mercury content exceeding 10 mg per lamp.</i>
5. <i>High pressure mercury vapour lamps (HPMV) for general lighting purposes.</i>
6. <i>The following mercury added cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays:</i> (a) <i>short length (≤ 500 mm) with mercury content exceeding 3.5 mg per lamp;</i> (b) <i>medium length (> 500 mm and ≤ 1 500 mm) with mercury content exceeding 5 mg per lamp;</i> (c) <i>long length (> 1 500 mm) with mercury content exceeding 13 mg per lamp.</i>
7. Cosmetics with mercury and mercury compounds, except those special cases included in Annex V entry 17 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council ¹
8. Pesticides, biocides and topical antiseptics.
9. The following non-electronic measuring devices where no suitable mercury-free alternative is available: (a) barometers; (b) hygrometers;

(c) manometers;
(d) thermometers;
(e) sphygmomanometers;
This entry does not cover the following measuring devices:
(a) non-electronic measuring devices installed in large-scale equipment or those used for high precision measurement;
(b) measuring devices more than 50 years old on 3 October 2007;
(c) measuring devices, which are to be displayed in public exhibitions for cultural and historical purposes.

¹ Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59).

Amendment

<i>Mercury-added products</i>	<i>Date as from which the export, import and manufacturing of the mercury-added products shall be prohibited</i>
1. Batteries or accumulators, whether or not incorporated in appliances, that contain more than 0,0005 % of mercury by weight.	31 December 2020
2. Electrical and electronic equipment, including lamps, switches and relays, that exceed the relevant limit values for mercury as established by Annexes II, III and IV to Directive 2011/65/EU of the European Parliament and the Council ^{0a} .	31 December 2020
<i>deleted</i>	
<i>deleted</i>	
<i>deleted</i>	
<i>deleted</i>	
7. Cosmetics with mercury and mercury compounds, except those special cases included in Annex V entry 17 of Regulation (EC) No 1223/2009 of the European Parliament and of	31 December 2020

the Council. ¹	
8. Pesticides, biocides and topical antiseptics.	31 December 2020
9. The following non-electronic measuring devices: (a) barometers; (b) hygrometers; (c) manometers; (d) thermometers and other non-electrical thermometric applications ; (e) sphygmomanometers; (e a) strain gauges to be used with plythysmographs ; (e b) mercury pycnometers ; (e c) mercury metering devices for determination of the softening point ;	31 December 2020
This entry does not cover the following measuring devices:	
(a) non-electronic measuring devices installed in large-scale equipment or those used for high precision measurement where no suitable mercury-free alternative is available ;	
(b) measuring devices more than 50 years old on 3 October 2007;	
(c) measuring devices, which are to be displayed in public exhibitions for cultural and historical purposes.	

¹ Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59).

Proposal for a regulation
Annex III – part 1 – point a

Text proposed by the Commission

(a) from 1 January **2019: acetaldehyde production**

Amendment

(a) from 1 January **2018: where mercury is used as a catalyst,**

Amendment 95

Proposal for a regulation
Annex III – part 1 – point b

Text proposed by the Commission

(b) **from 1 January 2019: vinyl chloride monomer production**

Amendment

(b) **from four years after the date of entry into force of this Regulation: where mercury is used as an electrode**

Amendment 96

Proposal for a regulation
Annex III – part 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) By way of derogation from point (a) of Part I, the production of vinyl chloride monomer shall be allowed for a period of three years from ... [the date of entry into force of this Regulation].

Amendment 97

Proposal for a regulation
Annex III – part 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) by way of derogation from point (b) of Part I, the production of potassium methylate or ethylate shall be allowed for a period of four years from ... [the date of entry into force of this Regulation].

The Commission is empowered to adopt delegated acts in accordance with Article 17 to amend this Regulation in order to extend the derogation for a period of maximum 10 years from ... [the date of

*entry into force of this Regulation],
provided that no appropriate alternative
techniques are available.*

Amendment 98

Proposal for a regulation Annex III – part 1 – point b c (new)

Text proposed by the Commission

Amendment

*(bc) by way of derogation from point (a)
of Part I, from 10 October 2017:
polyurethane using mercury containing
catalysts.*

Amendment 99

Proposal for a regulation Annex III – part 1 – point b d (new)

Text proposed by the Commission

Amendment

*(bd) by way of derogation from point b of
Part I, from 11 December 2017: for the
chlor-alkali production where mercury is
used as an electrode.*

Amendment 100

Proposal for a regulation Annex III – part 2 – introductory part

Text proposed by the Commission

Amendment

The production of sodium or potassium
methylate or ethylate shall be carried out in
accordance with the following
requirements:

The production of sodium or potassium
methylate or ethylate shall be carried out in
accordance with **point (b) of Part I** and the
following requirements:

Amendment 101

Proposal for a regulation Annex III – part 2 – indent 2 a (new)

Text proposed by the Commission

Amendment

*- supporting research and
development in respect of mercury-free*

processes; and

Amendment 102

Proposal for a regulation Annex IV – point a

Text proposed by the Commission

(a) national objectives and reduction targets;

Amendment

(a) national objectives and reduction targets ***ensuring a full elimination of the use of mercury and mercury compounds;***