

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF ENERGY

### 10 CFR Part 955

#### RIN 1903-AA11

### Elemental Mercury Storage Fees

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

**ACTION:** Notice of proposed rulemaking and request for public comment.

**SUMMARY:** The Department of Energy publishes a proposed rule to establish a fee for long-term management and storage of elemental mercury in accordance with the Mercury Export Ban Act.

**DATES:** Written comments and information are requested and will be accepted on or before October 25, 2019. See section IV, "Public Participation," for details.

**ADDRESSES:** Please direct comments to: <https://www.regulations.gov>. Follow the instructions for submitting comments.

*Email:* Send comments to David Haught at [mercury.mgt.fee@em.doe.gov](mailto:mercury.mgt.fee@em.doe.gov). Please submit comments in Microsoft™ Word, or PDF file format, and avoid the use of encryption.

*Mail:* Send to the following address: David Haught, U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM-4.22), 1000 Independence Avenue SW, Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** David Haught, U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM-4.22), 1000 Independence Avenue SW, Washington, DC 20585, Telephone: (202) 586-5000, Email: [mercury.mgt.fee@em.doe.gov](mailto:mercury.mgt.fee@em.doe.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of Fee Basis
- III. Regulatory Review
- IV. Public Participation
- V. Approval of the Secretary of Energy

### I. Background

Section 5(a)(1) of the Mercury Export Ban Act, as amended (MEBA), 42 U.S.C. 6939f(a)(1), provides that the Department of Energy (DOE) shall designate a facility for the purpose of long-term management and storage of elemental mercury generated within the United States.<sup>1</sup> MEBA section 5(b)(1), 42 U.S.C. 6939f(b)(1), further provides that DOE shall assess and collect a fee at the time of delivery for providing such management and storage based on the pro rata cost of long-term management and storage of elemental mercury delivered to the facility. MEBA provides that the fee shall be made publicly available by October 1, 2018. MEBA section 5(b)(1)(B)(i), 42 U.S.C. 6939f(b)(1)(B)(i). The fee may be adjusted annually, and shall be set in an amount sufficient to cover costs described in MEBA section 5(b)(2), 42 U.S.C. 6939f(b)(2), subject to certain adjustments. MEBA section 5(b)(1)(B)(ii)-(iv), 42 U.S.C. 6939f(b)(1)(B)(ii)-(iv).

In accordance with MEBA section 5(b), 42 U.S.C. 6939f(b), DOE proposes to establish this fee after consultation with persons who are likely to deliver elemental mercury to a designated facility, and with other interested persons. DOE convened teleconferences during the summer of 2018 and held a meeting on August 1-2, 2018, in Washington, DC to discuss considerations for the basis of the fee for long-term management and storage of elemental mercury including length of time in storage, the cost of eventual treatment and disposal technology and different operational scenarios. Participants included representatives of generators producing elemental mercury incidentally from the beneficiation or processing of ore, or related pollution

<sup>1</sup> Elemental mercury stored at the facility will be classified as a hazardous waste under the Resource Conservation and Recovery Act and its implementing regulations. MEBA Section 3 prohibits the sale, distribution or transfer of elemental mercury stored by DOE, and MEBA Sections 5(d)(1) and 5(g)(2)(B) require that the elemental mercury be stored at facilities having permits to manage RCRA hazardous waste (with the exception of waste elemental mercury generated by certain generators, and which is destined for the long-term storage facility as allowed by 42 U.S.C. 6939f(g)(2)(D)). Based on the description of elemental mercury that is destined for and stored at the DOE long-term storage facility, the RCRA hazardous waste code U151 applies (see 40 CFR 261.33(f)).

control activities. DOE also consulted with members of the Environmental Technology Council, a private organization whose members include persons likely to deliver elemental mercury to the designated DOE storage facility, on January 23, 2019. Through this proposed rule and request for comments, DOE requests further input in support of the requirement that DOE consult with persons who are likely to deliver elemental mercury to a designated facility, and with other interested persons.

This proposed rule would establish the fee for long-term management and storage of elemental mercury at the designated DOE storage facility as \$55,100 per metric ton (MT)<sup>2</sup> plus a \$3,250 fixed fee per shipment. In accordance with MEBA section 5(b)(1)(B)(ii), 42 U.S.C. 6939f(b)(1)(B)(ii), this fee may be adjusted annually according to the factors described in Section II, Discussion of Fee Basis.

