

111TH CONGRESS
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H. R. 2065

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

APRIL 23, 2009

Ms. SCHAKOWSKY (for herself, Mr. CONNOLLY of Virginia, Mr. CARNAHAN, Mr. FARR, Mr. GRJALVA, Ms. HIRONO, Ms. LEE of California, Mr. MORAN of Virginia, Mr. PRICE of North Carolina, Mrs. NAPOLITANO, Mr. SESTAK, Ms. WOOLSEY, Ms. WATSON, Mr. BERMAN, Mr. PALLONE, and Mr. HARE) 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 “ Mercury Pollution
5 Reduction Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

3 (2) as many as 10 percent of women in the
4 United States of childbearing age have mercury in
5 their bloodstreams at a level that could pose risks to
6 their unborn babies, and hundreds of thousands of
7 children born annually in the United States are at
8 risk of neurological problems relating to mercury ex-
9 posure in utero;

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

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

20 (5) mercury pollution is a transboundary pollut-
21 ant that—

22 (A) is deposited locally, regionally, and
23 globally; and

24 (B) affects bodies of water near industrial
25 areas, such as the Great Lakes, as well as bod-

1 ies of water in remote areas, such as the Arctic
2 Circle;

3 (6) of the approximately 30 plants in the
4 United States that produce chlorine, only 5 use the
5 obsolete “mercury cell” chlor-alkali process, and 4
6 have not yet committed to phasing out mercury use;

7 (7)(A) less than 5 percent of the total quantity
8 of chlorine and caustic soda produced in the United
9 States comes from the chlor-alkali plants described
10 in paragraph (6) that use the mercury cell chlor-al-
11 kali process;

12 (B) cost-effective alternatives are available and
13 in use in the remaining 95 percent of chlorine and
14 caustic soda production; and

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

17 (8) the chlor-alkali industry acknowledges
18 that—

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

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

24 (9) despite those quantities of mercury known
25 to have been used or to be in use, neither the chlor-

1 alkali industry nor the Environmental Protection
2 Agency is able—

3 (A) to adequately account for the dispo-
4 sition of the mercury used at those facilities; or

5 (B) to accurately estimate current mercury
6 emissions; and

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

11 **SEC. 3. STATEMENT OF POLICY.**

12 Congress declares that the United States should de-
13 velop policies and programs that will—

14 (1) reduce mercury use and emissions within
15 the United States;

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

19 (3) reduce exposures to mercury, particularly
20 exposures of women of childbearing age and young
21 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; USE PRIOR TO PROHIBITION.—

18 “(1) PROHIBITION.—Effective on the date 24
19 months after the enactment of this section, the man-
20 ufacture of chlorine or caustic soda using mercury
21 cells is prohibited in the United States and the ex-
22 port of any mercury, mercury cells, mercury com-
23 pounds, and mixtures containing mercury by any
24 person is prohibited.

25 “(2) MERCURY STORAGE.—Within 24 months
26 after the enactment of this section, the Secretary of

1 Energy shall develop a system for the storage of all
2 mercury, mercury cells, mercury compounds, and
3 mixtures containing mercury if such mercury, cell,
4 compound, or mixture is from a chlor-alkali facility.

5 “(c) REPORTING.—

6 “(1) IN GENERAL.—Not later than 24 months
7 after the enactment of this section, the owner or op-
8 erator of each chlor-alkali facility shall submit to the
9 Administrator and the State in which the chlor-al-
10 kali facility is located a report that identifies—

11 “(A) each type and quantity of mercury-
12 containing hazardous waste and nonhazardous
13 solid waste generated by the chlor-alkali facility
14 during the preceding calendar year;

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

16 “(C) the manner in which each waste was
17 managed, including the location of each offsite
18 location to which the waste was transported for
19 subsequent handling or management;

20 “(D) the volume of mercury released, in-
21 tentiously or unintentionally, into the air or
22 water by the chlor-alkali facility, including mer-
23 cury released from emissions or vaporization;

24 “(E) the volume of mercury estimated to
25 have accumulated in pipes and plant equipment

1 of the chlor-alkali facility, including a descrip-
2 tion of—

3 “(i) the applicable volume for each
4 type of equipment; and

5 “(ii) methods of accumulation; and

6 “(F) the quantity and forms of mercury
7 found in all products produced for sale by the
8 chlor-alkali facility.

9 “(2) AVOIDANCE OF DUPLICATION.—To avoid
10 duplication, the Administrator may permit the owner
11 or operator of a facility described in paragraph (1)
12 to combine and submit the report required under
13 this subsection with any report required to be sub-
14 mitted by the owner or operator under subtitle C of
15 the Solid Waste Disposal Act (42 U.S.C. 6921 et
16 seq.).

17 “(d) INVENTORY.—

18 “(1) IN GENERAL.—For each chlor-alkali facil-
19 ity that ceases operations on or after January 1,
20 2009, not later than 1 year after the date of ces-
21 sation of operations, the Administrator, in consulta-
22 tion with the State in which the facility is located,
23 shall conduct a comprehensive mercury inventory
24 covering the life and closure of the chlor-alkali facil-
25 ity, taking into account—

1 “(A) the total quantity of mercury pur-
2 chased to start and operate the chlor-alkali fa-
3 cility;

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

7 “(C) the estimated quantity of mercury in
8 hazardous waste, nonhazardous solid waste, and
9 products generated at the chlor-alkali facility
10 during the operational life of the chlor-alkali fa-
11 cility; and

12 “(D) the estimated aggregate mercury re-
13 leases from the chlor-alkali facility into air and
14 other environmental media.

15 “(2) RECORDS AND INFORMATION.—In car-
16 rying out paragraph (1), the Administrator is au-
17 thorized and directed to obtain mercury purchase
18 records and such other information from each chlor-
19 alkali facility as are necessary to determine, as accu-
20 rately as practicable from available information, the
21 magnitude and nature of mercury releases from the
22 chlor-alkali facility into air and other environmental
23 media.

24 “(3) AUTHORITIES.—This Administrator shall
25 use the authorities of section 11 and any other ap-

1 appropriate authorities of this Act to carry out this
2 subsection.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) TABLE OF CONTENTS.—The table of con-
5 tents of the Toxic Substances Control Act (15
6 U.S.C. 2601 note) is amended by inserting after the
7 item relating to section 6 the following:

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

8 (2) ENFORCEMENT.—Section 15 of such Act is
9 amended by striking out “or 6” and inserting “, 6,
10 or 6A” in each place it appears.

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