Basic information

2016/0023(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Mercury Repealing Regulation (EC) No 1102/2008 2006/0206(COD) Amended by 2023/0272(COD) **Subject** 3.60.01 Solid fuels, coal mining, mining industry 3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport) 6.20.02 Export/import control, trade defence, trade barriers	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	ECK Stefan (GUE/NGL)	10/03/2016
	Shadow rapporteur DANTIN Michel (PPE) PAOLUCCI Massimo (S&D) GIRLING Julie (ECR) JÄÄTTEENMÄKI Anneli (ALDE) RIVASI Michèle (Verts/ALE) D'ORNANO Mireille (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
INTA International Trade	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed

	JURI Legal Affairs	CAVADA Jean-Marie (ALDE)	09/09/2016

Council of the European Union	Council configuration	Meetings	Date
	General Affairs	3531	2017-04-25

European Commission	Commission DG	Commissioner
	Energy	VELLA Karmenu

European Economic and Social Committee

European Committee of the Regions

Key events

Date	Event	Reference	Summary
02/02/2016	Legislative proposal published	COM(2016)0039	Summary
04/02/2016	Committee referral announced in Parliament, 1st reading		
13/10/2016	Vote in committee, 1st reading		
13/10/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
20/10/2016	Committee report tabled for plenary, 1st reading	A8-0313/2016	Summary
12/01/2017	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE600.906 GEDA/A/(2016)013299	
13/03/2017	Debate in Parliament		
14/03/2017	Decision by Parliament, 1st reading	T8-0066/2017	Summary
14/03/2017	Results of vote in Parliament		
25/04/2017	Act adopted by Council after Parliament's 1st reading		
17/05/2017	Final act signed		
17/05/2017	End of procedure in Parliament		
24/05/2017	Final act published in Official Journal		

Technical information

Procedure reference	2016/0023(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation

Amendments and repeals	Repealing Regulation (EC) No 1102/2008 2006/0206(COD) Amended by 2023/0272(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 207 Treaty on the Functioning of the European Union TFEU 192-p1
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/8/05656

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE584.224	15/06/2016	
Amendments tabled in committee		PE585.758	18/07/2016	
Specific opinion	JURI	PE589.415	04/10/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0313/2016	20/10/2016	Summary
Text agreed during interinstitutional negotiations		PE600.906	24/02/2017	
Text adopted by Parliament, 1st reading/single reading		T8-0066/2017	14/03/2017	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2016)013299	19/12/2016	
Draft final act	00004/2017/LEX	17/05/2017	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0039	02/02/2016	Summary
Document attached to the procedure	SWD(2016)0014	02/02/2016	
Document attached to the procedure	SWD(2016)0017	02/02/2016	
Document attached to the procedure	SWD(2016)0018	02/02/2016	
Commission response to text adopted in plenary	SP(2017)309	16/05/2017	
Follow-up document	COM(2020)0378	17/08/2020	
Follow-up document	COM(2021)0488	20/08/2021	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2016)0039	31/03/2016	
Contribution	IT_SENATE	COM(2016)0039	31/03/2016	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1268/2016	25/05/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2017/0852
OJ L 137 24.05.2017, p. 0001 Summary

Delegated acts

Reference	Subject
2022/2846(DEA)	Examination of delegated act
2023/2803(DEA)	Examination of delegated act
2025/3045(DEA)	Examination of delegated act

Mercury

2016/0023(COD) - 17/05/2017 - Final act

PURPOSE: to ensure a high level of protection of human health and the environment from mercury and of mercury compounds into air, water and land.

LEGISLATIVE ACT: Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102 /2008.

CONTENT: mercury is a very toxic substance which represents a global and major threat to human health, including in the form of methylmercury in fish and seafood resources, ecosystems and wildlife.

The Regulation lays down the measures and conditions concerning:

- the use and storage of and trade in mercury, mercury compounds and mixtures of mercury;
- the manufacture and use of and trade in mercury-added products;

- the management of mercury waste, in order to ensure a high level of protection of human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.

Member States may, where appropriate, apply **stricter requirements** than those laid down in this Regulation.

The Regulation contains provisions that will enable the Union and its Member States to approve, ratify and implement the 2013 **Minamata Convention** on mercury, signed by the Union And 26 Member States, and will ensure that EU legislation is in line with the Convention.