### II. Discussion of Fee Basis

The proposed fee is based on the present value of (1) elementary mercury storage for a finite period of time; (2) the cost of transporting elemental mercury from the storage facility to a treatment and disposal facility; and (3) the cost of treatment and disposal. While there is no current regulatory framework to treat and dispose of elemental mercury in the U.S., DOE is assuming a scenario in which there is treatment and disposal capacity for high-concentration elemental mercury waste in the future.

The proposed fee for long-term management and storage of elemental mercury is based on a scenario in which the elemental mercury is assumed to be stored for fifteen years and then transported in year sixteen to a treatment and disposal operation for disposal. The annual storage cost per metric ton-year is \$810<sup>3</sup>/MT. This annual storage cost is increased by 3.5% each fiscal year for fifteen years to give a total cost per metric ton of \$15,600. There is also a receiving charge of \$3,250 per shipment charged by the storage facility upon receipt. There is a removal charge of \$376/MT. This covers the administrative cost of removing

<sup>2</sup> One metric ton is 2,204.62 lbs.

<sup>3</sup> This annual cost is comprised of the following cost elements: storage/management cost, dedicated storage area lease cost, state taxes, and periodic audits by DOE.

elemental mercury from the storage facility, which is calculated based on the receiving charge, increased by 3.5% each fiscal year for sixteen years. The removal charge is then allocated on a pro rata basis using a 15 MT shipment capacity. These costs are all based on pricing from U.S. commercial vendors. The 3.5% escalation each fiscal year is based on pricing from a solicited offer to DOE by a U.S. commercial vendor. The proposed fee also includes the cost of transportation from the storage facility to a yet to be determined treatment and disposal operation (\$1,230/MT) and eventual treatment and disposal (\$37,900/MT). The cost of transportation is based on information received from entities responsible for the transportation of elemental mercury to long-term storage facilities and is representative of cost DOE could expect to incur for transportation of elemental mercury to a treatment facility. This cost is also escalated at 3.5% each fiscal year for sixteen years. The transportation cost is based on the current transportation cost of elemental mercury from generators' sites in Nevada to long-term RCRA-permitted storage facilities. DOE is using this information as a basis for developing its cost estimate assuming a transportation scenario that uses a similar number of miles traveled. The cost of treatment and disposal of elemental mercury is based on preliminary pricing from a U.S. commercial vendor and includes all DOE costs associated with treatment and disposal. This pricing includes DOE's cost for treatment, DOE's cost for transportation to a disposal site and DOE's cost for disposal. The transportation, treatment and disposal costs are escalated using the OMB Circular A-94 5 year real rate (1.3%). The cost of transportation, treatment and disposal are subject to adjustment using actual pricing when such pricing becomes available. The resulting cost per metric ton is \$55,100/MT, plus the aforementioned \$3,250 per shipment receiving charge.

In accordance with 42 U.S.C. 6939f(b)(1)(B), because the designated facility was not operational on January 1, 2019, the fee ultimately adopted by DOE after consideration of public comment shall be adjusted to subtract the cost of the temporary accumulation for those generators accumulating elemental mercury in a facility pursuant to 42 U.S.C. 6939f(g)(2)(B) and (D)(iv) during the period in which the designated facility is not operational. The subtraction will occur after receipt and approval of invoices outlining acceptable costs.

In accordance with 42 U.S.C. 6939f(b)(1)(B)(ii), the fee ultimately adopted by DOE after consideration of public comment may be adjusted annually. DOE will adjust the fee by adjusting the parameters used in calculating the fee. The parameters subject to adjustment are as follows:

- Annual cost to store 1 MT of elemental mercury.
- Number of years that elemental mercury will reside in storage at the DOE designated facility.
- Receiving charge.
- Removal charge.
- Cost of shipment from the elemental mercury storage facility to a treatment facility, and cost of shipment from a treatment facility to a disposal facility.
- Cost of treatment of elemental mercury, and disposal of the treated waste form.

### III. Regulatory Review

#### A. Review Under Executive Order 12866

This proposed rule has been determined to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993), as amended by Executive Order 13258, 67 FR 9385 (February 26, 2002). Accordingly, this action was subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget.

#### B. Review Under the National Environmental Policy Act

In accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality regulations and the DOE regulations implementing NEPA, DOE prepared the following documents analyzing the potential environmental impacts of long-term management and storage of elemental mercury: *Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-0423, January 2011); *Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement* (DOE/EIS-0423-S1, September 2013); and *Supplemental Analysis of the Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-423-SA-01). The environmental impact statement (and the supplemental environmental impact statement) noted the relevant statutory provision regarding assessment and collection of a fee. The assessment and

collection of the fee is part of the implementation of the proposed action.

