

# Revision of Regulation (EU) 2017/852 on Mercury - Open Public Consultation

Fields marked with \* are mandatory.

## Introduction

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Mercury is a hazardous substance that poses a major risk to the environment and human health. Mercury is a neurotoxin that affects the nervous, digestive and immune systems, as well as the lungs, kidneys, skin and eyes. It also has detrimental effects in foetal and early childhood growth, with extensive evidence of its adverse effects on neural development. It is a volatile metal that can be airborne over long distances before it is deposited on land and water. It cannot be degraded and therefore builds up in soil, water and living organisms. Therefore, it is important to reduce its usage and emissions. Mercury has been designated as a product of global concern by the international community.

At a global level, the largest anthropogenic mercury emissions occur from processes where mercury is released into the environment e.g. through fossil fuel combustion (533 t), industrial processes (614 t) and artisanal small scale gold mining (ASGM) (838 t) in 2015. The EU is responsible for around 3.5% of global mercury emissions. This is thanks to a far-reaching policy and legislative framework to control, eliminate mercury use and, where this is not feasible, to reduce its associated risks to human health and the environment.

[Regulation \(EU\) 2017/852](#) on mercury addresses the whole life cycle of mercury from primary mining to its final disposal as waste. It mainly implements the Minamata Convention (named after the city of Minamata in Japan where the release of methylmercury in the industrial wastewater from a chemical factory caused mercury poisoning of the nearby living population, resulting in serious neurological damages), but also strengthens mercury-related measures from earlier European legal acts (e.g. Regulation 1102/2008) and further develops the legal framework in a number of areas.

Despite significant progress in curbing the use and ultimately emissions of mercury, a number of mercury-added products, including dental amalgam are still allowed on the EU internal market and are being exported by the EU. Mercury-added products, where mercury or mercury compounds are used, represent the last remaining intentional uses of mercury in the EU. The upcoming revision of the Mercury Regulation aims to further restrict these intentional uses of mercury, specifically in dental amalgam and certain mercury-added products in order to contribute to the European Green Deal Zero Pollution ambition for a toxic-free environment. Furthermore, by addressing mercury-added products which are still manufactured and traded, including certain types of lamps and dental amalgam, the EU will be actively working towards Flagship 8 of the Zero Pollution Action Plan, minimising the EU's external pollution footprint.

Dental amalgam is the largest remaining use of mercury in the EU. The estimated annual demand for dental amalgam (EU28) amounted to 27-58 t of mercury in 2018. This represents a significant decrease, by approximately 43%, compared to the previous estimate 55-95 t of mercury a year in 2010. In the absence of additional policy measures at EU and Member State levels, dental amalgam use is expected to decrease by approximately 70% between 2018 and 2030. However, the resulting use would still be substantial, at approximately 8-17 t of mercury in 2030, all of which would continuously be added to the stock of mercury and ultimately released into the environment.

Article 19(1) of the Regulation required the Commission to assess and report, by 30 June 2020, to the European Parliament and to the Council on:

- a) The need for the Union to regulate emissions of mercury and mercury compounds from crematoria;
- b) The feasibility of a phase out of the use of dental amalgam in the long term, and preferably by 2030; and
- c) The environmental benefits and the feasibility of a further alignment of Annex II with relevant Union legislation regulating the placing on the market of mercury-added products.

The report concluded that the legislation could be strengthened for these three areas. This public consultation addresses each of these topics as areas for a possible revision of the Regulation. The purpose of this consultation is to gather information from the general public and technical experts on the need, preferred methods and impacts of a phase out of mercury in these three areas.

This questionnaire contains 66 questions in total but your answers may mean you don't answer all questions and it will take between **approximately 15-45 minutes** to complete depending on the depth of answers provided. The questionnaire is split into three sections:

- Section B: Participant information
- Section C: Questions for the general public
- Section D: Questions for technical experts or those with experience

This questionnaire is available in all official EU languages.

At the end of the questionnaire, you can provide any additional comments and upload additional information, position papers, or policy briefs that express the position or views of yourself or your organization.

