

108TH CONGRESS
1ST SESSION

S. 484

To amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2003

Mr. LEAHY (for himself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Omnibus Mercury Emission Reduction Act of 2003”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Mercury emission standards for fossil fuel-fired electric utility steam
generating units.
- Sec. 4. Mercury emission standards for coal- and oil-fired commercial and in-
dustrial boiler units.
- Sec. 5. Reduction of mercury emissions from solid waste incineration units.
- Sec. 6. Mercury emission standards for chlor-alkali plants.
- Sec. 7. Mercury emission standards for Portland cement plants.
- Sec. 8. Report on implementation of mercury emission standards for medical
waste incinerators.
- Sec. 9. Report on implementation of mercury emission standards for hazardous
waste combustors.
- Sec. 10. Defense activities.
- Sec. 11. International activities.
- Sec. 12. Mercury research.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) on the basis of available scientific and med-
9 ical evidence, exposure to mercury and mercury com-
10 pounds (collectively referred to in this Act as “mer-
11 cury”) is of concern to human health and the envi-
12 ronment;

13 (2) according to the report entitled “Toxi-
14 cological Effects of Methylmercury” and submitted
15 to Congress by the National Academy of Sciences in
16 2000, and other scientific and medical evidence,
17 pregnant women and their fetuses, women of child-
18 bearing age, children, and individuals who subsist

1 primarily on fish are most at risk for mercury-re-
2 lated health impacts such as neurotoxicity;

3 (3) although exposure to mercury occurs most
4 frequently through consumption of mercury-contami-
5 nated fish, such exposure can also occur through—

6 (A) ingestion of drinking water, and food
7 sources other than fish, that are contaminated
8 with methyl mercury;

9 (B) dermal uptake through soil and water;

10 and

11 (C) inhalation of contaminated air;

12 (4) on the basis of the report entitled “Mercury
13 Study Report to Congress” and submitted by the
14 Environmental Protection Agency under section
15 112(n)(1)(B) of the Clean Air Act (42 U.S.C.
16 7412(n)(1)(B)), the major sources of mercury emis-
17 sions in the United States are, in descending order
18 of volume of emissions—

19 (A) fossil fuel-fired electric utility steam
20 generating units;

21 (B) solid waste incineration units;

22 (C) coal- and oil-fired commercial and in-
23 dustrial boiler units;

24 (D) medical waste incinerators;

25 (E) hazardous waste combustors;

1 (F) chlor-alkali plants; and

2 (G) Portland cement plants;

3 (5)(A) the Environmental Protection Agency re-
4 port described in paragraph (4), in conjunction with
5 available scientific knowledge, supports a plausible
6 link between mercury emissions from anthropogenic
7 combustion and industrial sources and mercury con-
8 centrations in air, soil, water, and sediments;

9 (B) the Environmental Protection Agency has
10 concluded that the geographical areas that have the
11 highest annual rate of deposition of mercury in all
12 forms are—

13 (i) the southern Great Lakes and Ohio
14 River Valley;

15 (ii) the Northeast and southern New Eng-
16 land; and

17 (iii) scattered areas in the South, with the
18 most elevated deposition occurring in the Miami
19 and Tampa areas and 2 areas in northeast
20 Texas; and

21 (C) analysis conducted before the date of the
22 Environmental Protection Agency report dem-
23 onstrates that mercury is being deposited into the
24 waters of Canada;

1 (6)(A) the Environmental Protection Agency re-
2 port described in paragraph (4) supports a plausible
3 link between mercury emissions from anthropogenic
4 combustion and industrial sources and concentra-
5 tions of methyl mercury in freshwater fish;

6 (B) in 2002, 44 States issued health advisories
7 that warned the public about consuming mercury-
8 tainted fish, as compared to 27 States that issued
9 such advisories in 1993;

10 (C) the total number of mercury advisories na-
11 tionwide increased from 899 in 1993 to 2,073 in
12 1999, an increase of 131 percent; and

13 (D) the United States and Canada have agreed
14 on a goal of virtual elimination of mercury from the
15 transboundary waters of the 2 countries;

16 (7) the presence of mercury in consumer prod-
17 ucts is of concern in light of the health consequences
18 associated with exposure to mercury;

19 (8) the presence of mercury in certain batteries
20 and fluorescent light bulbs is of special concern, par-
21 ticularly in light of the substantial quantities of used
22 batteries and fluorescent light bulbs that are dis-
23 carded annually in the solid waste stream and the
24 potential for environmental and health consequences

1 associated with land disposal, composting, or incin-
2 eration of the batteries and light bulbs;

3 (9) a comprehensive study of the use of mer-
4 cury by the Department of Defense would signifi-
5 cantly further the goal of reducing mercury pollu-
6 tion;

7 (10) since excess stockpiled mercury, if sold do-
8 mestically or internationally for commercial or in-
9 dustrial use, has the potential to threaten the envi-
10 ronment and public health, there is a need for meth-
11 ods to retire excess mercury permanently;

12 (11) accurate, long-term, nationwide monitoring
13 of atmospheric mercury deposition is essential to—

14 (A) determining current deposition trends;

15 (B) evaluating the local and regional trans-
16 port of mercury emissions; and

17 (C) assessing the impact of emission reduc-
18 tions; and

19 (12)(A) a January 2003 report by the Centers
20 for Disease Control and Prevention found that 1 in
21 12 women of childbearing age has mercury levels
22 above the safe health threshold established by the
23 Environmental Protection Agency; and

24 (B) the statistic described in subparagraph (A)
25 means that—

1 (i) nearly 4,900,000 women of child-
2 bearing age have elevated levels of mercury
3 from eating contaminated fish; and

4 (ii) approximately 320,000 newborns
5 per year are at risk of neurological effects
6 from being exposed to elevated mercury
7 levels before birth.

8 (b) PURPOSES.—The purposes of this Act are—

9 (1) to greatly reduce the quantity of mercury
10 entering the environment by controlling air emis-
11 sions of mercury from fossil fuel-fired electric utility
12 steam generating units, coal- and oil-fired commer-
13 cial and industrial boiler units, solid waste inciner-
14 ation units, medical waste incinerators, hazardous
15 waste combustors, chlor-alkali plants, and Portland
16 cement plants;

17 (2) to reduce the quantity of mercury entering
18 solid waste landfills, incinerators, and composting
19 facilities by promoting recycling or proper disposal
20 of used batteries, fluorescent light bulbs, and other
21 products containing mercury;

22 (3) to increase the understanding of the volume
23 and sources of mercury emissions throughout North
24 America;

1 (4) to promote efficient and cost-effective meth-
2 ods of controlling mercury emissions;

3 (5) to promote permanent, safe, and stable dis-
4 posal of mercury recovered through coal cleaning,
5 flue gas control systems, and other methods of mer-
6 cury pollution control;

7 (6) to reduce the use of mercury in cases in
8 which technologically and economically feasible alter-
9 natives are available;

10 (7) to educate the public concerning the collec-
11 tion, recycling, and proper disposal of mercury-con-
12 taining products;

13 (8) to increase public knowledge of the sources
14 of mercury exposure and the threat to public health,
15 particularly the threat to the health of pregnant
16 women and their fetuses, women of childbearing age,
17 children, and individuals who subsist primarily on
18 fish;

19 (9) to significantly decrease the threat to
20 human health and the environment posed by mer-
21 cury; and

22 (10) to ensure that the health of sensitive popu-
23 lations, whether in the United States, Canada, or
24 Mexico, is protected, with an adequate margin of

1 safety, against adverse health effects caused by mer-
2 cury.

3 **SEC. 3. MERCURY EMISSION STANDARDS FOR FOSSIL**
4 **FUEL-FIRED ELECTRIC UTILITY STEAM GEN-**
5 **ERATING UNITS.**

6 Section 112 of the Clean Air Act (42 U.S.C. 7412)
7 is amended—

8 (1) by redesignating subsection (s) as sub-
9 section (x); and

10 (2) by inserting after subsection (r) the fol-
11 lowing:

12 “(s) MERCURY EMISSION STANDARDS FOR FOSSIL
13 FUEL-FIRED ELECTRIC UTILITY STEAM GENERATING
14 UNITS.—

15 “(1) IN GENERAL.—

16 “(A) REGULATIONS.—Not later than 180
17 days after the date of enactment of this sub-
18 paragraph, the Administrator shall promulgate
19 regulations to establish standards for the emis-
20 sion of mercury and mercury compounds (col-
21 lectively referred to in this subsection as ‘mer-
22 cury’) applicable to existing and new fossil fuel-
23 fired electric utility steam generating units.