#### C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's website: <https://www.energy.gov/sites/prod/files/gcprod/documents/eo13272.pdf>.

DOE has reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE has determined that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. In 2019, DOE published *Supplemental Analysis of the Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-423-SA-01) that updated the expected inventory during the next 40 years to 6,800 MT. DOE expects approximately 35–50 entities to pay the fee. DOE expects that the majority of the fees paid will be paid by less than 10 of these entities. The Nevada Mining Association (NMA) membership includes the generators of elemental mercury that are expected to deliver the majority of elemental mercury to the DOE facility. DOE contacted NMA for information to help determine how many of its membership qualify as small entities under NAICS codes 212221, 212222, 212234 and 212299. The information received showed that there are 31 entities that fall below the small business standards versus 2 entities that exceeded the standard. DOE has determined, however, that the rule will not result in a significant economic impact on a substantial number of these small entities. DOE estimates that the largest impact would be to entities engaged in mining that do not qualify as small entities under NAICS codes. This impact will vary based on ore grade and

price fluctuations in the precious metals market. Another impact would be to entities that have accepted elemental mercury for long-term storage awaiting the start of operations at the DOE facility. The largest of these impacts are likely be a one-time expense shortly after the start of operations at the DOE facility. DOE estimates that the impact would range from \$55,100 up to as high as \$4.7 million for two to three entities. A mining entity shipping approximately 15 MT per year would experience an impact of approximately \$830,000 annually. As a result of MEBA, generators of elemental mercury have limited disposition options. Generators can either send elemental mercury that is being discarded to the DOE designated facility for long term management and storage or export for environmentally sound disposal those mercury compounds identified in or by 15 U.S.C. 2611(c)(7)(A)–(B) consistent with 15 U.S.C. 2611(c)(7)(D). However, export of mercury compounds for environmentally sound disposal in another country may also be subject to that country's obligations under the Basel Convention, if applicable, and that country's applicable domestic laws and regulations. Nonfederal generators may also consider domestic sales of elemental mercury;<sup>4</sup> however, international sales are prohibited by MEBA's export ban, 42 U.S.C. 2611(c)(1). Although domestic sale of elemental mercury is an alternative without a negative economic impact, it is likely that the supply would exceed demand and thus that option may not be viable for some nonfederal generators. As stated above, for those nonfederal generators for whom sale is not a viable option, the available options are sending the elemental mercury to the DOE designated facility or environmentally sound disposal of certain mercury compounds in accordance with 15 U.S.C. 2611(c)(7)(D). Since the cost of treatment and disposal in member countries of the OECD is comparable to the fee in this proposed rule, and generators choose this option if it is more cost effective for them, DOE has determined that this proposed rule does not have a significant economic impact on a substantial number of small entities.

<sup>4</sup> MEBA provides that "no Federal agency shall convey, sell, or distribute . . . any elemental mercury under the control or jurisdiction of the Federal agency." 15 U.S.C. 2605(f). MEBA provides an exception for "a transfer between Federal agencies of elemental mercury under the control or jurisdiction of the Federal agency." *Id.* at 2605(f)(2)(A).

#### *D. Review Under the Paperwork Reduction Act*

This rulemaking would impose no new information or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

#### *E. Review Under the Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency regulation that may result in the expenditure by States, tribal or local governments, in the aggregate, or by the private sector, of \$100 million in any one year. The Act also requires Federal agencies to develop an effective process to permit timely input by elected officials of State, tribal, or local governments on a proposed significant intergovernmental mandate, and requires an agency plan for giving notice and opportunity to provide timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. DOE has determined that this proposed rule does not contain any Federal mandates exceeding \$100 million in any one year affecting States, tribal, or local governments, or the private sector, and, thus, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

#### *F. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform" 61 FR 4779 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988, specifically requires that Federal agencies make every reasonable effort to

ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting the clarity and general draftsmanship under guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

#### *G. Review Under Executive Order 13132*

Executive Order 13132, "Federalism," 64 FR 43255 (August 10, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not preempt State law and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibility among the various levels of government. No further action is required by Executive Order 13132.

#### *H. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. This proposed rule would

have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### I. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001) requires preparation and submission to OMB of a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1)(i) Is a significant regulatory action under Executive Order 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE has determined that this proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OIRA has also not determined that this proposed rule is a significant energy action. Thus, the requirement to prepare a Statement of Energy Effects does not apply.