Fields marked with \* are mandatory.

Definition of key terms used in the questionnaire:

Dental amalgam	A composite of metals (including liquid mercury) commonly used to fill cavities caused by tooth decay (i.e. tooth fillings)
Crematoria	Sites facilitating the cremation of human remains into ashes
Mercury Added Products (MAPs)	Products intentionally containing mercury in order to perform a specific function (e.g. fluorescent lamps)
BAT	'Best available techniques' (BAT) are available techniques which are the best for preventing or, where it is not practicable, minimising emissions and impacts on the environment.
RoHS	Restriction of Hazardous Substances Directive (2002/95/EC) restricts the use of certain hazardous substances (including mercury) in electrical and electronic equipment to protect the environment and public health.
REACH	The REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Regulation (EC 1907/2006) aims to improve the protection of human health and the environment through the better and earlier identification of the intrinsic properties of chemical substances.

## About you

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### \* Language of my contribution

- Bulgarian
- Croatian
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- Danish
- Dutch
- English
- Estonian
- Finnish
- French
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\* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

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Elena

\* Surname

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elena.lymberidi@eeb.org

\* Organisation name

*255 character(s) maximum*

European Environmental Bureau

\* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)

- Medium (50 to 249 employees)
- Large (250 or more)

## Transparency register number

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Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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## \*Country of origin

Please add your country of origin, or that of your organisation.

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\* If you are a technical expert or have specific experience, please select the areas that apply: Tick all that apply.

- Dental amalgam

- Crematoria
- Mercury Added Products
- Not Applicable

\* Mercury Added Products: Tick all that apply

- Non-electric measuring devices
- Lamps
- Electrical devices
- Other products (e.g. counter balancing devices, tattoo inks, toys etc.)

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

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Questions for the general public

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**C1.1)** Are you aware that mercury has negative health and environmental impacts?

- Yes
- No

**C1.2)** Are you aware of the Minamata Convention and its objectives?

- Yes
- No

**C1.3)** Are you aware of legislation aimed at banning or reducing the use of mercury in the EU?

- Yes
- No

## **Dental Amalgam**

Dental amalgam is the biggest remaining intentional use of mercury in Europe. However, its use for dental cavity filling is declining due to emerging mercury-free alternatives that are preferred by patients and dentists. This decline is, however, too slow to cause a phase-out of dental amalgam use in Europe by 2030, a scenario indicated by EU Regulation 2017/852 on mercury. The phase-out of the use of dental amalgam will not only remove a source of significant mercury emission to the environment in the EU (as preparing and removing dental amalgam in dental practices releases mercury to the environment and dental amalgam in cavities releases mercury in small amounts), it will also impact on mercury released to the air from crematoria. Replacing dental amalgams with other materials raises several concerns about the safety and reliability of the alternatives for patients and dentists, the possibly increased financial burden for social security systems and/or patients, and the necessity to identify which patient categories may require an exemption from an eventual amalgam ban. This consultation aims at filling some data gaps that have been identified as well as gaining insight on the awareness and opinion of the general population about mercury in dental amalgam fillings and its environmental and health impacts.

**C2.1)** Are you aware that mercury-free materials for treating dental cavities exist?

- Yes
- No

**C2.2)** When visiting the dentist, do you ask to be informed about the material which will be used for filling the dental cavity?

- Yes
- No

**C2.3)** Given a choice, which material would you choose to treat a dental cavity if the price did not play a role?

-

A mercury-free material

- Dental amalgam
- Either/no preference
- I don't know

**C2.3.1) Why did you make this decision? (Please tick all that apply)**

- Because of reduced environmental impact
- Because of lower potential health risk
- Because of the dentist's advice
- Don't know

**C2.4) Would you be willing to pay an extra price to be treated with a mercury-free material?**

- Yes
- No
- Don't know
- Does not apply (reimbursement system already covers application of mercury-free materials)

**C2.5) In your view, should amalgam be banned for use in dental fillings (except for a limited number of cases where other materials cannot be applied due to specific health conditions of the patient)?**

