

B 2096

L.N. 219 of 2001

**ENVIRONMENT PROTECTION ACT, 2001
(ACT NO. XX OF 2001)**

**Limit Values and Quality Objectives for Mercury Discharges by
Sectors Other Than the Chlor-Alkali Electrolysis Industry
Regulations, 2001**

BY virtue of the powers conferred by articles 3, 9 and 28 of the Environment Protection Act, 2001, the Minister for the Environment has made the following regulations:-

Citation and entry
into force.

1. (1) The title of these regulations is the Limit Values and Quality Objectives for Mercury Discharges by Sectors Other Than the Chlor-Alkali Electrolysis Industry Regulations, 2001.

(2) These regulations shall come into force on such date as the Minister for the Environment may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of these regulations.

(3) A notice under sub-regulation (2) of this regulation may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

Definitions and
application of these
regulations.

2. (1) For the purpose of these regulations and unless the context otherwise requires:-

“competent authority” means the Department for Environment Protection under the guidance of the Director for Environment Protection and such other body or person as the Minister responsible for the environment may by order in the Gazette prescribe and different bodies or persons may be designated as a competent authority for different provisions and different purposes of these regulations;

“existing plant” means an industrial plant which is operational on the date of entry into force of these regulations;

“handling of mercury” means any industrial process involving the production or use of mercury, or any other industrial process in which the presence of mercury is inherent;

“industrial plant” means a plant at which mercury or any substance containing mercury is handled, with the exception of an industrial plant in which alkali chlorides are electrolyzed by means of mercury cells;

“limit values” means the values specified in Annex I;

“mercury” means:

- (a) the chemical element mercury;
- (b) the mercury contained in any of its compounds;

“new plant” means:

- (a) an industrial plant which has become operational after the date of entry into force of these regulations;
- (b) an existing industrial plant whose mercury-handling capacity has been substantially increased since the date of entry into force of these regulations;

“quality objectives” means the requirements specified in Annex II.

(2) These regulations apply to the waters referred to in regulation 2(2) of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001.

3. (1) The limit values, the time limits by which they shall be complied with and the monitoring procedure for discharges are laid down in Annex I. Limit values for mercury discharges.

(2) Any person who operates an industrial plant shall ensure that when waste waters containing mercury leave the industrial plant, the limit values do not exceed such as may have been established:

Provided that when waste waters containing mercury are treated outside the industrial plant at a treatment plant intended for the removal of mercury, the competent authority may permit the limit values to be applied at the point where the waste waters leave the treatment plant.

(3) Without prejudice to their obligations arising from sub-regulations (1), (2) and (3) of this regulation and to the provisions of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001 the competent authority

may grant a permit for new plants only if those plants apply the standards corresponding to the best technical means available when this is necessary for the elimination of pollution in accordance with regulation 3 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001, or for the prevention of distortion of competition.

(4) The reference method of analysis to be used by the competent authority in determining the presence of mercury, shall be that given in Annex III (1) to of the Limit Values and Quality Objectives for Mercury Discharges by the Chlor-alkali Electrolysis Industry Regulations, 2001. The competent authority may, where appropriate, use other methods, provided that the limits of detection, precision and accuracy of such methods are at least as good as those laid down in Annex III (1) to of the Limit Values and Quality Objectives for Mercury Discharges by the Chlor-alkali Electrolysis Industry Regulations, 2001. The accuracy required in the measurement of effluent flow is given in Annex III (2) to the said regulations.

Programmes for
mercury discharges
by multiple sources.

4. (1) The competent authority shall draw up specific programmes for mercury discharges by multiple sources which are not industrial plants and for which the emission standards laid down in regulation 3 cannot be applied in practice.

(2) The purpose of these programmes shall be to avoid or eliminate pollution. The competent authority shall in these programmes include the most appropriate measures and techniques for the replacement, retention and recycling of mercury.

Monitoring the
aquatic
environment.

5. (1) The competent authority shall be responsible for monitoring the aquatic environment affected by industrial discharges.

(2) In the case of discharges affecting the waters of other States, the competent authority shall cooperate with such other States with a view to harmonizing monitoring procedures.

Offences under
these regulations.

6. Any person shall be guilty of an offence under these regulations if :

(a) he fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provisions of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

7. Any person who commits an offence against these regulations shall, on conviction, be liable: Penalties.

(a) on a first conviction to a fine (*multa*) of not less than five hundred liri but not exceeding one thousand Maltese liri;

(b) on a second or subsequent convictions, to a fine (*multa*) of not less than one thousand liri, but not exceeding two thousand liri or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, is held liable in the same manner and degree;

Provided further that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the public entities and/or other persons acting on their behalf involved in the implementation of these regulations and restitution of the environment as a result of the said offence, the revocation of the permit issued by the Police and the confiscation of the *corpus delicti*.

8. (1) The provisions of article 23 and sub article (1) of article 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings, in respect of offences against these regulations, so however that the disqualification from holding or obtain a licence, permit or authority shall in no case be for less than one year. Applicability of the Criminal Code.
Cap. 9.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance

B 2100

with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

Language of
Annexes.

