

110TH CONGRESS
2D SESSION

H. R. 5580

To amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2008

Ms. SCHAKOWSKY (for herself, Mr. WAXMAN, Mr. ELLISON, and Ms. HIRONO) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Missing Mercury in
5 Manufacturing Monitoring and Mitigation Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) mercury and mercury compounds are highly
9 toxic to humans, ecosystems, and wildlife;

1 (2) as many as 10 percent of women in the
2 United States of childbearing age have mercury in
3 their bloodstreams at a level that could pose risks to
4 their unborn babies, and as many as 630,000 chil-
5 dren born annually in the United States are at risk
6 of neurological problems relating to mercury expo-
7 sure in utero;

8 (3) the most significant source of mercury expo-
9 sure to people in the United States is ingestion of
10 mercury-contaminated fish;

11 (4) the long-term solution to mercury pollution
12 is to minimize global mercury use and releases of
13 mercury to eventually achieve reduced contamination
14 levels in the environment, rather than reducing fish
15 consumption, since uncontaminated fish represents a
16 critical and healthy source of nutrition for people
17 worldwide;

18 (5) mercury pollution is a transboundary pollut-
19 ant that—

20 (A) is deposited locally, regionally, and
21 globally; and

22 (B) affects bodies of water near industrial
23 areas, such as the Great Lakes, as well as bod-
24 ies of water in remote areas, such as the Arctic
25 Circle;

1 (6) of the approximately 30 plants in the
2 United States that produce chlorine, only 7 use the
3 obsolete “mercury cell” chlor-alkali process, and 4
4 have not yet committed to phasing out mercury use;

5 (7) an estimated additional 24,000 to 30,000
6 tons of mercury are used at mercury cell chlor-alkali
7 plants worldwide;

8 (8)(A) less than 10 percent of the total quan-
9 tity of chlorine and caustic soda produced in the
10 United States comes from the chlor-alkali plants de-
11 scribed in paragraph (7) that use the mercury cell
12 chlor-alkali process;

13 (B) cost-effective alternatives are available and
14 in use in the remaining 90 percent of chlorine and
15 caustic soda production; and

16 (C) other countries, including Japan, have al-
17 ready banned the mercury cell chlor-alkali process;

18 (9) the chlor-alkali industry acknowledges
19 that—

20 (A) mercury can contaminate products
21 manufactured at mercury cell facilities; and

22 (B) the use of some of those products re-
23 sults in the direct and indirect release of mer-
24 cury;

1 (10) despite those quantities of mercury known
2 to have been used or to be in use, neither the chlor-
3 alkali industry nor the Environmental Protection
4 Agency is able—

5 (A) to adequately account for the disposi-
6 tion of the mercury used at those facilities; or

7 (B) to accurately estimate current mercury
8 emissions; and

9 (11) it is critically important that the United
10 States work aggressively toward the minimization of
11 supply, demand, and releases of mercury, both do-
12 mestically and internationally.

13 **SEC. 3. STATEMENT OF POLICY.**

14 Congress declares that the United States should de-
15 velop policies and programs that will—

16 (1) reduce mercury use and emissions within
17 the United States;

18 (2) reduce mercury releases from the reservoir
19 of mercury currently in use or circulation within the
20 United States; and

21 (3) reduce exposures to mercury, particularly
22 exposures of women of childbearing age and young
23 children.

1 **SEC. 4. USE OF MERCURY IN CHLORINE AND CAUSTIC**
2 **SODA MANUFACTURING.**

3 (a) IN GENERAL.—Title I of the Toxic Substances
4 Control Act (15 U.S.C. 2601 et seq.) is amended by in-
5 serting after section 6 the following:

6 **“SEC. 6A. USE OF MERCURY IN CHLORINE AND CAUSTIC**
7 **SODA MANUFACTURING.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) CHLOR-ALKALI FACILITY.—The term
10 ‘chlor-alkali facility’ means a facility used for the
11 manufacture of chlorine or caustic soda using a mer-
12 cury cell process.