- Yes
- No
- I don't know

**C2.6) Are there additional or alternative measures you would consider necessary to support the phase-down of the use of dental amalgam or to reduce mercury releases from dental clinics?**

*2500 character(s) maximum*

**C2.7) Do you have any further comments about dental amalgam that you would like to make?**

*2500 character(s) maximum*

Dental amalgam should be phased out by 2025, as it is the largest remaining EU mercury use. (Wood, 2020). Amalgam can methylate (forming the most toxic form, methylmercury), contaminating fish humans

eat. Phasing out amalgam is the most cost-effective way to prevent dental mercury pollution as alternatives are available, affordable, effective and preferred by most EU citizens. Amalgam phaseout will prevent pollution and exposure via emissions from cremation, dental clinics, waste incineration, human waste, burials and other pathways. Awareness raising measures at EU level are necessary.

Questions C2.4 can be misleading in its interpretation. One could say that if one does not want to pay an extra cost this may mean that they could accept to be treated with dental amalgam (even if they have said they prefer mercury free fillings above). Or it could be interpreted that treatment with mercury free fillings should be fully covered by insurances.

Cost for mercury free treatment should become the standard treatment and therefore covered by insurances as relevant.

## Crematoria

The most significant anthropogenic releases of mercury globally are through emissions to air. Whilst the Commission's 'Article 19(1) review report' concluded that further evidence is required on the scale of the issue, the [OSPAR Convention](#) has identified crematoria as one of a number of significant sources for releases of mercury due to dental amalgam present in human remains. These yearly emissions to air were estimated at 1.6 tonnes in 2018 and were expected to remain relatively stable until 2025 and then decline. These emissions depend on the historic, current and potential future continued use of dental amalgam, as well as the use of abatement technologies at the crematoria themselves. For the former, this clearly has overlaps with the problem area focused on dental amalgam i.e. a ban on the use of dental amalgam would influence the timescales over which emissions would continue to be significant and relevant. For the latter, the only legislative drivers (excluding any specific national level actions) are the OSPAR Convention and the [Helsinki Commission \(HELCOM\)](#) which may drive crematoria to implement appropriate technologies to abate emissions. However, only 11 EU Member States are signatories to the OSPAR Recommendation 2003/4 and a further five to HELCOM (some are members of both).

**C3.1)** Did you know that crematoria release mercury into the air?

- Yes
- No

**C3.2)** Are you concerned about mercury emissions from crematoria?

- Yes
- No
- I don't know

**C3.3)** In your view, should there be EU wide policy to limit mercury emissions from crematoria?

- Yes
- No
-

I don't know

**C3.4)** Are there additional or alternative measures you would consider necessary to reduce mercury releases from crematoria?

*2500 character(s) maximum*

- Phasing out dental amalgam use - this should be first priority
- Requiring filters/controls and/or emission limit values to crematoria for mercury emissions

**C3.5)** Do you have any further comments about mercury releases from crematoria that you would like to make?

*2500 character(s) maximum*

Emission limit values (ELV) should be set, following the latest 2020 EU findings (Wood,2020). Although mercury emissions from this source are estimated to be at least 1.6 t, this needs to be re-examined. While there is an increasing preference for cremation over burial, some Member States do not seem to be taking control measures .

## Mercury Added Products

To protect the environment and human health, the European Union has banned or restricted the marketing of many products containing mercury. However, the export of such products to non-EU countries is often still allowed. This includes products such as certain types of lamps, some non-electronic measuring devices, as well as electrical devices such as melt-pressure transducers, transmitters, and sensors, and mercury vacuum pumps. This section investigates whether this practice should be ended.

**C4.1)** Did you know that many mercury-added products whose sale within the EU is prohibited, may still be manufactured in the EU and exported to third countries?

- Yes
- No

**C4.2)** Do you think that mercury-added products that are prohibited within the EU should no longer be manufactured and exported to countries outside the EU?

- Yes
- No
- I don't know

**C4.3)** Should the EU and its Member States advance initiatives to ban globally the mercury-added products that are already banned in the EU (e.g. by means of the Minamata Convention)?