Restrictions on trade, manufacture, use and storage of mercury: the Regulation lays down measures and conditions at EU level to prohibit:

- **the export** of the mercury compounds and of the mixtures of mercury listed in Annex I shall be prohibited as from January 1 2018 or January 1 2020, depending on the compounds;
- **the import** of mercury and mixtures of mercurys from sources such as the chlor-alkali industry or the cleaning of natural gas for purposes other than their disposal as waste;
- **the use of mercury and mercury compounds** in manufacturing processes in which (i) mercury or mercury compounds are used as catalysts (from 1 January 2018); (ii) mercury is used as an electrode (from 1 January 2022).
- the export, import and manufacture in the Union of **mercury-added products** from 31 December 2018 or 31 December 2020 depending on the products;
- **artisanal and small-scale gold mining** and processing in which mercury amalgamation is used to extract gold from ore.

Dental amalgam: **from 1 July 2018**, dental amalgam shall not be used for dental treatment of deciduous teeth, of children under 15 years and of pregnant or breastfeeding women.

By 1 July 2019, each Member State shall set out a **national plan** concerning the measures it intends to implement to phase down the use of dental amalgam.

Mercury waste management: mercury waste may be **temporarily stored** in liquid form provided that the specific requirements for the temporary storage of mercury waste and that such storage occurs in above-ground facilities dedicated to and equipped for the temporary storage of mercury waste.

The maximum period authorised for the temporary storage of mercury waste shall be **limited to five years (until 1 January 2023),** with a possible extension of three years.

Traceability: the Regulation establishes a traceability system throughout the mercury waste management chain. Mercury waste producers and operators of waste treatment facilities that store and treat such waste are required to maintain an **information register**.

Review: by 30 June 2020, the Commission shall report on the outcome of its assessment regarding, inter alia, the feasibility of a phase out of the use of dental amalgam in the long term, and preferably by 2030. By 31 December 2024, the Commission shall report on the implementation and the review of this Regulation.

ENTRY INTO FORCE: 13.6.2017.

APPLICATION: from 1.1.2018.

DELEGATED ACTS: the Commission may adopt delegated acts as regards the amendment of the Annexes to the Regulation and the extension of the period allowed for the temporary storage of mercury waste. The power to adopt such acts shall be conferred on the Commission for a period of **five years** (renewable) from 13 June 2017. The European Parliament or the Council shall have the right to object to a delegated act within a period of two months (extendable for two months) from the date of notification of the act.

Mercury

2016/0023(COD) - 14/03/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 663 votes to 8, with 28 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008.

Parliament's position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Objective: this Regulation shall ensure a **high level of protection of human health and the environment** from anthropogenic emissions and releases of mercury and mercury compounds. It shall not prevent Member States from maintaining or introducing more stringent protective measures.

The use of mercury and mercury compounds in manufacturing processes should be phased out and, to that end, incentives should be provided for research into alternative substances.

Restrictions on imports and exports: the amended text prohibits the import of mercury and the import of the mixtures of mercury listed in Annex I from 1 January 2018 or from 1 January 2020 according to the compositions. The import of mercury and the import of the mixtures of mercury, including mercury waste from any of the large sources (for instance, the chlor-alkali industry and the cleaning of natural gas), **for purposes other than disposal as waste** shall be prohibited.

Such import for disposal as waste shall only be allowed where the exporting country has no access to available conversion capacity within its own territory

By way of derogation, the import of mercury for a use allowed in a Member State shall be allowed where the importing Member State has granted written consent to such import in either of the following circumstances: the exporting country is a Party to the Minamata Convention or that the exporting country not being a Party to the Convention has provided certification that the mercury is not from primary mercury mining.

Mercury-related requirements applicable to manufacturing processes: the use of mercury or mercury compounds, whether in pure form or in mixtures, in manufacturing processes shall be prohibited: (i) from 1 January 2018: manufacturing processes in which mercury or mercury compounds are used as a **catalyst**; (ii) 1 January 2022: manufacturing processes in which mercury is used as an **electrode**.

Mercury-added products: the amended text stipulated that the export, import and manufacturing in the Union of the mercury-added products set out in Annex II shall be prohibited from 31 December 2018 or from 31 December 2020 according to the products.