24 “(B) PERMIT REQUIREMENT.—Not later
25 than 2 years after the date of enactment of this

1 subparagraph, each fossil fuel-fired electric util-
2 ity steam generating unit shall have an enforce-
3 able permit issued under title V that complies
4 with this subsection.

5 “(C) PROCEDURES AND SCHEDULES FOR
6 COMPLIANCE WITH STANDARDS.—Each fossil
7 fuel-fired electric utility steam generating unit
8 shall achieve compliance with the mercury emis-
9 sion standards established under subparagraph
10 (A) in accordance with the procedures and
11 schedules established under subsection (i).

12 “(2) STANDARDS AND METHODS.—

13 “(A) EMISSION STANDARD.—Subject to
14 subparagraphs (B) and (C), the emission stand-
15 ards established under paragraph (1)(A) shall
16 require that each fossil fuel-fired electric utility
17 steam generating unit achieve the maximum de-
18 gree of reduction in emissions of mercury, as
19 determined under subsection (d).

20 “(B) MINIMUM REQUIRED EMISSION RE-
21 DUCTION.—The emission standards established
22 under paragraph (1)(A) shall reduce the total
23 emissions of mercury from fossil fuel-fired elec-
24 tric utility steam generating units in the United

1 States by not less than 90 percent from 1999
2 levels.

3 “(C) EMISSION TRADING WITHIN A GENER-
4 ATING STATION.—

5 “(i) IN GENERAL.—For the purpose
6 of this subsection, taking into consider-
7 ation the cost of achieving the emission re-
8 duction, the Administrator may allow emis-
9 sion trading among the fossil fuel-fired
10 electric utility steam generating units con-
11 tained in a power generating station at a
12 single site if the aggregate emissions of
13 mercury from all such units at the power
14 generating station are less than or equal to
15 the aggregate emissions that would result
16 if all such units complied with the emission
17 standards established under paragraph
18 (1)(A).

19 “(ii) PROHIBITION ON TRADING
20 AMONG SITES.—The Administrator shall
21 not allow emission trading among fossil
22 fuel-fired electric utility steam generating
23 units at different sites.

24 “(iii) UNDERLYING DATA.—In car-
25 rying out clause (i), the Administrator

1 shall use mercury emission data obtained
2 under paragraph (3)(B).

3 “(D) CONTROL METHODS.—For the pur-
4 pose of achieving compliance with the emission
5 standards established under paragraph (1)(A),
6 the Administrator shall authorize methods of
7 control of mercury emissions, including meas-
8 ures that—

9 “(i) reduce the volume of, or eliminate
10 emissions of, mercury through a process
11 change, substitution of material or fuel, or
12 other method;

13 “(ii) enclose systems or processes to
14 eliminate mercury emissions;

15 “(iii) collect, capture, or treat mer-
16 cury emissions when released from a proc-
17 ess, stack, storage, or fugitive emission
18 point;

19 “(iv) consist of design, equipment,
20 work practice, or operational standards
21 (including requirements for operator train-
22 ing or certification) in accordance with
23 subsection (h); or

1 “(v) consist of a combination of the
2 measures described in clauses (i) through
3 (iv).

4 “(3) PERMIT REQUIREMENTS AND CONDI-
5 TIONS.—

6 “(A) IN GENERAL.—Each permit issued in
7 accordance with paragraph (1)(B) shall in-
8 clude—

9 “(i) enforceable mercury emission
10 standards;

11 “(ii) a schedule of compliance;

12 “(iii) a requirement that the permittee
13 submit to the permitting authority, not less
14 often than every 90 days, the results of
15 any required monitoring; and

16 “(iv) such other conditions as the Ad-
17 ministrator determines are necessary to en-
18 sure compliance with this subsection and
19 each applicable implementation plan under
20 section 110.

21 “(B) MONITORING AND ANALYSIS.—

22 “(i) PROCEDURES AND METHODS.—
23 The regulations promulgated by the Ad-
24 ministrator under paragraph (1)(A) shall
25 prescribe procedures and methods for—

1 “(I) monitoring and analysis for
2 mercury; and

3 “(II) determining compliance
4 with this subsection.

5 “(ii) INFORMATION.—Application of
6 the procedures and methods shall result in
7 reliable and timely information for deter-
8 mining compliance.

9 “(iii) OTHER REQUIREMENTS.—The
10 requirements for monitoring and analysis
11 under this subparagraph shall include—

12 “(I) such requirements that re-
13 sult in a representative determination
14 of mercury in ash and sludge; and

15 “(II) such combination of re-
16 quirements for continuous or other re-
17 liable and representative direct emis-
18 sion monitoring methods that results
19 in a representative determination of
20 mercury in fuel as received by each
21 fossil fuel-fired electric utility steam
22 generating unit;

23 as are requisite to provide accurate and re-
24 liable data for determining emissions of

1 mercury from each fossil fuel-fired electric
2 utility steam generating unit.

3 “(iv) EFFECT ON OTHER LAW.—
4 Nothing in this subsection affects any con-
5 tinuous emission monitoring requirement
6 of title IV or any other provision of this
7 Act.

8 “(C) INSPECTION, ENTRY, MONITORING,
9 CERTIFICATION, AND REPORTING.—

10 “(i) IN GENERAL.—Each permit
11 issued in accordance with paragraph
12 (1)(B) shall specify inspection, entry, mon-
13 itoring, compliance certification, and re-
14 porting requirements to ensure compliance
15 with the permit terms and conditions.

16 “(ii) CONFORMITY WITH OTHER REG-
17 ULATIONS.—The monitoring and reporting
18 requirements shall conform to each appli-
19 cable regulation under subparagraph (B).

20 “(iii) SIGNATURE.—Each report re-
21 quired under clause (i) and subparagraph
22 (B)(iii) shall be signed by a responsible of-
23 ficial of the fossil fuel-fired electric utility
24 steam generating unit, who shall certify
25 the accuracy of the report.

1 “(4) DISPOSAL OF MERCURY CAPTURED
2 THROUGH EMISSION CONTROLS.—

3 “(A) IN GENERAL.—

4 “(i) CAPTURED OR RECOVERED MER-
5 CURY.—The regulations promulgated by
6 the Administrator under paragraph (1)(A)
7 shall ensure that mercury that is captured
8 or recovered through the use of an emis-
9 sion control, coal cleaning, or another
10 method is disposed of in a manner that en-
11 sures that—

12 “(I) the hazards from mercury
13 are not transferred from 1 environ-
14 mental medium to another; and

15 “(II) there is no release of mer-
16 cury into the environment (as the
17 terms ‘release’ and ‘environment’ are
18 defined in section 101 of the Com-
19 prehensive Environmental Response,
20 Compensation, and Liability Act of
21 1980 (42 U.S.C. 9601)).

22 “(ii) MERCURY-CONTAINING SLUDGES
23 AND WASTES.—The regulations promul-
24 gated by the Administrator under para-
25 graph (1)(A) shall ensure that mercury-

1 containing sludges and wastes are handled
2 and disposed of in accordance with all ap-
3 plicable Federal and State laws (including
4 regulations).

5 “(B) RESEARCH PROGRAM.—To promote
6 permanent and cost-effective disposal of mer-
7 cury from fossil fuel-fired electric utility steam
8 generating units, the Administrator shall estab-
9 lish a program of long-term research to develop
10 and disseminate information on methods and
11 techniques such as separating, solidifying, recy-
12 cling, and encapsulating mercury-containing
13 waste so that mercury does not volatilize, mi-
14 grate to ground water or surface water, or con-
15 taminates the soil.

16 “(5) OTHER REQUIREMENTS.—An emission
17 standard or other requirement promulgated under
18 this subsection does not diminish or replace any re-
19 quirement of a more stringent emission limitation or
20 other applicable requirement established under this
21 Act or a standard issued under State law.