- Yes

- No
- I don't know

**C4.4) Do you think that the EU and its Member States should increase efforts to assist countries outside the EU in developing and adopting national legislation to further restrict mercury-added products?**

- Yes
- No
- I don't know

**C4.5) Are there any additional or alternative measures you would consider necessary to reduce the manufacturing and sale of mercury-added products outside the EU?**

*2500 character(s) maximum*

- Phasing out manufacturing, import and export globally.
- Awareness raising so consumers are alerted and prefer/demand for mercury-free alternative products.
- If there is any transition time until a full EU ban of manufacture and export of mercury added products is in place, an export tax could be set. Such tax could be allocated to support measures related to EU concerned industry dealing with the ban (as relevant); and/or be allocated to assist importing countries under a clear transparent scheme (avoiding that money get used elsewhere) to:
  - Implement phase out of such MAPs in their countries
  - Establish proper waste collection & management (infrastructure)
  - Establish Extended Producers' Responsibility (EPR) schemes (capacity building and trade incentives = easier to trade where EPR exist)

**C4.6) Do you have any further comments about mercury-added products that you would like to make?**

*2500 character(s) maximum*

- Manufacturing and export of mercury-added products not allowed marketed in the EU, should be prohibited. Annex II needs to be updated accordingly, also as per the published inception impact assessment.
- To avoid double standards and prohibit export to countries with no or less stringent regulations.
  - Such measures will promote mercury free markets and drive prices down.
  - A dynamic link should be established: when EU legislation prohibits the putting on the market of mercury added products, the Mercury regulation should ban their manufacture and export automatically.
  - The economic impact from banning the export of mercury-containing products already restricted in the EU is estimated to be small, as stated in the earlier EU Impact Assessment.
  - Re-location of EU businesses is unlikely, considering that mercury use is going down and equivalent measures in other countries are being implemented. Furthermore, big international markets such as India and China are following the lead of EU legislation.
  - Mercury containing products contribute significantly to mercury spills and releases, especially in the waste stream, and therefore result in both direct health risks and environmental contamination.

Furthermore , to keep the leadership and driving the global agenda, the EU should be looking at other products that may need to be phased out such as mercury in porosimetry and lighthouses, as per our document submitted under the impact assessment. <https://eeb.org/library/eeb-contribution-to-the-european-commissions-review-of-eu-mercury-legislation/> . It is a missed opportunity that the impact assessment and review of the regulation seem to be focusing only on a few things.

**D1.1)** By when do you think a phase-out of dental amalgam is achievable in the EU?

- 2025
- 2027
- 2030
- Phase out is not achievable
- Phase out is not needed
- None of the above

**D1.2)** For an EU-wide discontinuation of dental amalgam use, what would be the most appropriate approach?

- General phase-out
- Gradual phase-down to be chosen by each Member State according to national priorities and conditions (e.g. reimbursement system of medical expenses)
- Other

**D1.3)** Should there be exemptions in case of a general phase-out, e.g. for patients with specific health conditions? (Please tick all that apply.)

- Dry mouth patients
- Excessively salivating patients
- Allergic patients
- Patients with large cavities
- Patients with cavities in posterior teeth
- Other

**D1.4)** Do you have any views on how these exemptions could be implemented in practice?

*500 character(s) maximum*

**D1.5)** Do you consider mercury-free dental filling materials safe?

- Yes
- No
- I don't know

**D1.6)** If relevant, what prevents you from using alternatives to dental amalgam?

(Please tick all that apply.)

- Lack of knowledge / training
- Increased length of the procedure
- Habit
- Patient demand
- Cost for dental practitioner
- Cost for the patient
- Cost for the social security system
- Durability of the alternatives
- Safety of the alternative
- Unavailability of the alternative
- Other

**D1.7)** Could dental health be improved in the EU or has it reached a plateau due to dental hygiene and prevention actions having achieved their maximum impact?