The prohibition shall not apply to any of the following mercury-added products: (i) products that are essential for civil protection and military uses; (ii) products for research, for calibration of instrumentation, or for use as a reference standard.

Economic operators shall not manufacture or place on the market **new mercury-added products** that were not being manufactured prior to 1 January 2018 unless authorised to do so by means of a Commission decision.

Artisanal and small-scale gold mining: artisanal and small-scale gold mining and processing in which mercury amalgamation is used to extract gold from ore shall be prohibited.

Dental amalgam: the amended text proposed phasing-out mercury use in dentistry, initially by prohibiting its use for pregnant women and children patients from 1 July 2018, except when deemed strictly necessary by the dental practitioner based on the specific medical needs of the patient. The use of mercury in bulk form by dental practitioners shall be prohibited.

By 1 July 2019, each Member State shall set out a **national plan** concerning the measures it intends to implement to phase down the use of dental amalgam.

Amalgam separators put into service from 1 January 2018 should provide a retention level of at least 95 % of amalgam particles. Dental practitioners shall not release directly or indirectly such amalgam waste into the environment under any circumstances.

The Commission shall evaluate the feasibility of a phase out of the use of dental amalgam in the long term, and preferably **by 2030.**

Storage of mercury waste: the maximum period authorised for the temporary storage of mercury waste shall be **limited to five years** (until 1 January 2023), with a possible extension of three years.

Prior to being permanently disposed of, mercury waste shall undergo **conversion** and, where intended to be disposed of in above-ground facilities, conversion and solidification.

Traceability: measures should be taken to ensure an effective traceability system throughout the whole mercury waste management chain. Producers of mercury waste and the operators of waste management facilities that store and treat such waste are required to establish an **information register,** as part of the record-keeping required under Directive 2008/98/EC of the European Parliament and of the Council on waste.

Contaminated sites: by 1 January 2021, the Commission shall produce and publish an **inventory** of sites contaminated by mercury and mercury compounds, on the basis of information gathered by the Member States.

Mercury

2016/0023(COD) - 20/10/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Environment, Public Health and Food Safety adopted the report by Stefan ECK (GUE/NGL, DE) on the proposal for a regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008.

The committee recommended that the position adopted by the European Parliament at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Purpose: this Regulation aims to ensure a **high level of protection of human and animal health and the environment** from mercury. 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.

Where appropriate, Member States may **apply stricter requirements** than those laid down in this Regulation.

Restrictions on imports: Members proposed prohibiting the import of mercury as well as its compounds listed in Annex I of the Regulation.

By way of a derogation, the 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 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 Minamata Convention, in particular the least developed countries.

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.

Mercury-added products: Members proposed that the export, import and the manufacturing in the Union of the mercury-added products as set out in Annex II shall be prohibited from 30 December 2020. 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. Based on the list, the Commission is empowered to adopt delegated acts to amend Annex II in order to prohibit the manufacturing, import and export of mercury-added products by 1 January 2020.

Members proposed that the Commission should undertake an expert assessment of mercury use in the **manufacture of vaccines**, as also mentioned in 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**.

Restrictions for use and storage of mercury and mercury compounds: 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.

The manufacture and placing on the market of mercury-added products that were not notified to the competent authorities shall be **prohibited**.

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

Members also proposed prohibiting the industrial use of mercury as **catalysts** (from 1 January 2018) or **electrodes** (from four years after the date of entry into force of this Regulation).

Small-scale gold mining: Member States on the territory of which 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.

Dental amalgam: Members proposed phasing-out mercury use in dentistry, initially by prohibiting its use for pregnant women and children patients, and after the phase out period, the dental amalgam should be allowed only in specific, very restricted cases.

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

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.

Contaminated sites: Member States shall **identify** the sites contaminated by mercury or mercury compounds within their territory. 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.

Mercury waste: Members proposed that mercury waste shall be **permanently disposed of** - in an environmentally sound manner. Prior to its disposal, the mercury waste is converted into mercury sulfide using the best available technology and **solidified**.

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.

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 to this effect.

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

Traceability: 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.

Sanctions and reports: with a view to preventing environmental crime, Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented.

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. The Commission shall, no later than 31 December 2025 carry out a review of this Regulation.