22 “(6) PUBLIC REPORTING OF DATA PERTAINING
23 TO EMISSIONS OF MERCURY.—

24 “(A) IN GENERAL.—The Administrator
25 shall annually make available to the public,

1 through 1 or more published reports and 1 or
 2 more forms of electronic media, facility-specific
 3 mercury emission data for each fossil fuel-fired
 4 electric utility steam generating unit.

5 “(B) SOURCE OF DATA.—The emission
 6 data shall be taken from the monitoring and
 7 analysis reports submitted under paragraph
 8 (3)(C).”.

9 **SEC. 4. MERCURY EMISSION STANDARDS FOR COAL- AND**
 10 **OIL-FIRED COMMERCIAL AND INDUSTRIAL**
 11 **BOILER UNITS.**

12 Section 112 of the Clean Air Act (as amended by sec-
 13 tion 3) is amended by inserting after subsection (s) the
 14 following:

15 “(t) MERCURY EMISSION STANDARDS FOR COAL-
 16 AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER
 17 UNITS.—

18 “(1) IN GENERAL.—

19 “(A) REGULATIONS.—Not later than 180
 20 days after the date of enactment of this sub-
 21 paragraph, the Administrator shall promulgate
 22 regulations to establish standards for the emis-
 23 sion of mercury and mercury compounds (col-
 24 lectively referred to in this subsection as ‘mer-
 25 cury’) applicable to existing and new coal- and

1 oil-fired commercial and industrial boiler units
2 that have a maximum design heat input capac-
3 ity of 10 mmBtu per hour or greater.

4 “(B) PERMIT REQUIREMENT.—Not later
5 than 2 years after the date of enactment of this
6 subparagraph, each coal- or oil-fired commercial
7 or industrial boiler unit shall have an enforce-
8 able permit issued under title V that complies
9 with this subsection.

10 “(C) PROCEDURES AND SCHEDULES FOR
11 COMPLIANCE WITH STANDARDS.—Each coal- or
12 oil-fired commercial or industrial boiler unit
13 shall achieve compliance with the mercury emis-
14 sion standards established under subparagraph
15 (A) in accordance with the procedures and
16 schedules established under subsection (i).

17 “(2) STANDARDS AND METHODS.—

18 “(A) EMISSION STANDARD.—Subject to
19 subparagraphs (B) and (C), the emission stand-
20 ards established under paragraph (1)(A) shall
21 require that each coal- or oil-fired commercial
22 or industrial boiler unit achieve the maximum
23 degree of reduction in emissions of mercury, as
24 determined under subsection (d).

1 “(B) MINIMUM REQUIRED EMISSION RE-
2 DUCTION.—The emission standards established
3 under paragraph (1)(A) shall reduce the total
4 emissions of mercury from coal- and oil-fired
5 commercial and industrial boiler units in the
6 United States by not less than 90 percent from
7 1999 levels.

8 “(C) EMISSION TRADING WITHIN A FACIL-
9 ITY.—

10 “(i) IN GENERAL.—For the purpose
11 of this subsection, taking into consider-
12 ation the cost of achieving the emission re-
13 duction, the Administrator may allow emis-
14 sion trading among the coal- and oil-fired
15 commercial and industrial boiler units con-
16 tained in a facility at a single site if the
17 aggregate emissions of mercury from all
18 such units at the facility are less than or
19 equal to the aggregate emissions that
20 would result if all such units complied with
21 the emission standards established under
22 paragraph (1)(A).

23 “(ii) PROHIBITION ON TRADING
24 AMONG SITES.—The Administrator shall
25 not allow emission trading among coal-

1 and oil-fired commercial and industrial
2 boiler units at different sites.

3 “(iii) UNDERLYING DATA.—In car-
4 rying out clause (i), the Administrator
5 shall use mercury emission data obtained
6 under paragraph (3)(B).

7 “(D) CONTROL METHODS.—For the pur-
8 pose of achieving compliance with the emission
9 standards established under paragraph (1)(A),
10 the Administrator shall authorize methods of
11 control of mercury emissions, including meas-
12 ures that—

13 “(i) reduce the volume of, or eliminate
14 emissions of, mercury through a process
15 change, substitution of material or fuel, or
16 other method;

17 “(ii) enclose systems or processes to
18 eliminate mercury emissions;

19 “(iii) collect, capture, or treat mer-
20 cury emissions when released from a proc-
21 ess, stack, storage, or fugitive emission
22 point;

23 “(iv) consist of design, equipment,
24 work practice, or operational standards
25 (including requirements for operator train-

1 ing or certification) in accordance with
2 subsection (h); or

3 “(v) consist of a combination of the
4 measures described in clauses (i) through
5 (iv).

6 “(3) PERMIT REQUIREMENTS AND CONDI-
7 TIONS.—

8 “(A) IN GENERAL.—Each permit issued in
9 accordance with paragraph (1)(B) shall in-
10 clude—

11 “(i) enforceable mercury emission
12 standards;

13 “(ii) a schedule of compliance;

14 “(iii) a requirement that the permittee
15 submit to the permitting authority, not less
16 often than every 90 days, the results of
17 any required monitoring; and

18 “(iv) such other conditions as the Ad-
19 ministrator determines are necessary to en-
20 sure compliance with this subsection and
21 each applicable implementation plan under
22 section 110.

23 “(B) MONITORING AND ANALYSIS.—

24 “(i) PROCEDURES AND METHODS.—

25 The regulations promulgated by the Ad-

1 administrator under paragraph (1)(A) shall
2 prescribe procedures and methods for—

3 “(I) monitoring and analysis for
4 mercury; and

5 “(II) determining compliance
6 with this subsection.

7 “(ii) INFORMATION.—Application of
8 the procedures and methods shall result in
9 reliable and timely information for deter-
10 mining compliance.

11 “(iii) OTHER REQUIREMENTS.—The
12 requirements for monitoring and analysis
13 under this subparagraph shall include—

14 “(I) such requirements that re-
15 sult in a representative determination
16 of mercury in ash and sludge; and

17 “(II) such combination of re-
18 quirements for continuous or other re-
19 liable and representative direct emis-
20 sion monitoring methods that results
21 in a representative determination of
22 mercury in fuel as received by each
23 coal- or oil-fired commercial or indus-
24 trial boiler unit;

1 as are requisite to provide accurate and re-
2 liable data for determining emissions of
3 mercury from each coal- or oil-fired com-
4 mercial or industrial boiler unit.

5 “(iv) EFFECT ON OTHER LAW.—
6 Nothing in this subsection affects any con-
7 tinuous emission monitoring requirement
8 of title IV or any other provision of this
9 Act.

10 “(C) INSPECTION, ENTRY, MONITORING,
11 CERTIFICATION, AND REPORTING.—

12 “(i) IN GENERAL.—Each permit
13 issued in accordance with paragraph
14 (1)(B) shall specify inspection, entry, mon-
15 itoring, compliance certification, and re-
16 porting requirements to ensure compliance
17 with the permit terms and conditions.

18 “(ii) CONFORMITY WITH OTHER REG-
19 ULATIONS.—The monitoring and reporting
20 requirements shall conform to each appli-
21 cable regulation under subparagraph (B).

22 “(iii) SIGNATURE.—Each report re-
23 quired under clause (i) and subparagraph
24 (B)(iii) shall be signed by a responsible of-
25 ficial of the coal- or oil-fired commercial or

1 industrial boiler unit, who shall certify the
2 accuracy of the report.

3 “(4) DISPOSAL OF MERCURY CAPTURED
4 THROUGH EMISSION CONTROLS.—

5 “(A) IN GENERAL.—

6 “(i) CAPTURED OR RECOVERED MER-
7 CURY.—The regulations promulgated by
8 the Administrator under paragraph (1)(A)
9 shall ensure that mercury that is captured
10 or recovered through the use of an emis-
11 sion control, coal cleaning, or another
12 method is disposed of in a manner that en-
13 sures that—

14 “(I) the hazards from mercury
15 are not transferred from 1 environ-
16 mental medium to another; and

17 “(II) there is no release of mer-
18 cury into the environment (as the
19 terms ‘release’ and ‘environment’ are
20 defined in section 101 of the Com-
21 prehensive Environmental Response,
22 Compensation, and Liability Act of
23 1980 (42 U.S.C. 9601)).

