



DEPARTMENT OF ENERGY

Notice of Availability of Interim Guidance on Packaging, Transportation, Receipt, Management, Short-Term and Long-Term Storage of Elemental Mercury

AGENCY: Office of Environmental Management, U.S. Department of Energy.

ACTION: Notice of availability of guidance.

SUMMARY: The U.S. Department of Energy (DOE or the Department) gives notice of interim guidance *U.S. Department of Energy Interim Guidance on Packaging, Transportation, Receipt, Management, Short-Term and Long-Term Storage of Elemental Mercury*. The interim guidance updates DOE's 2009 *U.S. Department of Energy Interim Guidance on Packaging, Receipt, Management, and Long-Term Storage of Elemental Mercury* (2009 Long-Term Storage Guidance) and 2019 *Guidance for Short-Term Storage of Elemental Mercury by Ore Processors* (2019 Short-Term Storage Guidance).

DATES: A 30-day public comment period began on May 2, 2023, with the issuance of the Notice of Availability of the Interim Guidance (88 FR 27495) and following a request to extend the comment period, was later extended to July 3, 2023 (88 FR 34491).

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

The *Mercury Export Ban Act of 2008* (Pub. L. 110-414) (MEBA of 2008) as amended by the *Frank R. Lautenberg Chemical Safety for the 21st Century Act* (Pub. L. 114-182) (Chemical Safety Act of 2016) banned the export of elemental mercury and certain mercury compounds and provided for long-term and interim (*i.e.*, short-term) management and storage of elemental

mercury. Specifically, MEBA of 2008 required the U.S. Department of Energy (DOE) to designate a facility or facilities for the long-term management and storage of elemental mercury (referred to herein as the Long-Term Elemental Mercury Storage Facility (LTEMSEF)) and to issue guidance on recommended standards and procedures for receipt, management, and long-term storage of elemental mercury. 42 U.S.C. 6939f(a)(1), (d)(1). In accordance with these requirements, DOE, after consultation with the EPA and appropriate State agencies in potentially affected States, issued the 2009 Long-Term Storage Guidance on November 13, 2009. The Chemical Safety Act of 2016 provided for interim onsite storage of elemental mercury for certain generators, while awaiting availability of the DOE-designated LTEMSEF. 42 U.S.C. 6939f(g)(2)(D). It further required DOE to issue guidance on recommended standards and procedures for management and short-term onsite storage. 42 U.S.C. 6939f(g)(2)(E). In accordance with this requirement, DOE issued the 2019 Short-Term Storage Guidance.

Interim Guidance Document

Both the 2009 Long-Term and 2019 Short-Term Storage Guidance documents were based on certain planning assumptions. However, in recognition that some key underlying assumptions of the guidance documents had changed since the issuance of those documents, DOE decided to revise both documents in a new, combined guidance document. On May 2, 2023, after both consultation with EPA and DOT and an opportunity for consultation with potentially affected States, DOE issued draft *U.S. Department of Energy Interim Guidance on Packaging, Transportation, Receipt, Management, Short-Term and Long-Term Storage of Elemental Mercury* and requested comments on that draft guidance (88 FR 27495). Following a request to extend the comment period, DOE extended the period for public comment to July 3, 2023 (88 FR 34491).

DOE received a total of about 50 comments from eight entities, including EPA, DOT, and potentially affected States, and has made certain changes in the interim guidance to reflect responses to the comments received. The interim guidance document, *U.S. Department of*

Energy Interim Guidance on Packaging, Transportation, Receipt, Management, Short-Term and Long-Term Storage of Elemental Mercury, may be found at: <https://www.energy.gov/em/long-term-management-and-storage-elemental-mercury>. This interim guidance document supersedes and rescinds the 2009 Long-Term Storage Guidance and the 2019 Short-Term Storage Guidance.

Signing Authority

This document of the Department of Energy was signed on September 14, 2023, by Kristin G. Ellis, Acting Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs, Office of Environmental Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on September 15, 2023.

Treana V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

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