



Department for  
Business, Energy  
& Industrial Strategy

# GUIDANCE DOCUMENT ON EU REGULATION NO 852/2017 ON MERCURY

Banning the import into the EU and the export from the EU of mercury, mercury compounds, mixtures of mercury and mercury added products and the requirements for the usage and storage of mercury, mercury compounds and mixtures of mercury



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# Document Revision Record

Revision	Issued Date	Description of changes
Rev 7.0	March 13	
Rev 8.0	May 19	Major Review to provide guidance on the provisions of EU Regulation No 852/2017 on mercury, repealing EC Regulation No 1102/2008 and the corresponding UK domestic Regulations the Control of Mercury (Enforcement) Regulations 2017 repealing The Mercury Export and Data (Enforcement) Regulations 2010.

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# Table of Contents

- 1. Introduction.....3
- 2. Legislative Background.....4
- 3. Regulatory Obligations.....6
- Appendix A Reporting Forms.....8

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# 1. Introduction

The provisions of EU Regulation No 852/2017 on mercury include;

- Banning the import into the EU and the export from the EU of mercury, mercury compounds, mixtures of mercury and mercury added products,
- Setting requirements for the usage and storage of mercury, mercury compounds and mixtures of mercury, and,
- Requiring information on sources of mercury which includes mercury obtained as a result of the cleaning of natural gas.

It is important to note that the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED), which is part of the Department for Business, Energy and Industrial Strategy (BEIS), is not the competent authority for these Regulations as detailed in the UK domestic legislation (The Control of Mercury (Enforcement) Regulations 2017), however OPRED may provide assistance to the competent authorities.

Consequently this document only provides guidance on the provisions that are specific to the offshore oil and gas industry where OPRED provides assistance to competent authorities.

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## 2. Legislative Background

### 2.1 European Legislation - EU regulation No 852/2017

The European Parliament and Council adopted Regulation (EU) 2017/852 on Mercury on the 17 May 2017. This filled gaps in the existing EU mercury legislation, (EC) No. 1102/2008, with the aim of enabling the EU and Member States to ratify the Minamata Convention on Mercury.

### 2.2 UK Legislation - The Control of Mercury (Enforcement) Regulations 2017

The Control of Mercury (Enforcement) Regulations 2017 (referred to as the Control of Mercury Regulations) came into force on 1 January 2019 and repealed The Mercury Export and Data (Enforcement) Regulations 2010.

Although the provisions of the EU Regulation are directly applicable in UK law it is these UK domestic regulations that implement (EU) 2017/852 by designating competent authorities for the enforcement of the Regulation's provisions, offences and penalties.

### 2.3 Enforcement, Regulatory Compliance and Inspection

The Offshore Area where these regulations are applicable is defined under section 1(7) of the Continental Shelf Act 1964 (exploration and exploitation of continental shelf) and subsection (4) of section 84 of the Energy Act 2004 (exploitation of areas outside the territorial sea for energy production). The Offshore area is split into the Scottish and English offshore areas.

The Scottish offshore area lies to the north of the Scottish border which is;

- (a) in the North Sea, a line beginning with the co-ordinate 55° 50' 00" N; 1° 27' 31" W and then following, in an easterly direction, the parallel of latitude 55° 50' 00" N until its intersection with the line dividing the United Kingdom and Germany;
- (b) in the Irish Sea, a line between the following co-ordinates—
  - (i) 54° 30' 22" N; 4° 04' 50" W;
  - (ii) 54° 30' 00" N; 4° 05' 29" W;
  - (iii) 54° 30' 00" N; 5° 00' 00" W.

The English offshore area is any Offshore area which is not the Scottish Offshore area.

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With respect to Scottish and English offshore areas The Control of Mercury Regulations designate the Scottish Environment Protection Agency (SEPA), for Scottish Offshore areas, and the Environment Agency (EA), for English offshore areas, as the respective competent authorities. As such SEPA and EA are responsible for enforcing all the relevant provisions and monitoring regulatory compliance.

This is a departure from the previous regime where OPRED acted as the competent authority. The current approach mirrors existing arrangements under other waste legislation including The Transfrontier Shipment of Waste Regulations 2007 (as amended).

As with other waste legislation the Control of Mercury Regulations provide OPRED with investigation and evidence gathering provisions (detailed in regulation 39) to assist the competent authorities. Specifically this includes;

- Providing the competent authority with information about the offshore installation, and,
- Inspecting an offshore installation.

In practice this means OPRED will;

- Continue to seek information from installation operators relating to mercury waste generated on offshore installations including the facilities to which this waste was sent to, and,
- If requested by the competent authorities, board and inspect offshore installations to investigate any alleged contraventions of the Regulations.

