

New Federal Regulations on Products Containing Mercury



Mercury is a naturally occurring chemical element that's persistent and toxic at very low levels to human health, and in aquatic and terrestrial ecosystems. To reduce the presence and release of mercury into the environment, on Nov. 19, 2014, the federal government published in the *Canada Gazette* new regulations on products containing mercury under *CEPA 1999*. The *Products Containing Mercury Regulations* bar the manufacture and import of products containing mercury or any of its compounds, with some exemptions for essential products that have no technically or economically viable alternatives, such as certain medical and research applications. Here's an overview of the new regulations and their key requirements.

THE REGULATIONS

When They Takes Effect: The new regulations will take effect on Nov. 8, 2015, a year after the date on which they were registered.

What They Apply to: The new regulations apply to any product containing mercury or any of its compounds. In the case of lamps, the regulations limit the amount of mercury contained in fluorescent and other types of lamps. There's also a long list of items containing mercury that are exempt from the new requirements, including waste, fertilizers and explosives.

What They Bar: Under the new regulations, a person must not manufacture or import any product that contains mercury unless:

- The product belongs to a category set out in column 1 of the schedule included in the regulations, the maximum total quantity of mercury contained in the product is less than or equal to the quantity set out in column 2 and the person manufactures or imports the product on or before the end date set out in column 3; or
- The person holds a permit issued under the new regulations, which spell out what information must be included in the application for a permit as well as when a permit may be issued, refused, revoked and renewed. (Issued permits are valid for three years.)

Key Requirements: The new regulations include requirements in the following key areas:

Labelling. Under the new regulations, any person that lawfully manufactures or imports a product that contains mercury must indicate designated information in a readily visible location on the product and, if applicable, on its package by means of a stamp, label or other mark. There are additional requirements for the format or appearance of the label such as that the information must appear in both official languages; be enclosed by a border; and be easily distinguishable from other graphic material on the product or its package.

Reporting. The new regulations require any person that lawfully manufactures or imports a product that contains mercury (other than a product belonging to the category referred to in item 34, column 1, of the schedule) to submit a report to the Minister as to the 2016 calendar year and every third calendar year after that, on or before March 31 of the calendar year following the year for which the report is prepared. The contents of that report are also specified.

ANALYSIS

Why is the federal government focusing on products containing mercury? As the background to the new regulations explains, mercury and its compounds are part of a global cycle and contribute to the formation of more harmful forms of mercury. Some micro-organisms and natural processes change mercury from one form to another. Methyl mercury, a very harmful organic substance, is of particular concern because it can build up in living organisms through their surrounding environments as they move up the food chain.

For example, methyl mercury can build up in many edible fish and marine mammals to levels that are many times greater than those in the surrounding waters. People are then exposed to this harmful substance when they consume fish or fish-eating mammals with heightened levels of methyl mercury. Such exposure can cause brain, nerve, kidney, lung or cardiovascular damage and 'in extreme cases' coma or death. And exposure to even low levels of methyl mercury can cause degenerative effects with respect to brain development, particularly in fetuses and children. For more on the dangers posed by mercury and other regulation of this hazardous substance, see 'Mercury Emissions: What Are Your Company's Environmental Obligations'?