24 “(ii) MERCURY-CONTAINING SLUDGES
25 AND WASTES.—The regulations promul-

1 gated by the Administrator under para-
2 graph (1)(A) shall ensure that mercury-
3 containing sludges and wastes are handled
4 and disposed of in accordance with all ap-
5 plicable Federal and State laws (including
6 regulations).

7 “(B) RESEARCH PROGRAM.—To promote
8 permanent and cost-effective disposal of mer-
9 cury from coal- and oil-fired commercial and in-
10 dustrial boiler units, the Administrator shall es-
11 tablish a program of long-term research to de-
12 velop and disseminate information on methods
13 and techniques such as separating, solidifying,
14 recycling, and encapsulating mercury-containing
15 waste so that mercury does not volatilize, mi-
16 grate to ground water or surface water, or con-
17 taminates the soil.

18 “(5) OTHER REQUIREMENTS.—An emission
19 standard or other requirement promulgated under
20 this subsection does not diminish or replace any re-
21 quirement of a more stringent emission limitation or
22 other applicable requirement established under this
23 Act or a standard issued under State law.

24 “(6) PUBLIC REPORTING OF DATA PERTAINING
25 TO EMISSIONS OF MERCURY.—

1 “(A) IN GENERAL.—The Administrator
2 shall annually make available to the public,
3 through 1 or more published reports and 1 or
4 more forms of electronic media, facility-specific
5 mercury emission data for each coal- or oil-fired
6 commercial or industrial boiler unit.

7 “(B) SOURCE OF DATA.—The emission
8 data shall be taken from the monitoring and
9 analysis reports submitted under paragraph
10 (3)(C).”.

11 **SEC. 5. REDUCTION OF MERCURY EMISSIONS FROM SOLID**
12 **WASTE INCINERATION UNITS.**

13 (a) SEPARATION OF MERCURY-CONTAINING
14 ITEMS.—Section 3002 of the Solid Waste Disposal Act
15 (42 U.S.C. 6922) is amended by adding at the end the
16 following:

17 “(c) SEPARATION OF MERCURY-CONTAINING
18 ITEMS.—

19 “(1) PUBLICATION OF LIST.—

20 “(A) IN GENERAL.—Not later than 180
21 days after the date of enactment of this sub-
22 section, the Administrator shall publish a list of
23 mercury-containing items that shall be required
24 to be separated and removed from the waste

1 streams that feed solid waste management fa-
2 cilities.

3 “(B) REQUIRED ITEMS.—The list shall in-
4 clude mercury-containing items such as fluores-
5 cent light bulbs and tubes, batteries, pharma-
6 ceuticals, laboratory chemicals and reagents,
7 electrical devices such as thermostats, relays,
8 and switches, and medical and scientific instru-
9 ments.

10 “(C) LABELING REQUIREMENT.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), to facilitate the process
13 of separating and removing items listed
14 under subparagraph (A), each manufac-
15 turer of a listed item shall ensure that
16 each item is clearly labeled to indicate that
17 the product contains mercury.

18 “(ii) BUTTON CELL BATTERIES.—In
19 the case of button cell batteries for which,
20 due to size constraints, labeling described
21 in clause (i) is not practicable, the pack-
22 aging shall indicate that the product con-
23 tains mercury.

24 “(2) PLAN.—

1 “(A) REQUIREMENT.—Not later than 1
2 year after the date of enactment of this sub-
3 section, each person that transfers, directly or
4 through a contractor, solid waste that may con-
5 tain a mercury-containing item listed under
6 paragraph (1) to a solid waste management fa-
7 cility shall submit for review and approval by
8 the Administrator (or, in the case of a solid
9 waste management facility located in a State
10 that has a State hazardous waste program au-
11 thorized under section 3006, the State) a plan
12 for—

13 “(i) separating and removing mer-
14 cury-containing items listed by the Admin-
15 istrator under paragraph (1) from the
16 waste streams that feed any solid waste
17 management facility;

18 “(ii) subject to the other requirements
19 of this subtitle, transferring the separated
20 waste to a recycling facility or a treatment,
21 storage, or disposal facility that holds a
22 permit under this subtitle;

23 “(iii) monitoring and reporting on
24 compliance with the plan; and

1 “(iv) achieving full compliance with
2 the plan not later than 18 months after
3 the date of approval of the plan in accord-
4 ance with subparagraph (B).

5 “(B) PLAN APPROVAL.—

6 “(i) DEADLINE.—The Administrator
7 (or the State) shall determine whether to
8 approve or disapprove a plan submitted
9 under subparagraph (A) not later than 180
10 days after the date of receipt of the plan.

11 “(ii) PREFERENCE.—In determining
12 whether to approve a plan, the Adminis-
13 trator (or the State) shall give preference
14 to recycling or stabilization of mercury-
15 containing items over disposal of the items.

16 “(C) AMENDED PLAN.—

17 “(i) SUBMISSION.—If the Adminis-
18 trator (or the State) disapproves a plan,
19 the person may submit an amended plan
20 not later than 90 days after the date of
21 disapproval.

22 “(ii) APPROVAL.—The Administrator
23 (or the State) shall approve or disapprove
24 the amended plan not later than 30 days
25 after the date of receipt of the plan.

1 “(D) PLAN BY ADMINISTRATOR (OR
2 STATE).—

3 “(i) IN GENERAL.—If an amended
4 plan is not submitted to the Administrator
5 (or the State) within 90 days after the
6 date of disapproval, or if an amended plan
7 has been submitted and subsequently dis-
8 approved, the Administrator (or the State)
9 shall issue a determination that it is nec-
10 essary for the Administrator (or the State)
11 to promulgate a plan for the person.

12 “(ii) PLAN.—Not later than 180 days
13 after issuing the determination, the Ad-
14 ministrator (or the State) shall develop,
15 publish in the Federal Register (or submit
16 to the Administrator for publication in the
17 Federal Register), implement, and enforce
18 a plan that meets the criteria specified in
19 subparagraph (A) and ensures that full
20 compliance with the plan will be achieved
21 not later than 18 months after the date of
22 publication of the plan.

23 “(E) ENFORCEABILITY.—Upon approval
24 by the Administrator (or the State) of a plan
25 submitted under subparagraph (A), or upon

1 publication of a plan developed by the Adminis-
 2 trator (or the State) under subparagraph (D),
 3 the plan shall be enforceable under this Act.”.

4 (b) SOLID WASTE INCINERATION UNIT MERCURY
 5 EMISSION MONITORING AND ANALYSIS.—Section 129(e)
 6 of the Clean Air Act (42 U.S.C. 7429(e)) is amended—

7 (1) by striking “Beginning (1) 36” and insert-
 8 ing the following:

9 “(1) IN GENERAL.—Beginning (A) 36”;

10 (2) in the first sentence, by redesignating para-
 11 graph (2) as subparagraph (B); and

12 (3) by adding at the end the following:

13 “(2) SOLID WASTE INCINERATION UNIT MER-
 14 CURY EMISSION MONITORING AND ANALYSIS.—

15 “(A) PROCEDURES AND METHODS.—

16 “(i) IN GENERAL.—Not later than
 17 180 days after the date of enactment of
 18 this subparagraph, the Administrator shall
 19 promulgate regulations prescribing proce-
 20 dures and methods for—

21 “(I) monitoring and analysis for
 22 mercury emissions from solid waste
 23 combustion flue gases; and

24 “(II) determining compliance
 25 with this paragraph.

1 “(ii) INFORMATION.—Application of
2 the procedures and methods shall result in
3 reliable and timely information for deter-
4 mining compliance.

5 “(B) PERMIT REQUIREMENTS.—

6 “(i) IN GENERAL.—Each permit de-
7 scribed in paragraph (1) shall specify in-
8 spection, entry, monitoring, compliance
9 certification, and reporting requirements
10 with respect to mercury to ensure compli-
11 ance with the permit terms and conditions,
12 including a requirement that the permittee
13 submit to the permitting authority, not less
14 often than every 90 days, the results of
15 any required monitoring.

16 “(ii) SIGNATURE.—Each report re-
17 quired under clause (i) shall be signed by
18 a responsible official of the solid waste in-
19 cineration unit or by a municipal official,
20 who shall certify the accuracy of the re-
21 port.