#### J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most dissemination of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

#### K. Review Under Executive Orders 13771

This proposed rule is not subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because this proposed rule is considered to be a "transfer rule."

## IV. Public Participation

### Submission of Comments

DOE invites all interested parties to submit in writing by October 25, 2019 comments and information regarding this proposed rule.

Submitting comments via <http://www.regulations.gov>. The <http://www.regulations.gov> web page will require you to provide your name and contact information prior to submitting comments. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through <http://www.regulations.gov> before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to <http://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information in your cover letter each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is

generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

#### V. Approval of the Secretary of Energy

The Secretary of Energy has approved publication of this proposed rule.

#### List of Subjects in 10 CFR Part 955

Elemental mercury, Hazardous waste treatment, storage, and disposal, Reporting and recordkeeping requirements.

Signed in Washington, DC, on September 26, 2019.

**Dan Brouillette,**

*Deputy Secretary of Energy.*

■ For the reasons set forth in the preamble, the Department of Energy proposes to add part 955 to title 10 of the Code of Federal Regulations to read as follows:

#### **PART 955—FEE FOR LONG-TERM MANAGEMENT AND STORAGE OF ELEMENTAL MERCURY UNDER THE MERCURY EXPORT BAN ACT OF 2008, AS AMENDED**

Sec.

- 955.1 Purpose.
- 955.2 Scope and applicability.
- 955.3 Definitions.
- 955.4 Payment of fees.
- 955.5 Schedule of fees.

**Authority:** 42 U.S.C. 6939f(b).

#### **§ 955.1 Purpose.**

This part establishes a fee for long-term management and storage of elemental mercury in accordance with the Mercury Export Ban Act of 2008, as amended, section 5(b), (42 U.S.C. 6939f(b)).

#### **§ 955.2 Scope and applicability.**

This part applies to persons who deliver elemental mercury to the U.S. Department of Energy (DOE) designated facility for long-term management and storage.

#### **§ 955.3 Definitions.**

The following definitions are provided for purposes of this part:

*DOE* means the U.S. Department of Energy.

*Elemental mercury* means the element with the chemical symbol Hg and atomic number 80 in its liquid form. The form acceptable to DOE is at least 99.5% elemental mercury by volume. DOE will not accept elemental mercury in environmental media or consumer products (fluorescent lamps, batteries, etc.) or elemental mercury in manufactured items (manometers, thermometers, switches, etc.).

*Metric ton* means 1,000 kilograms (approximately 2,204 lbs.).

#### **§ 955.4 Payment of fees.**

Fees are payable upon delivery of elemental mercury to the DOE facility. All fee payments are to be made payable to the U.S. Department of Energy. The payments are to be made in U.S. funds by electronic funds transfer such as ACH (Automated Clearing House) using E.D.I. (Electronic Data Interchange), check, draft, money order, or credit card.

#### **§ 955.5 Schedule of fees.**

(a) Persons delivering elemental mercury to the DOE facility for long-term management and storage of elemental mercury shall pay fees in accordance with paragraph (b) of this section.

(b) The sum of the receiving charge, the cost of storage per metric ton for the number of years escalating costs according to the published escalation rate in storage, the cost per metric ton to transport elemental mercury to a treatment facility in the year following the number of years stored and cost per metric ton to treat and dispose of elemental mercury in the year following the number of years stored. These values may be updated annually. These values are posted to the DOE Long-Term Management and Storage of Elemental Mercury website (<https://www.energy.gov/em/services/waste-management/waste-and-materials-disposition-information/long-term-management-and>). DOE will publish notice in the **Federal Register** when the values are updated to inform the public of the updates.

[FR Doc. 2019-21536 Filed 10-3-19; 8:45 am]

**BILLING CODE 6450-01-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2019-0702; Product Identifier 2019-NM-118-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Bombardier, Inc., Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model DHC-8-400 series airplanes. This proposed AD was prompted by a report of a quality escape in the manufacturing of the advanced pneumatic detector (APD) switches, and the presence of contamination on the switch contact pin. This proposed AD would require identification and testing, and reidentification or replacement if necessary, of affected APDs. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 18, 2019.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact De Havilland Aircraft of Canada Ltd., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416-375-4000; fax 416-375-4539; email [thd@dehavilland.com](mailto:thd@dehavilland.com); internet: <https://dehavilland.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.