9. Annexes I and II to these regulations are being published in the English language with the English text of these regulations.

ANNEX I

**Limit values, time limits by which they must be complied with,
and the procedure for monitoring discharges**

1. The limit values and the time limits for the industrial sectors concerned are set out together in the table below:

Industrial sector ¹	Limit value which shall be complied with:		Unit of measurement
	Date of Entry into Force of These Regulations	Three Years After Entry into Force of these Regulations	
1. Chemical industries using mercury catalysts:			
(a) in the production of vinyl chloride	0,1 0,2	0,05 0,1	mg/l effluent g/t vinyl chloride production capacity
(b) in other processes	0,1 10	0,05 5	mg/l effluent g/kg mercury processed
2. Manufacture of mercury catalysts used in the production of vinyl chloride	0,1 1,4	0,05 0,7	mg/l effluent g/kg mercury processed
3. Manufacture of organic and non-organic mercury compounds (except for products referred to in point 2)	0,1 0,1	0,05 0,05	mg/l effluent g/kg mercury processed
4. Manufacture of primary batteries containing mercury	0,1 0,05	0,05 0,03	mg/l effluent g/kg mercury processed
5. Non-ferrous metal industry ²			
5.1 Mercury recovery plants	0,1	0,05	mg/l effluent
5.2 Extraction and refining of			

¹ Limit values for industrial sectors other than the chlor-alkali electrolysis industry which are not mentioned in this table, such as the paper and steel industries or coal-fired power stations, shall, if necessary, be fixed by the Council at a later stage. In the meantime, the competent authority shall fix emission standards for mercury discharges autonomously in accordance with the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2000. Such standards shall take into account the best technical means available and shall not be less stringent than the most nearly comparable limit value in this Annex.

² On the basis of experience gained in the implementation of these regulations the Commission shall, pursuant to sub-regulation (2) of regulation 6, submit to the Council proposals for more stringent limit values.

B 2102

non-ferrous metals	0,1	0,05	mg/l effluent
6 Plants for the treatment of toxic wastes containing mercury	0,1	0,05	mg/l effluent

1. The limit values given in the table correspond to a monthly average concentration or to a maximum monthly load.

The amounts of mercury discharged are expressed as a function of the amount of mercury used or handled by the industrial plant over the same period or as a function of the installed vinyl chloride production capacity.

2. Limit values expressed as concentrations which in principle shall not be exceeded are given in the above table for the industrial sectors 1 to 4. In no instance may limit values expressed as maximum concentrations be greater than those expressed as maximum quantities divided by water requirements per kilogram of mercury handled or per tonne of installed vinyl chloride production capacity.

However, because the concentration of mercury in effluents depends on the volume of water involved, which differs for different processes and plants, the limit values, expressed in terms of the quantity of mercury discharged in relation to the quantity of mercury handled or to the installed vinyl chloride production capacity, given in the above table, shall be complied with in all cases.

3. The daily average limit values are twice the corresponding monthly average limit values given in the table.

4. A monitoring procedure shall be instituted to check whether the discharges comply with the emission standards which have been fixed in accordance with the limit values laid down in this Annex.

This procedure shall provide for the taking and analysis of samples and for measurement of the flow of the discharge and, where appropriate, the quantity of mercury handled. Should the quantity of mercury handled be impossible to determine, the monitoring procedure may be based on the quantity of mercury that may be used in the light of the production capacity on which the authorization was based.

5. A sample representative of the discharge over a period of 24 hours shall be taken. The quantity of mercury discharged over a month shall be calculated on the basis of the daily quantities of mercury discharged. However, a simplified monitoring procedure may be instituted in the case of industrial plants which do not discharge more than 7,5 kilograms of mercury per annum.

ANNEX II

Quality objectives

If the competent authority applies the exception referred to in sub-regulation (3) of regulation 7 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2000, the emission standards which the competent authority shall establish and ensure are applied, pursuant to regulation 6 of those regulations, shall be fixed so that the appropriate quality objective or objectives from among those listed in sections 1, 2 and 3 of Annex II to the Limit Values and Quality Objectives for Mercury Discharges by the Chlor-alkali Electrolysis Industry Regulations, 2000 is or are complied with in the area affected by discharges of mercury.

The competent authority shall determine the area affected in each case and shall select from among the quality objectives listed in section 1 of Annex II to the Limit Values and Quality Objectives for Mercury Discharges by the Chlor-alkali Electrolysis Industry Regulations, 2000 the objective or objectives that it deems appropriate having regard to the intended use of the area affected, while taking account of the fact that the purpose of this Directive is to avoid or eliminate all pollution.

The numerical values of the quality objectives specified in 1.2, 1.3 and 1.4 of Annex II to the Limit Values and Quality Objectives for Mercury Discharges by the Chlor-alkali Electrolysis Industry Regulations, 2000 may, as an exception and where this is necessary for technical reasons, be multiplied by 1.5 until three years following the entry into force of these regulations.