22 “(C) ESTABLISHMENT OF MAXIMUM MER-
23 CURY EMISSION RATE.—

24 “(i) DETERMINATION BY THE ADMIN-
25 ISTRATOR.—Based on the reports required

1 to be submitted under subparagraph (B)(i)
2 36 months, 39 months, and 42 months
3 after the date of enactment of this sub-
4 paragraph, the Administrator (or the
5 State) shall make a determination as to
6 whether the solid waste incinerator unit
7 has achieved and is continuously maintain-
8 ing a mercury emission rate of not more
9 than 0.080 milligrams per dry standard
10 cubic meter.

11 “(ii) REQUIREMENT OF INSTALLA-
12 TION OF CONTROLS.—If the mercury emis-
13 sion rate specified in clause (i) is not
14 achieved and maintained over the period
15 covered by the reports referred to in clause
16 (i), or over any 2 out of 3 reporting peri-
17 ods thereafter, the Administrator shall re-
18 quire that the solid waste incineration unit
19 install control equipment and techniques
20 that will, within 3 years, result in a mer-
21 cury emission rate by the unit of not more
22 than 0.060 milligrams per dry standard
23 cubic meter.

24 “(iii) ENFORCEABILITY.—The re-
25 quirements of this subparagraph shall be

1 an enforceable modification to any existing
2 or new permit described in paragraph (1)
3 for the solid waste incineration unit.

4 “(D) OTHER REQUIREMENTS.—An emis-
5 sion standard or other requirement promulgated
6 under this subsection does not diminish or re-
7 place any requirement of a more stringent emis-
8 sion limitation or other applicable requirement
9 established under this Act or a standard issued
10 under State law.

11 “(E) PUBLIC REPORTING OF DATA PER-
12 TAINING TO EMISSIONS OF MERCURY.—

13 “(i) IN GENERAL.—The Administrator
14 shall annually make available to the public,
15 through 1 or more published reports and 1
16 or more forms of electronic media, facility-
17 specific mercury emission data for each
18 solid waste incineration unit.

19 “(ii) SOURCE OF DATA.—The emis-
20 sion data shall be taken from the moni-
21 toring and analysis reports submitted
22 under subparagraph (B).”.

23 (c) PHASEOUT OF MERCURY IN PRODUCTS.—Section
24 112 of the Clean Air Act (as amended by section 4) is
25 amended by inserting after subsection (t) the following:

1 “(u) PHASEOUT OF MERCURY IN PRODUCTS.—

2 “(1) DEFINITION OF MANUFACTURER.—In this
3 subsection, the term ‘manufacturer’ includes an im-
4 porter for resale.

5 “(2) PROHIBITION ON SALE.—Beginning 3
6 years after the date of enactment of this paragraph,
7 a manufacturer shall not sell any mercury-con-
8 taining product, whether manufactured domestically,
9 imported, or manufactured for export, unless the
10 manufacturer has applied for and has been granted
11 by the Administrator an exemption from the prohibi-
12 tion on sale specified in this paragraph.

13 “(3) PROCEDURES FOR MAKING EXEMPTION
14 APPLICATION DETERMINATIONS.—Before making a
15 determination on an application, the Administrator
16 shall—

17 “(A) publish notice of the application in
18 the Federal Register;

19 “(B) provide a public comment period of
20 60 days; and

21 “(C) conduct a hearing on the record.

22 “(4) CRITERIA FOR EXEMPTION.—In making a
23 determination on an application, the Administrator
24 may grant an exemption from the prohibition on sale
25 only if—

1 “(A) the Administrator determines that
2 the mercury-containing product is a product the
3 use of which is essential;

4 “(B) the Administrator determines that
5 there is no comparable product that does not
6 contain mercury and that is available in the
7 marketplace at a reasonable cost; and

8 “(C) through documentation submitted by
9 the manufacturer, the Administrator determines
10 that the manufacturer has established a pro-
11 gram to take back, after use by the consumer,
12 all mercury-containing products subject to the
13 exemption that are manufactured after the date
14 of approval of the application.

15 “(5) TERM OF EXEMPTION.—

16 “(A) IN GENERAL.—An exemption may be
17 granted for a period of not more than 3 years.

18 “(B) RENEWALS.—Renewal of an exemp-
19 tion shall be carried out in accordance with
20 paragraphs (3) and (4).

21 “(6) PUBLICATIONS IN THE FEDERAL REG-
22 ISTER.—The Administrator shall publish in the Fed-
23 eral Register—

24 “(A) a description of each exemption appli-
25 cation approval or denial; and

1 “(B) on an annual basis, a list of products
2 for which exemptions have been granted under
3 this subsection.”.

4 **SEC. 6. MERCURY EMISSION STANDARDS FOR CHLOR-AL-**
5 **KALI PLANTS.**

6 Section 112 of the Clean Air Act (as amended by sec-
7 tion 5(c)) is amended by inserting after subsection (u) the
8 following:

9 “(v) MERCURY EMISSION STANDARDS FOR CHLOR-
10 ALKALI PLANTS.—

11 “(1) IN GENERAL.—

12 “(A) REGULATIONS.—Not later than 180
13 days after the date of enactment of this sub-
14 paragraph, the Administrator shall promulgate
15 regulations to establish standards for the direct
16 and fugitive emission of mercury and mercury
17 compounds (collectively referred to in this sub-
18 section as ‘mercury’) applicable to existing and
19 new chlor-alkali plants that use the mercury cell
20 production process (referred to in this sub-
21 section as ‘mercury cell chlor-alkali plants’).

22 “(B) PERMIT REQUIREMENT.—Not later
23 than 2 years after the date of enactment of this
24 subparagraph, each mercury cell chlor-alkali

1 plant shall have an enforceable permit issued
2 under title V that complies with this subsection.

3 “(C) PROCEDURES AND SCHEDULES FOR
4 COMPLIANCE WITH STANDARDS.—Each mer-
5 cury cell chlor-alkali plant shall achieve compli-
6 ance with the mercury emission standards es-
7 tablished under subparagraph (A) in accordance
8 with the procedures and schedules established
9 under subsection (i).

10 “(2) STANDARDS AND METHODS.—

11 “(A) MINIMUM REQUIRED EMISSION RE-
12 Duction.—The emission standards established
13 under paragraph (1)(A) shall require that each
14 mercury cell chlor-alkali plant reduce its annual
15 poundage of direct and fugitive mercury emit-
16 ted below its mercury emission baseline, as de-
17 termined by the Administrator, by not less than
18 95 percent.

19 “(B) CONTROL METHODS.—For the pur-
20 pose of achieving compliance with the emission
21 standards established under paragraph (1)(A),
22 the Administrator shall authorize methods of
23 control of mercury emissions, including meas-
24 ures that—

1 “(i) reduce the volume of, or eliminate
2 emissions of, mercury through a process
3 change, substitution of material, or other
4 method;

5 “(ii) enclose systems or processes to
6 eliminate mercury emissions;

7 “(iii) collect, capture, or treat mer-
8 cury emissions when released from a proc-
9 ess, stack, storage, or fugitive emission
10 point, or through evaporation of a spill;

11 “(iv) consist of design, equipment,
12 manufacturing process, work practice, or
13 operational standards (including require-
14 ments for operator training or certification
15 or spill prevention) in accordance with sub-
16 section (h); or

17 “(v) consist of a combination of the
18 measures described in clauses (i) through
19 (iv).

20 “(3) PERMIT REQUIREMENTS AND CONDI-
21 TIONS.—

22 “(A) IN GENERAL.—Each permit issued in
23 accordance with paragraph (1)(B) shall in-
24 clude—

1 “(i) enforceable mercury emission
2 standards;

3 “(ii) a schedule of compliance;

4 “(iii) a requirement that the permittee
5 submit to the permitting authority, not less
6 often than every 90 days, the results of
7 any required monitoring; and

8 “(iv) such other conditions as the Ad-
9 ministrator determines are necessary to en-
10 sure compliance with this subsection and
11 each applicable implementation plan under
12 section 110.

13 “(B) MONITORING AND ANALYSIS.—

14 “(i) PROCEDURES AND METHODS.—
15 The regulations promulgated by the Ad-
16 ministrator under paragraph (1)(A) shall
17 prescribe procedures and methods for—

18 “(I) monitoring and analysis for
19 mercury; and

20 “(II) determining compliance
21 with this subsection.