Mercury

2016/0023(COD) - 02/02/2016 - Legislative proposal

PURPOSE: to ensure a high level of protection of human health and the environment from mercury.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

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

The Union and 26 Member States have signed in Kumamoto on 11 October 2013 the **Minamata Convention on Mercury,** negotiated under the auspices of UNEP. The Convention addresses the whole life-cycle of mercury, from primary mercury mining to the management of mercury waste, with the objective to protect human health and the environment from anthropogenic emissions of mercury and mercury compounds to air, water and land.

Much of the Minamata Convention is already covered by Union legislation. Regulation (EC) No 1102/2008 sets an export prohibition on mercury and on several mercury compounds, qualifies mercury from certain sources as waste and establishes rules on the storage of mercury. The assessment of the Union acquis has identified a limited number of **regulatory gaps that need to be filled** in to ensure the full alignment of Union legislation with the Convention.

This proposal seeks to address those gaps, which concern the following issues:

- the import of mercury;
- the export of certain mercury-added products;
- the use of mercury in certain manufacturing processes;
- new mercury uses in products and manufacturing processes;
- mercury use in artisanal and small-scale gold mining (ASGM),
- mercury use in dental amalgam.

This proposal aims at **transposing into the Union acquis the provisions of the Minamata Convention** that are not yet covered by EU legal requirements in order to enable the Union and the Member States to ratify and implement that Convention.

IMPACT ASSESSMENT: the impact assessment concluded that the ratification and implementation of the Minamata Convention will provide the EU with significant environmental and human health benefits, mainly due to the expected reduction of mercury emissions originating in other parts of the world.

CONTENT: this proposal seeks to **replace Regulation (EC) No 1102/2008**. It 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.

Trade and manufacturing restrictions concerning mercury: the proposal:

- **sets a prohibition on the export** from the Union of mercury, of several mercury compounds and of mixtures of mercury with other substances, save in respect of those mercury compounds that can still be exported when aimed at laboratory-scale research;
- **prohibits the import** into the Union of mercury when intended for artisanal and small-scale gold mining and puts up a conditional prohibition on the import into the Union of mercury and of mixtures when planned for other uses.
- sets a prohibition, which shall start on 1st January 2021, on the export, import and manufacturing of a range of **mercury-added products**;
- foresees the possible adoption of Commission Implementing Decisions specifying the **trade forms** to be used by the Member States' competent authorities to implement Articles 3 and 4, as a follow up of Decisions that will be adopted by the Conference of the parties of the Minamata Convention.

Restrictions on use and storage of mercury and mercury compounds: the proposal:

- prohibits the use of mercury and mercury compounds as **catalyst for the production of acetaldehyde and of vinyl chloride monomer** as from 1st January 2019;
- sets a **prohibition on the manufacturing and placing on the market of mercury-added products** not covered by any known use prior to the date of application of this proposal and on the implementation of manufacturing processes that did not exist prior to this date;
- provides that Member States where **artisanal and small-scale gold mining** (ASGM) activities occurs shall take steps to reduce, and where feasible eliminate, the use and emissions of mercury and mercury compounds resulting from such an activity and shall develop and implement a relevant national plan;
- requires that **dental amalgam** be used only in an encapsulated form and that dental facilities be equipped with amalgam separators to retain and collect mercury-containing amalgam residues, as from 1st January 2019.

Storage and disposal of mercury waste: the proposal:

- provides that mercury that is no longer used in the chlor-alkali industry or generated from the cleaning of natural gas or from non-ferrous metals mining and smelting or extracted from cinnabar ore qualifies as **waste that must be disposed of**; the companies operating these activities shall have to **provide annually to national competent authorities information** regarding notably the amount of mercury stored within each installation concerned and the amount of mercury sent to temporary or permanent mercury waste storage facilities;
- provides that mercury waste can be temporarily or permanently stored in underground storage facilities and temporarily stored in above-ground storage facilities and specifies, for that purpose what requirements established in Council Directive 1999/31/EC for the temporary storage of mercury waste are applicable to the permanent storage of mercury waste in underground storage facilities

Penalties and reports: the proposal lays down the provisions on penalties applicable to breaches of this proposal. It also provides for the obligation of the Member States to prepare, update and publish a report containing all relevant information on the implementation of this proposal.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.