

Control on mercury if there's no Brexit deal

Summary

How regulation of mercury and mercury compounds and mixtures would be affected if the UK leaves the EU with no deal.

Detail

If the UK leaves the EU in March 2019 without a deal, find out how the use, disposal, storage and movement of mercury and mercury compounds and mixtures would be regulated.

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an [overarching framing notice](<https://www.gov.uk/government/publications/uk-governments-preparations-for-a-no-deal-scenario>) explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

This notice outlines the arrangements that would come into force to regulate mercury and mercury compounds and mixtures, if the UK leaves the EU in March 2019 with no deal.

Anthropogenic releases and emissions of mercury and mercury compounds are recognised internationally as global pollutants, causing harm to the environment and human health. Although all humans are exposed to mercury to some degree, some groups are at a higher risk, in particular foetuses, breast-fed babies and infants exposed through seafood consumption, either directly or through their mother, and people who are chronically exposed to high levels of mercury, for instance due to subsistence fishing or work. As a result, mercury is listed by the World Health Organization (WHO) as among the 'ten chemicals of major public health concern'.

Before 29 March 2019

The use, disposal, storage and movement of mercury in the UK is currently regulated through a framework based on EU Regulation 2017/852 on mercury. This legislation allows the implementation of the UN Minamata Convention on Mercury, a global effort to protect human health and the environment from the adverse effects of mercury.

For business operators, the EU Regulation places restrictions on mercury-added products and industrial processes, as well as establishing an authorisation process for new mercury-added products and mercury using industrial processes that were not being manufactured or used prior to 1 January 2018.

It also requires that interim storage of mercury and mercury compounds for industrial activities is carried out in an environmentally sound manner and in line with guidance produced under the Minamata Convention.

The regulation also addresses movement and storage of mercury waste and requires operators in the chlor-alkali, natural gas cleaning, non-ferrous mining and smelting industries to report annually to the competent authorities on their mercury waste.

After March 2019 if there's no deal

The competent authorities would remain the same as designated under the Control of Mercury (Enforcement) Regulation 1200/2017.

Exports

Currently under the EU Regulation, it is prohibited to export mercury, mercury waste, the mercury compounds/mixtures listed in Annex I of the Regulation and mercury-added products listed in Annex II, outside the EU with certain derogations.

The UK will be leaving the EU customs union, deal or no deal.

As a result, business operators should take into account that the movement of the above mercury materials, including mercury waste, from the EU to the UK would newly be classified as exports, and therefore prohibited under the current EU Regulation.

Under the EU Regulation and EU waste shipments regulation, member states would continue to be able to accept mercury waste from the UK for disposal after the UK leaves the EU. This would be subject to the conditions of the derogation for the import of mercury waste for disposal i.e. where the exporting country has no access to available conversion capacity within its own territory.

For the UK, our plans for a no deal scenario would seek to replicate the current situation for the materials listed above by allowing export from the UK to the EU only.

Imports

The restrictions and derogations on the import of mercury, mixtures/compounds of mercury, and mercury-added products listed in Annex II of the EU Regulation would continue to be the same in a no deal scenario as currently set out under Articles 4 and 5 of the EU Regulation.

Operators will be aware that, as mentioned above, export of the listed mercury materials outside the EU is prohibited under the current EU Regulation. As a consequence, operators would not be able to receive shipments from the EU. In 2017, only a small quantity of commodity mercury came to the UK from EU member states so we believe this change should have a limited impact on business.

The current requirement for business operators to obtain written consent to import mercury or the mixtures of mercury for a use allowed in the UK would continue if no agreement were reached. This would be obtained at a national level from the competent authorities, as is currently the case.

Storage

The requirements on the interim storage of mercury and mercury mixtures/compounds would continue to be the same for business operators in the UK in the case of a no deal scenario. Regulations on the technical requirements for such interim storage would be made jointly by the Defra Secretary of State and

devolved ministers, whilst continuing to be based on decisions adopted under the Minamata Convention.

The requirements for the storage of mercury waste, as currently set out in the EU Regulation, would also continue to be the same.

New mercury-added products and processes

The UK will continue to be a party to the Minamata Convention in its own right in a no deal scenario. EU Regulation 2017/852 on mercury would be retained in UK law under the EU Withdrawal Act 2018.

In a no deal scenario, the process of providing the initial notification of a new mercury-added product or process to the competent authorities would continue to be carried out at the national level in the UK, following the same procedure.

Whilst the criteria for authorisation would also continue to be the same as those stipulated under the EU Regulation and Minamata Convention, the duty to assess and decide on whether a new mercury-added product or process is authorised would be exercised jointly by the Defra Secretary of State and devolved ministers.

This would also mean that for operators to manufacture or use new mercury-added products or processes in both the UK and EU, these would have to be authorised independently by both.

We also recommend reading the following technical notices:

- [Regulating chemicals (REACH) if there's no Brexit deal](<https://www.gov.uk/government/publications/regulating-chemicals-reach-if-theres-no-brexite-deal>)
- [Regulating biocidal products if there's no Brexit deal](needs link)
- [Classifying, labelling and packaging chemicals if there's no Brexit deal](needs link)
- [Export and import of hazardous chemicals if there's no Brexit deal](needs link)
- [Control on persistent organic pollutants if there's no Brexit deal](needs link)
- [Regulating pesticides if there's no Brexit deal](needs link)

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

The UK government is clear that in this scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of our approach. It enshrines the consent principle on which Northern Ireland's constitutional status rests. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between Northern Ireland and Ireland, which we're committed to protecting in line with the letter and spirit of Strand two of the Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU member states. The UK would stand ready in this scenario to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

It remains, though, the responsibility of the UK government, as the sovereign government in Northern Ireland, to continue preparations for the full range of potential outcomes, including no deal. As we do, and as decisions are made, we'll take full account of the unique circumstances of Northern Ireland.

Norway, Iceland and Liechtenstein are party to the Agreement on the European Economic Area and participate in other EU arrangements. As such, in many areas, these countries adopt EU rules. Where this is the case, these technical notices may also apply to them, and EEA businesses and citizens should consider whether they need to take any steps to prepare for a 'no deal' scenario.