22 “(ii) INFORMATION.—Application of
23 the procedures and methods shall result in
24 reliable and timely information for deter-
25 mining compliance.

1 “(iii) EFFECT ON OTHER LAW.—
2 Nothing in this subsection affects any con-
3 tinuous emission monitoring requirement
4 of title IV or any other provision of this
5 Act.

6 “(C) INSPECTION, ENTRY, MONITORING,
7 CERTIFICATION, AND REPORTING.—

8 “(i) IN GENERAL.—Each permit
9 issued in accordance with paragraph
10 (1)(B) shall specify inspection, entry, mon-
11 itoring, compliance certification, and re-
12 porting requirements to ensure compliance
13 with the permit terms and conditions.

14 “(ii) CONFORMITY WITH OTHER REG-
15 ULATIONS.—The monitoring and reporting
16 requirements shall conform to each appli-
17 cable regulation under subparagraph (B).

18 “(iii) SIGNATURE.—Each report re-
19 quired under clause (i) shall be signed by
20 a responsible official of the mercury cell
21 chlor-alkali plant, who shall certify the ac-
22 curacy of the report.

23 “(4) DISPOSAL OF MERCURY CAPTURED
24 THROUGH EMISSION CONTROLS.—

25 “(A) IN GENERAL.—

1 “(i) CAPTURED OR RECOVERED MER-
2 CURY.—The regulations promulgated by
3 the Administrator under paragraph (1)(A)
4 shall ensure that mercury that is captured
5 or recovered through the use of an emis-
6 sion control or another method is disposed
7 of in a manner that ensures that—

8 “(I) the hazards from mercury
9 are not transferred from 1 environ-
10 mental medium to another; and

11 “(II) there is no release of mer-
12 cury into the environment (as the
13 terms ‘release’ and ‘environment’ are
14 defined in section 101 of the Com-
15 prehensive Environmental Response,
16 Compensation, and Liability Act of
17 1980 (42 U.S.C. 9601)).

18 “(ii) MERCURY-CONTAINING
19 WASTES.—The regulations promulgated by
20 the Administrator under paragraph (1)(A)
21 shall ensure that mercury-containing
22 wastes are handled and disposed of in ac-
23 cordance with all applicable Federal and
24 State laws (including regulations).

1 “(B) RESEARCH PROGRAM.—To promote
2 permanent and cost-effective disposal of mer-
3 cury from mercury cell chlor-alkali plants, the
4 Administrator shall establish a program of long-
5 term research to develop and disseminate infor-
6 mation on methods and techniques such as sep-
7 arating, solidifying, recycling, and encapsulating
8 mercury-containing waste so that mercury does
9 not volatilize, migrate to ground water or sur-
10 face water, or contaminate the soil.

11 “(5) OTHER REQUIREMENTS.—An emission
12 standard or other requirement promulgated under
13 this subsection does not diminish or replace any re-
14 quirement of a more stringent emission limitation or
15 other applicable requirement established under this
16 Act or a standard issued under State law.

17 “(6) PUBLIC REPORTING OF DATA PERTAINING
18 TO EMISSIONS OF MERCURY.—

19 “(A) IN GENERAL.—The Administrator
20 shall annually make available to the public,
21 through 1 or more published reports and 1 or
22 more forms of electronic media, facility-specific
23 mercury emission data for each mercury cell
24 chlor-alkali plant.

1 “(B) SOURCE OF DATA.—The emission
2 data shall be taken from the monitoring and
3 analysis reports submitted under paragraph
4 (3)(C).”.

5 **SEC. 7. MERCURY EMISSION STANDARDS FOR PORTLAND**
6 **CEMENT PLANTS.**

7 Section 112 of the Clean Air Act (as amended by sec-
8 tion 6) is amended by inserting after subsection (v) the
9 following:

10 “(w) MERCURY EMISSION STANDARDS FOR PORT-
11 LAND CEMENT PLANTS.—

12 “(1) IN GENERAL.—

13 “(A) REGULATIONS.—Not later than 180
14 days after the date of enactment of this sub-
15 paragraph, the Administrator shall promulgate
16 regulations—

17 “(i) to establish standards for the
18 control of direct dust emission of mercury
19 and mercury compounds (collectively re-
20 ferred to in this subsection as ‘mercury’)
21 from crushers, mills, dryers, kilns (exclud-
22 ing emission from such burning of haz-
23 ardous waste-containing fuel in a cement
24 kiln as is regulated under section 3004(q)
25 of the Solid Waste Disposal Act (42

1 U.S.C. 6924(q)), and clinker coolers at ex-
2 isting and new Portland cement plants;
3 and

4 “(ii) to establish standards for the
5 control of fugitive dust emission of mer-
6 cury from storage, transport, charging,
7 and discharging operations at existing and
8 new Portland cement plants.

9 “(B) PERMIT REQUIREMENT.—Not later
10 than 2 years after the date of enactment of this
11 subparagraph, each Portland cement plant shall
12 have an enforceable permit issued under title V
13 that complies with this subsection.

14 “(C) PROCEDURES AND SCHEDULES FOR
15 COMPLIANCE WITH STANDARDS.—Each Port-
16 land cement plant shall achieve compliance with
17 the mercury emission standards established
18 under subparagraph (A) in accordance with the
19 procedures and schedules established under
20 subsection (i).

21 “(2) STANDARDS AND METHODS.—

22 “(A) MINIMUM REQUIRED EMISSION RE-
23 Duction.—The emission standards established
24 under paragraph (1)(A) shall require that each
25 Portland cement plant reduce its annual pound-

1 age of direct and fugitive mercury emitted
2 below its mercury emission baseline, as deter-
3 mined by the Administrator, by not less than
4 95 percent.

5 “(B) CONTROL METHODS.—For the pur-
6 pose of achieving compliance with the emission
7 standards established under paragraph (1)(A),
8 the Administrator shall authorize methods of
9 control of mercury emissions, including meas-
10 ures that—

11 “(i) reduce the volume of, or eliminate
12 emissions of, mercury through a process
13 change, substitution of material, or other
14 method;

15 “(ii) enclose systems, processes, or
16 storage to eliminate mercury emissions;

17 “(iii) collect, capture, or treat mer-
18 cury emissions when released from a proc-
19 ess, stack, storage, or fugitive emission
20 point;

21 “(iv) consist of design, equipment,
22 manufacturing process, work practice, or
23 operational standards (including require-
24 ments for operator training or certifi-

1 cation) in accordance with subsection (h);
 2 or

3 “(v) consist of a combination of the
 4 measures described in clauses (i) through
 5 (iv).

6 “(3) PERMIT REQUIREMENTS AND CONDI-
 7 TIONS.—

8 “(A) IN GENERAL.—Each permit issued in
 9 accordance with paragraph (1)(B) shall in-
 10 clude—

11 “(i) enforceable mercury emission
 12 standards;

13 “(ii) a schedule of compliance;

14 “(iii) a requirement that the permittee
 15 submit to the permitting authority, not less
 16 often than every 90 days, the results of
 17 any required monitoring; and

18 “(iv) such other conditions as the Ad-
 19 ministrator determines are necessary to en-
 20 sure compliance with this subsection and
 21 each applicable implementation plan under
 22 section 110.

23 “(B) MONITORING AND ANALYSIS.—

24 “(i) PROCEDURES AND METHODS.—

25 The regulations promulgated by the Ad-

1 administrator under paragraph (1)(A) shall
2 prescribe procedures and methods for—

3 “(I) monitoring and analysis for
4 mercury; and

5 “(II) determining compliance
6 with this subsection.

7 “(ii) INFORMATION.—Application of
8 the procedures and methods shall result in
9 reliable and timely information for deter-
10 mining compliance.

11 “(iii) EFFECT ON OTHER LAW.—
12 Nothing in this subsection affects any con-
13 tinuous emission monitoring requirement
14 of title IV or any other provision of this
15 Act.

16 “(C) INSPECTION, ENTRY, MONITORING,
17 CERTIFICATION, AND REPORTING.—

18 “(i) IN GENERAL.—Each permit
19 issued in accordance with paragraph
20 (1)(B) shall specify inspection, entry, mon-
21 itoring, compliance certification, and re-
22 porting requirements to ensure compliance
23 with the permit terms and conditions.

