
DEPARTMENT OF ENERGY**Notice of Intent To Prepare an Environmental Impact Statement for the Long-Term Management and Storage of Elemental Mercury****AGENCY:** Department of Energy.**ACTION:** Notice of intent.

SUMMARY: As required by the Mercury Export Ban Act of 2008 (Pub. L. 110-414), hereafter referred to as the Act, the Department of Energy (DOE or the Department) plans to designate a facility or facilities for the long-term management and storage of elemental mercury generated within the United States. To this end, the Department intends to prepare an environmental impact statement (EIS) in accordance with the National Environmental Policy Act (NEPA) of 1969 regulations of the President's Council on Environmental Quality (40 CFR parts 1500-1508) and DOE's implementing procedures (10 CFR part 1021). This EIS will evaluate alternatives for such a facility or facilities in order to have the requisite capability operational by January 1, 2013, as stipulated in the Act. The United States Environmental Protection Agency (EPA) is a cooperating agency for this EIS.

DATES: DOE invites public comment on the scope of this EIS during a 45-day public scoping period commencing July 2, 2009 and ending on August 17, 2009. In defining the scope of the EIS, DOE will consider all comments received or postmarked by the end of the scoping period. Comments received or postmarked after the scoping period end date will be considered to the extent practicable. For dates, times and locations of public scoping meetings, see **SUPPLEMENTARY INFORMATION** below.

ADDRESSES: Written comments on the scope of the EIS may be submitted by mail to: Mr. David Levenstein, EIS Document Manager, P.O. Box 2612, Germantown, MD 20874, by toll free fax to 1-877-274-5462; or through the EIS Web site at <http://www.mercurystorageeis.com>.

To be placed on the EIS distribution list, any of the methods listed under **ADDRESSES** above can be used. In

requesting a copy of the Draft EIS, please specify whether the request is for a copy of the Summary only, the entire Draft EIS, or the entire Draft EIS (which includes the Summary) on a compact disc. In addition, the Draft EIS will be available on the DOE NEPA Web site at <http://www.gc.energy.gov/NEPA/> and at the EIS Web site referenced above.

FOR FURTHER INFORMATION CONTACT: For further information about the EIS, please contact David Levenstein, EIS Document Manager, Office of Regulatory Compliance (EM-10), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. For general information concerning DOE's NEPA process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC-20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, e-mail: askNEPA@hq.doe.gov; telephone 202-586-4600, fax 202-586-7031, or leave a message at 1-800-472-2756. This Notice will be available at <http://www.gc.energy.gov/NEPA/> and at <http://www.mercurystorageeis.com>.

SUPPLEMENTARY INFORMATION:**Background**

The Mercury Export Ban Act of 2008 (Pub. L. 110-414) prohibits, as of January 1, 2013, the sale, distribution, or transfer of elemental mercury by Federal agencies to any other Federal agency, any State or local government agency, or any private individual or entity that is under the control of a Federal agency (with certain limited exceptions). It also prohibits the export of elemental mercury from the United States effective January 1, 2013 (subject to certain essential use exceptions). Section 5 of the Act, *Long-Term Storage*, directs DOE to designate a facility or facilities for the long-term management and storage of elemental mercury generated within the United States. DOE's facility or facilities must be operational by January 1, 2013, and ready to accept custody of elemental mercury delivered to such a facility. The Act also requires DOE to assess fees based upon the pro rata costs of long-term management and storage.

Inventory: There are several sources of elemental mercury in the United States, including mercury used in the chlorine and caustic soda manufacturing process (*i.e.*, chlor-alkali industry), reclaimed from recycling and waste recovery activities, and generated as a byproduct of the gold mining process. In addition, DOE stores approximately 1,200 metric tons of elemental mercury at the Y-12 National Security Complex in Oak Ridge, Tennessee. The Department of Defense (DOD) stores approximately

4,400 metric tons of elemental mercury at various locations.

An EPA report, "Mercury Storage Cost Estimates" (2007), estimates the total amount of elemental mercury from non-governmental sources that would be eligible for DOE storage is between 7,500 and 10,000 metric tons over a 40-year period. DOE plans to use such estimates and other credible sources of information to develop an annual and long-term inventory estimate for EIS evaluation. During the scoping period, DOE invites commentors to provide inventory data on elemental mercury for consideration in the EIS.

Purpose and Need for Action

DOE needs to develop a capability for the safe and secure long-term management and storage of elemental mercury as required by the Act. Accordingly, the Department needs to identify an appropriate facility or facilities to host this activity.

Proposed Action

DOE proposes to select one or more existing (including modification as needed) or new facilities for the long-term management and storage of elemental mercury in accordance with the Act. Facilities to be constructed as well as existing or modified facilities must comply with applicable requirements of Section 5(d) of the Act, *Management Standards for a Facility*, including the requirements of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and other permitting requirements. DOE intends to identify the facility or facilities through the NEPA process. EPA is a cooperating agency on the EIS.