- It could be improved
- It has reached a plateau
- I don't know

**D2.1)** With the view of restricting mercury emissions from crematoria, do you think that emission limits should apply?

- Emission limits should apply
- No mercury emission limits
- Don't know

**D2.2)** State of the art control technologies can achieve a reduction of mercury emission by >85%. Do you think that such a level should be made obligatory on an EU wide basis?

- Yes

- No
- I don't know

**D2.3)** Please provide any further details to support your answers.

*500 character(s) maximum*

## Technical questions - Mercury Added Products

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**D3.1)** Many importing countries outside the EU currently lack efficient options for environmentally sound management of mercury containing waste leading to contamination of land and water bodies. Do you think that the problem of mercury waste management in importing countries can be effectively solved using any of the following approaches? (Please tick all that apply.)

- Obligatory take back programs by manufacturers (e.g. as part of extended producer responsibility schemes)
- Public/ Private Partnerships between industry and state institutions in importing countries to establish effective waste management recycling capacities
- Other
- I don't see an effective approach

**D3.1.1)** Please provide further information

*500 character(s) maximum*

Above schemes could work but it will take a long time to have them set up. The most effective will be to stop exporting hazardous products and materials to those countries as soon as possible. In parallel above options could be explored and supported by developed countries and funds, but prioritization of resources should go to the phase outs.

**D3.2)** How do you expect demand for mercury-added products (that are banned in the EU but still being exported) will further develop in importing countries?

- Demand will further decrease (e.g., because of changing consumer behaviour and/or legal e.g., RoHS-like restrictions in importing countries)
- No change, demand will stabilise
- Demand will increase
- Other
- I don't know



**D3.3)** Do you think there is a future for exporting Mercury Added Products that are already banned in the EU?

- Yes, for most products that currently exported
- Yes, but only for a narrow range of products (e.g. for specialised uses or repair/ replacement)
- No
- I don't know

**D3.4)** In your opinion, would a unilateral EU export ban be effective in reducing sale of Mercury Added Products in importing countries?

- Yes, MAP imports from other countries are not likely to replace EU made MAPs in significant numbers
- No, the export needs to be accompanied by global trade restrictions
- I don't know

## Additional information

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**E1)** Are there other key aspects which you did not find reflected in the questions and you would like to comment upon?

*2500 character(s) maximum*

Diffuse pollution remains a problem in Europe also because of both historical and current emissions of mercury to the atmosphere and subsequently surface waters. Strong action is needed to curtail remaining mercury use and emissions under the European Green Deal, as per the Chemicals Strategy for Sustainability and as part of the Zero Pollution Action Plan. Mercury levels measured in biota continue to exceed environmental quality standards in almost all surface water bodies (EEA Mercury report 2018). Each year, a third of EU born babies have mercury levels above “the recommended safe limit”. The potential impact on children’s brain development is lifelong and can result in a significant reduction in Intelligence Quotient (IQ), with the estimated annual economic cost of this damage to be at least EUR 9 billion (Bellanger et al., 2013).

Turning ambitious words into real action, the EU should lead by drastically reducing remaining mercury uses, emissions and exposure; the review of the EU Mercury regulation presents the opportunity to do so.

To protect human health and the environment from mercury, the revised policy framework should further be looking at other issues that need to be improved and controlled under the EU Mercury regulation, per our document submitted under the impact assessment. <https://eeb.org/library/eeb-contribution-to-the-european-commissions-review-of-eu-mercury-legislation/>, and not only at the three areas mentioned under this questionnaire.

Under E2, we tried uploading reports carried out by our international partners which could provide relevant information on mercury added products. However documents bigger than 1GB could not be uploaded so we could provide those by email.

**E2)** If appropriate, please upload position papers or policy briefs that express the position or views of yourself or your organisation.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

**25f482ad-3726-4db5-a0b5-dc0534e77ff0/210402\_EEB\_VIEWS\_Mercury\_Reg\_Review\_.pdf**

\* **E3)** Would you be willing to be contacted regarding further participation in questionnaires or interviews as part of the impact assessment process supporting the revision?

Yes

No

## Contact

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