24 “(ii) CONFORMITY WITH OTHER REG-
25 ULATIONS.—The monitoring and reporting

1 requirements shall conform to each appli-
2 cable regulation under subparagraph (B).

3 “(iii) SIGNATURE.—Each report re-
4 quired under clause (i) shall be signed by
5 a responsible official of the Portland ce-
6 ment plant, who shall certify the accuracy
7 of the report.

8 “(4) DISPOSAL OF MERCURY CAPTURED
9 THROUGH EMISSION CONTROLS.—

10 “(A) IN GENERAL.—

11 “(i) CAPTURED OR RECOVERED MER-
12 CURY.—The regulations promulgated by
13 the Administrator under paragraph (1)(A)
14 shall ensure that mercury that is captured
15 or recovered through the use of an emis-
16 sion control or another method is disposed
17 of in a manner that ensures that—

18 “(I) the hazards from mercury
19 are not transferred from 1 environ-
20 mental medium to another; and

21 “(II) there is no release of mer-
22 cury into the environment (as the
23 terms ‘release’ and ‘environment’ are
24 defined in section 101 of the Com-
25 prehensive Environmental Response,

1 Compensation, and Liability Act of
2 1980 (42 U.S.C. 9601)).

3 “(ii) MERCURY-CONTAINING
4 WASTES.—The regulations promulgated by
5 the Administrator under paragraph (1)(A)
6 shall ensure that mercury-containing
7 wastes are handled and disposed of in ac-
8 cordance with all applicable Federal and
9 State laws (including regulations).

10 “(B) RESEARCH PROGRAM.—To promote
11 permanent and cost-effective disposal of mer-
12 cury from Portland cement plants, the Adminis-
13 trator shall establish a program of long-term re-
14 search to develop and disseminate information
15 on methods and techniques such as separating,
16 solidifying, recycling, and encapsulating mer-
17 cury-containing waste so that mercury does not
18 volatilize, migrate to ground water or surface
19 water, or contaminate the soil.

20 “(5) OTHER REQUIREMENTS.—An emission
21 standard or other requirement promulgated under
22 this subsection does not diminish or replace any re-
23 quirement of a more stringent emission limitation or
24 other applicable requirement established under this
25 Act or a standard issued under State law.

1 “(6) PUBLIC REPORTING OF DATA PERTAINING
2 TO EMISSIONS OF MERCURY.—

3 “(A) IN GENERAL.—The Administrator
4 shall annually make available to the public,
5 through 1 or more published reports and 1 or
6 more forms of electronic media, facility-specific
7 mercury emission data for each Portland ce-
8 ment plant.

9 “(B) SOURCE OF DATA.—The emission
10 data shall be taken from the monitoring and
11 analysis reports submitted under paragraph
12 (3)(C).”.

13 **SEC. 8. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**
14 **SION STANDARDS FOR MEDICAL WASTE IN-**
15 **CINERATORS.**

16 (a) IN GENERAL.—Not later than 2 years after the
17 date of enactment of this Act, the Administrator of the
18 Environmental Protection Agency shall submit to Con-
19 gress a report on the extent to which the annual poundage
20 of mercury and mercury compounds emitted by each med-
21 ical waste incinerator in the United States has been re-
22 duced below the baseline for the medical waste incinerator
23 determined under subsection (b).

24 (b) BASELINE.—

1 (1) USE OF ACTUAL DATA.—As a baseline for
2 measuring emission reductions, the report shall use
3 the mercury and mercury compound emission data
4 that were submitted or developed during the process
5 of permitting of the medical waste incinerator under
6 the Clean Air Act (42 U.S.C. 7401 et seq.).

7 (2) LACK OF ACTUAL DATA.—If the data de-
8 scribed in paragraph (1) are not available, the Ad-
9 ministrator shall develop an estimate of baseline
10 mercury emissions based on other sources of data
11 and the best professional judgment of the Adminis-
12 trator.

13 **SEC. 9. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**
14 **SION STANDARDS FOR HAZARDOUS WASTE**
15 **COMBUSTORS.**

16 (a) IN GENERAL.—Not later than 2 years after the
17 date of enactment of this Act, the Administrator of the
18 Environmental Protection Agency shall submit to Con-
19 gress a report on the extent to which the annual poundage
20 of mercury and mercury compounds emitted by each haz-
21 ardous waste combustor in the United States has been re-
22 duced below the baseline for the hazardous waste com-
23 bustor determined under subsection (b).

24 (b) BASELINE.—

1 (1) USE OF ACTUAL DATA.—As a baseline for
2 measuring emission reductions, the report shall use
3 the mercury and mercury compound emission data
4 that were submitted or developed during the process
5 of permitting of the hazardous waste combustor
6 under the Clean Air Act (42 U.S.C. 7401 et seq.).

7 (2) LACK OF ACTUAL DATA.—If the data de-
8 scribed in paragraph (1) are not available, the Ad-
9 ministrator shall develop an estimate of baseline
10 mercury emissions based on other sources of data
11 and the best professional judgment of the Adminis-
12 trator.

13 **SEC. 10. DEFENSE ACTIVITIES.**

14 (a) REPORT.—

15 (1) IN GENERAL.—Not later than 2 years after
16 the date of enactment of this Act, the Secretary of
17 Defense shall submit to Congress a report on the
18 use of mercury and mercury compounds by the De-
19 partment of Defense.

20 (2) CONTENTS.—In the report, the Secretary of
21 Defense shall describe—

22 (A) measures that the Department of De-
23 fense is carrying out to reduce the use and
24 emissions of mercury and mercury compounds
25 by the Department; and

1 (B) measures that the Department of De-
2 fense is carrying out to stabilize or recycle dis-
3 carded mercury or discarded mercury-con-
4 taining products.

5 (b) PROHIBITION ON SALE.—Beginning on the date
6 of enactment of this Act, no mercury or mercury com-
7 pounds in the stockpile provided for under section 4 of
8 the Critical and Strategic Materials Stock Piling Act (50
9 U.S.C. 98c), commonly known as the “National Defense
10 Stockpile”, may be sold, domestically or internationally,
11 for commercial or industrial use.

12 **SEC. 11. INTERNATIONAL ACTIVITIES.**

13 (a) STUDY AND REPORT.—Not later than 2 years
14 after the date of enactment of this Act, the Administrator
15 of the Environmental Protection Agency, in cooperation
16 with appropriate representatives of Canada and Mexico,
17 shall study and submit to Congress a report on the sources
18 and extent of mercury emissions in North America.

19 (b) REVIEW.—Before submitting the report to Con-
20 gress, the Administrator shall submit the report for—

21 (1) internal and external scientific peer review;

22 and

23 (2) review by the Science Advisory Board estab-
24 lished by section 8 of the Environmental Research,

1 Development, and Demonstration Authorization Act
2 of 1978 (42 U.S.C. 4365).

3 (c) REQUIRED ELEMENTS.—The report shall in-
4 clude—

5 (1) a characterization and identification of the
6 sources of emissions of mercury in North America;

7 (2) a description of the patterns and pathways
8 taken by mercury pollution through the atmosphere
9 and surface water; and

10 (3) recommendations for pollution control meas-
11 ures, options, and strategies that, if implemented in-
12 dividually or jointly by the United States, Canada,
13 and Mexico, will eliminate or greatly reduce
14 transboundary atmospheric and surface water mer-
15 cury pollution in North America.

16 **SEC. 12. MERCURY RESEARCH.**

17 Section 103 of the Clean Air Act (42 U.S.C. 7403)
18 is amended by adding at the end the following:

19 “(1) MERCURY RESEARCH.—

20 “(1) STUDY OF IMPLEMENTATION OF MEAS-
21 URES TO CONTROL MERCURY EMISSIONS.—

22 “(A) ESTABLISHMENT OF ADVISORY COM-
23 MITTEE.—Not later than 3 years after the date
24 of enactment of this subsection, the Secretary
25 of Health and Human Services and the Admin-

1 istrator shall establish an advisory committee to
2 evaluate and prepare a report on the progress
3 made by the Federal Government, State and
4 local governments, industry, and other regu-
5 lated entities to implement and comply with the
6 mercury-related amendments to the Clean Air
7 Act (42 U.S.C. 7401 et seq.) made by the Om-
8 nibus Mercury Emission Reduction Act of
9 2003.