As OPRED is not the competent authority for these Regulations readers should consult SEPA and EA specific guidance to understand the respective organisations approach to enforcement.

## 2.4 Offences relating to Inspection of Offshore Installations

Regulation 44 detail the offences that are specific to offshore installations and are detailed below.

These offences refer to regulation 39, which as described above, details the powers afforded to OPRED to assist the enforcing authorities.

### Regulation 44 (1)

A person commits an offence if the person intentionally obstructs an appointed person performing a function under regulation 39.

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#### Regulation 44 (2)

A person commits an offence if the person fails, without reasonable excuse, to give an appointed person performing a function under regulation 39 information which the appointed person requires.

#### Regulation 44 (3)

A person commits an offence if the person gives an appointed person performing a function under regulation 39 information knowing it to be false or misleading.

#### Regulation 44 (4)

A person commits an offence if the person fails to produce a document or record for an appointed person performing a function under regulation 39 when required to do so.

The provisions of the Regulations include other offences. If further information is required readers should consult SEPA and EA for specific guidance.

## 3. Regulatory Obligations

### 3.1 EU regulation No 852/2017

As a result of earlier exchanges between Oil & Gas UK, and demonstrated by information provided by industry, very few Installations produce mercury as a result of the cleaning of natural gas. Of the mercury that is obtained it is not exported for commercial reasons, is considered as waste, and therefore should continue to be dealt with in accordance with existing waste legislation. The obligations on the offshore industry are therefore limited to a small number of installation operators and only extends to the reporting requirements set out in Article 12 of the EU regulation which requires the following information to be sent to OPRED by 31 May of each year;

- (a) Data on the total amount of mercury waste stored on each installation;
- (b) Data on the total amount of mercury waste sent to individual facilities undertaking the temporary storage, the conversion and, if applicable, solidification of mercury waste, or the permanent storage of mercury waste that underwent conversion and, if applicable, solidification;



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- (c) The location and contact details of each facility referred to in point (b),
  - (d) A copy of the certificate provided by the operator of the facility undertaking the temporary storage of mercury waste,
  - (e) A copy of the certificate provided by the operator of the facility undertaking the conversion and, if applicable, the solidification of mercury waste,
  - (f) A copy of the certificate provided by the operator of the facility undertaking the permanent storage of mercury waste that underwent conversion and, if applicable, solidification.

A form can be found in Appendix A to report this information.

Please note the reporting form requires that amounts of mercury are expressed using the codes in Regulation (EC) No 2150/200. This can be found here <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32002R2150>

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# Appendix A Reporting Form

## Report on large sources of mercury

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EU Regulation No 852/2017 on mercury, repealing EC Regulation No 1102/2008, bans the import into the EU and the export from the EU of mercury, mercury compounds, mixtures of mercury and mercury added products. The EU Regulation also sets requirements for the usage and storage of mercury, mercury compounds and mixtures of mercury. In the UK it is implemented by the Control of Mercury (Enforcement) Regulations 2017.

The EU Regulation requires operators within the following industry sectors to provide information on large sources of mercury to the relevant competent authority:

- a) The chlor-alkali industry
- b) The cleaning of natural gas
- c) Non-ferrous mining and smelting operations

You must provide the following information. A separate form should be completed for each installation.

<b>Reporting period</b> (i.e. 1 <sup>st</sup> June 2017 – 31 <sup>st</sup> May 2018):	
<b>Full legal name of the business/company and any 'trading as' name:</b>	
<b>Full company address:</b>	<b>Full address of installation</b> (if different):
<b>Company registration number</b> (if applicable):	<b>Industry sector</b> (select from the three listed above and include relevant SIC code):
<b>Name of the person we should contact:</b>	<b>Contact's position:</b>

<b>Telephone number:</b>	<b>Email address:</b>
<b>Total amount of mercury waste stored</b> (including units)	
To be expressed using the codes in Regulation (EC) No 2150/2002	
<b>Total amount of mercury waste sent to individual facilities undertaking the temporary storage, the conversion, or the permanent storage of mercury waste</b> (including units)	
To be expressed using the codes in Regulation (EC) No 2150/2002	
<b>The location and contact details of each facility referred to above</b>	
<b>Supporting documents</b>	
Supply a copy of the certificate/s provided by the operator of each facility undertaking the temporary storage, the conversion, or the permanent storage of mercury waste.	

In order to comply with the EU Regulation, this information must be sent to the relevant competent authority each year, by 31 May.

### Declaration

I/we certify that the information is correct.

**Signature**

**Print name**

**Position in business**

**Date**

The information should be sent to:

Department for Business, Energy and Industrial Strategy

AB1 Building, Crimon Place, Aberdeen. AB10 1BJ

[bst@beis.gov.uk](mailto:bst@beis.gov.uk)



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