



S. 906 – Mercury Export Ban Act of Act of 2008

FLOOR SITUATION

S. 906 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Senator Barack Obama (D-IL) on March 15, 2007. The bill was passed out of the Senate this week.

The House passed similar legislation (H.R. 1534) on November 13, 2007, by voice vote. The bill was referred to the Senate Committee on Environment and Public Works and hearings were held on the bill.

S. 906 is expected to be considered on the floor of the House on September 25, 2008

SUMMARY

Mercury Transfer Prohibition: S. 906 prohibits federal agencies from selling, conveying or distributing elemental mercury to any other federal agency, state or local government agency, or private entity.

**Note: Federal agencies may transfer elemental mercury for the purpose of storage only.*

Mercury Export Prohibition: The bill prohibits (effective January 1, 2010) the export of elemental mercury. The Administrator of the Environmental Protection Agency (EPA) is required to submit a report to Congress within one year on mercuric chloride, mercurous chloride or calomel, mercuric oxide, and any other compounds that may currently be used in significant quantities or processes. The purpose of the report is to help Congress determine whether to expand the export prohibition to any other compounds.

Long-Term Storage: The bill requires the Secretary of Energy (prior to January 1, 2010) to accept custody of elemental mercury, including taking responsibility for the long-term storage and management of elemental mercury. Allows the Secretary to assess a fee for the management and storage from those that deliver elemental mercury to a facility designated by the Secretary. The fee should be published prior to October 1, 2009 and should cover the costs to the Department of Energy. The bill also requires an annual report to Congress on the costs incurred by the Department of Energy for the storage and management of elemental mercury.

The bill requires the Secretary of Energy (prior to October 1, 2009) to establish guidance on the standards for receipt of elemental mercury by the Department, management of the elemental mercury and its long-term storage. According to the bill, these standards shall "be protective of human health and the environment and shall ensure that the elemental mercury is stored in a safe, secure, and effective manner."

**Note: the elemental mercury stored and managed at these facilities will be subject to the Solid Waste Disposal Act (P.L. 94-580)*

All staff that has responsibilities related to the management, storage, transfer or monitoring of the elemental mercury will be provided operational and emergency training. Facilities will also be equipped by fire detection and suppression systems (unless the Secretary determines that a permanent suppression system is not necessary).

Liability Protections: The bill provides liability protections for persons who deliver elemental mercury to a facility from any suit, claim, liability, judgment, cost or fee that arises out of a claim of personal injury or property damage that resulted from a release or threatened release after delivery of the elemental mercury to the facility (unless the person contributed to the release or threatened release).



The bill outlines procedures and guidelines for indemnification (the Department's agreement not to hold the person delivering the elemental mercury responsible, which may lead to the Department making indemnification payments through a settlement).

BACKGROUND

According to the Centers for Disease Control (CDC), "inhalation exposure is the most typical route of elemental mercury toxicity. Acute toxicity might result in fever, fatigue, and clinical signs of pneumonitis. Chronic exposure results in neurologic, dermatologic, and renal manifestations. Signs and symptoms might include neuropsychiatric disturbances (e.g., memory loss, irritability, or depression), tremor, paresthesias, gingivostomatitis, flushing, discoloration and desquamation of the hands and feet, and hypertension (1-4)."

Plants and animals are often affected by mercury released into the environment, which, in turn, becomes a source of mercury ingestion. A 2004 report by the Environmental Protection Agency indicates that 44 states have fish advisories for mercury covering 13,000,000 lake acres and over 750,000 river miles. Of those states, 21 have statewide freshwater advisories and states have statewide coastal advisories.

Federal agencies that are currently in possession of mercury have agency policies not to transport or transfer the mercury. There is no law, however, that mandates that prohibition.

COST

According to the Congressional Budget Office, "Implementing this bill would affect both discretionary spending and direct spending. Assuming appropriation of the necessary amounts, CBO estimates that DOE would spend \$8 million over the 2009-2013 period and additional amounts thereafter to provide for the permanent storage of commercially generated mercury. CBO also estimates that enacting this bill would reduce net direct spending by \$8 million over the 2009-2018 period by increasing offsetting receipts (an offset to direct spending) from the one-time fee that would be paid by firms transferring mercury to DOE. Enacting this legislation would not affect revenues." ([CBO Cost Estimate](#))

STAFF CONTACT

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