Proposed Alternatives

As required by the Council on Environmental Quality and DOE NEPA implementing procedures at 40 CFR parts 1500–1508 and 10 CFR part 1021, respectively, DOE will evaluate the range of reasonable alternatives for a facility or facilities for the long-term management and storage of elemental mercury. These alternatives will include the modification of existing facilities as may be necessary. Recognizing that new construction may be needed at some candidate locations, DOE proposes to evaluate a generic, newly constructed facility that would meet RCRA requirements, such that new construction could be considered at some candidate locations along with modification of existing facilities as appropriate. DOE has developed the following preliminary criteria to use as

a framework for identifying candidate host locations:

- The facility or facilities will not create significant conflicts with any existing DOE site mission and will not interfere with future mission compatibility;
- The candidate host location has an existing facility or facilities suitable for mercury storage with the capability and flexibility for operational expansion, if necessary;
- The facility or facilities is, or potentially will be, capable of complying with RCRA permitting requirements, including siting requirements;
- The facility or facilities has supporting infrastructure, including a capability or potential capability for flooring that would support mercury loadings;
- Storage of elemental mercury at the facility or facilities is compatible with local and regional land use plans;
- The facility or facilities is accessible to major transportation routes; and
- The candidate host location has sufficient information on hand in order to adequately characterize the site.

In March 2009, DOE published a Request for Expressions of Interest in the **Federal Register** (74 FR 11923, March 20, 2009) as well as in the *Federal Business Opportunities* seeking interest from Federal agencies and from the private sector regarding potential locations for a facility or facilities where DOE can store and manage mercury pursuant to the Act. **Based on the responses received and on the criteria identified above, DOE proposes to evaluate the following candidate host sites as alternatives for the long-term management and storage of elemental mercury:**

- Grand Junction Disposal Site, Grand Junction, CO;
 - Hanford Site, Richland, WA;
 - **Hawthorne Army Depot, Hawthorne, NV;**
 - Idaho National Laboratory, Idaho Falls, ID;
 - Kansas City Plant, Kansas City, MO;
 - Savannah River Site, Aiken, SC;
- and
- Waste Control Specialists, Andrews, TX.

As required by NEPA, the EIS will evaluate a No Action alternative to serve as a basis for comparison with the action alternatives. Under the No Action alternative, long-term management and storage of privately-owned elemental mercury would remain the responsibility of its owners, and government-owned elemental mercury would remain at existing facilities.

Preliminary Identification of Environmental Issues

DOE proposes to address the issues listed below when considering the potential impacts of the proposed management and storage alternatives in the EIS. This list is presented to facilitate public comment during the scoping period and will be revisited as DOE considers the scoping comments. It is not intended to be comprehensive, nor to imply any predetermination of impacts.

- Potential effects on the public health from exposure to hazardous materials under routine operations and credible accident scenarios including natural disasters (floods, hurricanes, tornadoes, and seismic events);
- Impacts on surface and groundwater, floodplains and wetlands, and on water use and quality;
- Impacts on air quality (including global climate change) and noise;
- Impacts on plants and animals and their habitats, including species that are Federal- or State-listed as threatened or endangered, or of special concern;
- Impacts on geology and soil;
- Impacts on cultural resources such as historic, archeological, and Native American culturally important sites;
- Socioeconomic impacts on potentially affected communities;
- Environmental justice, particularly whether or not long-term elemental mercury management and storage activities have a disproportionately high and adverse effect on minority and low-income populations;
- Potential impacts on land-use plans, policies and controls, and visual resources;
- Pollution prevention and waste management practices and activities;
- Unavoidable adverse impacts, and irreversible and irretrievable commitments of resources;
- Potential cumulative environmental effects of past, present, and reasonably foreseeable future actions;
- Status of compliance with all applicable Federal, state and local statutes and regulations, international agreements, and required Federal and State environmental permits, consultations, and notifications; and
- Potential impacts of intentional destructive acts, including sabotage and terrorism.

EIS Process and Invitation To Comment

NEPA implementing regulations require an early and open process for determining the scope of an EIS and for identifying the significant issues related to the proposed action. Accordingly, DOE invites Federal agencies, State,

local and Tribal governments, the general public and international community to comment on the scope of the EIS, including identification of reasonable alternatives and specific issues to be addressed.

DOE will hold public scoping meetings from 5:30 p.m.–9:30 p.m. on the following dates and locations:

- July 21, 2009 Two Rivers Convention Center, 159 Main Street, Grand Junction, CO 81501.
- July 23, 2009 Embassy Suites Kansas City—Plaza, 220 West 43rd Street, Kansas City, MO 64111.
- July 28, 2009 Clarion Hotel and Conference Center, 1515 George Washington Way, Richland, WA 99352.
- July 30, 2009 North Augusta Municipal Center, 100 Georgia Avenue, North Augusta, SC 29841.
- August 4, 2009 El Capitan Resort, 540 F Street, Hawthorne, NV 89415.
- August 6, 2009 James Roberts Civic Center, 855 E. Broadway, Andrews, TX 79714.
- August 11, 2009 Shilo Inn/O'Callahans Convention Center, 780 Lindsay Blvd., Idaho Falls, ID 83402.

Additional details on the scoping meetings will be provided in local media and at <http://www.mercurystorageeis.com>.

At each scoping meeting, DOE plans to hold an open house one hour prior to the formal portion of the meetings to allow participants to register to provide oral comments, view informational materials, and engage project staff. The registration table will have an oral comment registration form as well as a sign up sheet for those who do not wish to give oral comments but who would like to be included on the mailing list to receive future information. The public may provide written and/or oral comments at the scoping meetings.

Analysis of all public comments provided during the scoping meetings as well as those submitted as described in **ADDRESSES** above, will be considered in helping DOE further develop the scope of the EIS and potential issues to be addressed. DOE expects to issue a Draft EIS in the fall of 2009.

Issued in Washington, DC, on June 24, 2009.

Scott Blake Harris,
General Counsel.

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