13 “(2) HAZARDOUS WASTE; SOLID WASTE.—The
14 terms ‘hazardous waste’ and ‘solid waste’ have the
15 meanings given those terms in section 1004 of the
16 Solid Waste Disposal Act (42 U.S.C. 6903).

17 “(b) PROHIBITION.—Effective beginning January 1,
18 2012, the manufacture of chlorine or caustic soda using
19 mercury cells is prohibited in the United States.

20 “(c) REPORTING.—

21 “(1) IN GENERAL.—Not later than April 1,
22 2009, and annually thereafter through April 1,
23 2012, the owner or operator of each chlor-alkali fa-
24 cility shall submit to the Administrator and the
25 State in which the chlor-alkali facility is located a
26 report that identifies—

1 “(A) each type and quantity of mercury-
2 containing hazardous waste and nonhazardous
3 solid waste generated by the chlor-alkali facility
4 during the preceding calendar year;

5 “(B) the mercury content of the wastes;

6 “(C) the manner in which each waste was
7 managed, including the location of each offsite
8 location to which the waste was transported for
9 subsequent handling or management;

10 “(D) the volume of mercury released, in-
11 tentively or unintentionally, into the air or
12 water by the chlor-alkali facility, including mer-
13 cury released from emissions or vaporization;

14 “(E) the volume of mercury estimated to
15 have accumulated in pipes and plant equipment
16 of the chlor-alkali facility, including a descrip-
17 tion of—

18 “(i) the applicable volume for each
19 type of equipment; and

20 “(ii) methods of accumulation; and

21 “(F) the quantity and forms of mercury
22 found in all products produced for sale by the
23 chlor-alkali facility.

24 “(2) AVOIDANCE OF DUPLICATION.—To avoid
25 duplication, the Administrator may permit the owner

1 or operator of a facility described in paragraph (1)
2 to combine and submit the report required under
3 this subsection with any report required to be sub-
4 mitted by the owner or operator under subtitle C of
5 the Solid Waste Disposal Act (42 U.S.C. 6921 et
6 seq.).

7 “(d) INVENTORY.—

8 “(1) IN GENERAL.—For each chlor-alkali facil-
9 ity that ceases operations on or after January 1,
10 2009, not later than 1 year after the date of ces-
11 sation of operations, the Administrator, in consulta-
12 tion with the State in which the facility is located,
13 shall conduct a comprehensive mercury inventory
14 covering the life and closure of the chlor-alkali facil-
15 ity, taking into account—

16 “(A) the total quantity of mercury pur-
17 chased to start and operate the chlor-alkali fa-
18 cility;

19 “(B) the total quantity of mercury remain-
20 ing in mercury cells and other equipment at the
21 time of closure of the chlor-alkali facility;

22 “(C) the estimated quantity of mercury in
23 hazardous waste, nonhazardous solid waste, and
24 products generated at the chlor-alkali facility

1 during the operational life of the chlor-alkali fa-
2 cility; and

3 “(D) the estimated aggregate mercury re-
4 leases from the chlor-alkali facility into air and
5 other environmental media.

6 “(2) RECORDS AND INFORMATION.—In car-
7 rying out paragraph (1), the Administrator shall ob-
8 tain mercury purchase records and such other infor-
9 mation from each chlor-alkali facility as are nec-
10 essary to determine, as accurately as practicable
11 from available information, the magnitude and na-
12 ture of mercury releases from the chlor-alkali facility
13 into air and other environmental media.”.

14 (b) CONFORMING AMENDMENT.—The table of con-
15 tents of the Toxic Substances Control Act (15 U.S.C.
16 2601 note) is amended by inserting after the item relating
17 to section 6 the following:

“Sec. 6A. Use of mercury in chlorine and caustic soda manufacturing.”.

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