10 “(B) MEMBERSHIP.—

11 “(i) IN GENERAL.—The advisory com-
12 mittee shall consist of at least 15 mem-
13 bers, of whom at least 1 member shall rep-
14 resent each of the following:

15 “(I) The Department of Health
16 and Human Services.

17 “(II) The Agency for Toxic Sub-
18 stances and Disease Registry.

19 “(III) The Food and Drug Ad-
20 ministration.

21 “(IV) The Environmental Protec-
22 tion Agency.

23 “(V) The National Academy of
24 Sciences.

1 “(VI) Native American popu-
2 lations.

3 “(VII) State and local govern-
4 ments.

5 “(VIII) Industry.

6 “(IX) Environmental organiza-
7 tions.

8 “(X) Public health organizations.

9 “(ii) APPOINTMENT.—The Secretary
10 of Health and Human Services and the
11 Administrator shall each appoint not fewer
12 than 7 members of the advisory committee.

13 “(C) DUTIES.—The advisory committee
14 shall—

15 “(i) evaluate the adequacy and com-
16 pleteness of data collected and dissemi-
17 nated by the Environmental Protection
18 Agency and each State that reports on and
19 measures mercury contamination in the en-
20 vironment;

21 “(ii) make recommendations to the
22 Secretary of Health and Human Services
23 and the Administrator concerning—

24 “(I) changes necessary to im-
25 prove the quality and ensure consist-

1 ency from State to State of Federal
2 and State data collection, reporting,
3 and characterization of baseline envi-
4 ronmental conditions; and

5 “(II) methods for improving pub-
6 lic education, particularly among high-
7 risk populations (such as pregnant
8 women and their fetuses, women of
9 childbearing age, children, and indi-
10 viduals who subsist primarily on fish),
11 concerning the pathways and effects
12 of mercury contamination and con-
13 sumption; and

14 “(iii) not later than 4 years after the
15 date of enactment of this subsection, com-
16 pile and make available to the public,
17 through 1 or more published reports and 1
18 or more forms of electronic media, the
19 findings, recommendations, and supporting
20 data, including State-specific data, of the
21 advisory committee under this subpara-
22 graph.

23 “(D) COMPENSATION.—

24 “(i) IN GENERAL.—A member of the
25 advisory committee shall receive no com-

1 pensation by reason of the service of the
2 member on the advisory committee.

3 “(ii) TRAVEL EXPENSES.—A member
4 of the advisory committee shall be allowed
5 travel expenses, including per diem in lieu
6 of subsistence, at rates authorized for em-
7 ployees of agencies under subchapter I of
8 chapter 57 of title 5, United States Code,
9 while away from the home or regular place
10 of business of the member in the perform-
11 ance of services for the advisory com-
12 mittee.

13 “(E) DURATION OF ADVISORY COM-
14 MITTEE.—The advisory committee—

15 “(i) shall terminate not earlier than
16 the date on which the Secretary of Health
17 and Human Services and the Adminis-
18 trator determine that the findings, rec-
19 ommendations, and supporting data pre-
20 pared by the advisory committee have been
21 made available to the public; and

22 “(ii) may, at the discretion of the Sec-
23 retary of Health and Human Services and
24 the Administrator, continue in existence

1 after that date to further carry out the du-
2 ties described in subparagraph (C).

3 “(F) APPLICABILITY OF FEDERAL ADVI-
4 SORY COMMITTEE ACT.—The Federal Advisory
5 Committee Act (5 U.S.C. App.) shall not apply
6 to the advisory committee established under
7 this paragraph.

8 “(G) FUNDING.—The Secretary of Health
9 and Human Services and the Administrator
10 shall each provide 50 percent of the funding
11 necessary to carry out this paragraph.

12 “(2) REPORT ON MERCURY SEDIMENTATION
13 TRENDS.—Not later than 1 year after the date of
14 enactment of this subsection, the Administrator shall
15 submit to Congress a report that characterizes mer-
16 cury and mercury-compound sedimentation trends in
17 Lake Champlain, Chesapeake Bay, the Great Lakes,
18 the finger lakes region of upstate New York, Tampa
19 Bay, and other water bodies of concern (as deter-
20 mined by the Administrator).

21 “(3) EVALUATION OF FISH CONSUMPTION
22 ADVISORIES.—

23 “(A) IN GENERAL.—The Administrator
24 shall evaluate the adequacy, consistency, com-
25 pleteness, and public dissemination of—

1 “(i) data collected by the Environ-
2 mental Protection Agency and each State
3 concerning mercury contamination of fish;
4 and

5 “(ii) advisories to warn the public
6 about the consumption of mercury-con-
7 taminated fish (referred to in this para-
8 graph as ‘fish consumption advisories’).

9 “(B) IMPROVEMENT OF QUALITY AND
10 CONSISTENCY.—In conjunction with each State
11 or unilaterally, the Administrator shall imple-
12 ment any changes necessary to improve the
13 quality and ensure consistency from State to
14 State of Federal and State data collection, re-
15 porting, characterization of mercury contamina-
16 tion, and thresholds concerning mercury con-
17 tamination in fish above which fish consump-
18 tion advisories will be issued.

19 “(C) REPORTING.—Not later than 2 years
20 after the date of enactment of this subsection
21 and every 2 years thereafter, the Administrator
22 shall prepare and make available to the public,
23 through 1 or more published reports and 1 or
24 more forms of electronic media, information
25 providing detail by State, watershed, water

1 body, and river reach of mercury levels in fish
2 and any fish consumption advisories that have
3 been issued during the preceding 2-year period.

4 “(D) EFFECT ON STATE AUTHORITY.—
5 Nothing in this paragraph affects any authority
6 of a State to advise residents of the mercury
7 content of commercially sold foods and other
8 products.

9 “(4) STUDY OF MERCURY STOCKPILES AND RE-
10 TIREMENT.—The Administrator shall request the
11 National Academy of Sciences to—

12 “(A) conduct a study to—

13 “(i) assess—

14 “(I) the total quantity and dis-
15 tribution of excess mercury in the
16 United States in stockpiles, collection
17 programs, and other sources; and

18 “(II) the potential for the excess
19 mercury to reenter the global market;

20 “(ii) evaluate whether any methods
21 may exist or be developed for the collection
22 and permanent retirement of excess mer-
23 cury in a manner that ensures that there
24 is no release of mercury into the environ-
25 ment;

1 “(iii) recommend research programs
2 to investigate and develop the methods
3 evaluated under clause (ii) that the Acad-
4 emy determines are potentially practicable;

5 “(iv) identify Federal or State policies
6 that may facilitate or impede the perma-
7 nent retirement of excess mercury;

8 “(v) evaluate the potential for reduc-
9 ing the mining of virgin mercury
10 through—

11 “(I) international agreements;

12 “(II) recycling of mercury; or

13 “(III) the use of existing pri-
14 vately owned stockpiles of mercury;

15 “(vi) evaluate the potential for reduc-
16 ing global use of mercury in products and
17 industrial processes through the promotion
18 and dissemination of substitute products
19 and processes that do not use mercury;
20 and

21 “(vii) make any other recommenda-
22 tions concerning excess mercury that the
23 Academy determines to be useful; and

1 “(B) not later than 1 year after the date
2 of enactment of this subsection, submit to Con-
3 gress a report on the results of the study.

4 “(5) MERCURY DEPOSITION MONITORING.—

5 “(A) MODERNIZATION AND EXPANSION.—

6 In addition to amounts made available under
7 any other law, there is authorized to be appro-
8 priated to the Environmental Protection Agency
9 for equipment and site modernization and net-
10 work expansion of the National Atmospheric
11 Deposition Program Mercury Deposition Net-
12 work \$2,000,000, to remain available until ex-
13 pended.

14 “(B) OPERATIONAL SUPPORT.—In addi-
15 tion to amounts made available under any other
16 law, there are authorized to be appropriated for
17 operational support of the National Atmos-
18 pheric Deposition Program Mercury Deposition
19 Network for each of fiscal years 2004 through
20 2013—

21 “(i) \$400,000 to the Environmental
22 Protection Agency;

23 “(ii) \$400,000 to the United States
24 Geological Survey;

1 “(iii) \$100,000 to the National Oce-
2 anic and Atmospheric Administration; and

3 “(iv) \$100,000 to the National Park
4 Service.”.

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