

Union Calendar No. 222

111TH CONGRESS
1ST SESSION

H. R. 2190

[Report No. 111-381]

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 30, 2009

Ms. SCHAKOWSKY (for herself, Mr. BERMAN, Mr. CARNAHAN, Mr. ELLISON, Ms. DELAURO, Mr. GRIJALVA, Mr. FARR, Mr. HARE, Ms. HIRONO, Ms. LEE of California, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Mr. PALLONE, Mr. SESTAK, Ms. WOOLSEY, Ms. WATSON, Ms. NORTON, Mr. BLUMENAUER, and Mr. PRICE of North Carolina) introduced the following bill; which was referred to the Committee on Energy and Commerce

DECEMBER 16, 2009

Additional sponsors: Mr. SMITH of Washington, Ms. DEGETTE, Mr. KUCINICH, Mr. COHEN, Mr. ROTHMAN of New Jersey, Mr. JOHNSON of Georgia, Ms. TSONGAS, Mr. DOGGETT, Mr. HALL of New York, Ms. SPEIER, Mrs. CAPPS, Ms. BALDWIN, Mr. FILNER, Mr. PAYNE, Ms. ESHOO, Mr. MILLER of North Carolina, Mr. HOLT, Ms. SHEA-PORTER, Mr. DELAHUNT, Mr. HINCHEY, Mr. HONDA, Mr. CONNOLLY of Virginia, Ms. MCCOLLUM, Mr. COURTNEY, Mr. WEXLER, Mr. GEORGE MILLER of California, Mr. WALZ, Mr. HODES, Mr. LIPINSKI, Mr. MASSA, Ms. SLAUGHTER, Mr. INSLEE, Ms. BERKLEY,

DECEMBER 16, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 30, 2009]

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 Re-*
5 *duction Act”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds that—*

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

10 *(2) as many as 10 percent of women in the*
11 *United States of childbearing age have mercury in*
12 *their bloodstreams at a level that could pose risks to*
13 *their unborn babies, and hundreds of thousands of*
14 *children born annually in the United States are at*
15 *risk of neurological problems relating to mercury ex-*
16 *posure in utero;*

17 *(3) the most significant source of mercury expo-*
18 *sure to people in the United States is ingestion of*
19 *mercury-contaminated fish;*

20 *(4) the long-term solution to mercury pollution*
21 *is to minimize global mercury use and releases of*
22 *mercury to eventually achieve reduced contamination*
23 *levels in the environment, rather than reducing fish*
24 *consumption, since uncontaminated fish represents a*

1 *critical and healthy source of nutrition for people*
2 *worldwide;*

3 *(5) mercury pollution is a transboundary pollut-*
4 *ant that—*

5 *(A) is deposited locally, regionally, and*
6 *globally; and*

7 *(B) affects bodies of water near industrial*
8 *areas, such as the Great Lakes, as well as bodies*
9 *of water in remote areas, such as the Arctic Cir-*
10 *cle;*

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

15 *(7)(A) less than 5 percent of the total quantity*
16 *of chlorine and caustic soda produced in the United*
17 *States comes from the chlor-alkali plants described in*
18 *paragraph (6) that use the mercury cell chlor-alkali*
19 *process;*

20 *(B) cost-effective alternatives are available and*
21 *in use in the remaining 95 percent of chlorine and*
22 *caustic soda production; and*

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

25 *(8) the chlor-alkali industry acknowledges that—*

1 (A) mercury can contaminate products
2 manufactured at mercury cell facilities; and

3 (B) the use of some of those products results
4 in the direct and indirect release of mercury;

5 (9) despite those quantities of mercury known to
6 have been used or to be in use, neither the chlor-alkali
7 industry nor the Environmental Protection Agency is
8 able—

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

11 (B) to accurately estimate current mercury
12 emissions; and

13 (10) it is critically important that the United
14 States work aggressively toward the minimization of
15 supply, demand, and releases of mercury, both domes-
16 tically and internationally.

17 **SEC. 3. STATEMENT OF POLICY.**

18 Congress declares that the United States should develop
19 policies and programs that will—

20 (1) reduce mercury use and emissions within the
21 United States;

22 (2) reduce mercury releases from the reservoir of
23 mercury currently in use or circulation within the
24 United States; and

1 (3) *reduce exposures to mercury, particularly ex-*
2 *posures of women of childbearing age and young chil-*
3 *dren.*

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

6 (a) *IN GENERAL.*—*Title I of the Toxic Substances Con-*
7 *trol Act (15 U.S.C. 2601 et seq.) is amended by inserting*
8 *after section 6 the following:*

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

11 “(a) *DEFINITION OF CHLOR-ALKALI FACILITY.*—*In*
12 *this section, the term ‘chlor-alkali facility’ means a facility*
13 *used for the manufacture of chlorine or caustic soda using*
14 *a mercury cell process.*

15 “(b) *PROHIBITION.*—

16 “(1) *IN GENERAL.*—*Except as otherwise provided*
17 *in this subsection, it shall be unlawful to manufacture*
18 *chlorine or caustic soda using mercury cells at any*
19 *facility in the United States.*

20 “(2) *NOTICE.*—*The owner or operator of any ex-*
21 *isting chlor-alkali facility shall notify the Adminis-*
22 *trator no later than June 30, 2012, whether it will—*

23 “(A) *replace its chlor-alkali facility with a*
24 *new manufacturing facility that does not use*
25 *mercury; or*

1 “(B) cease operations.

2 “(3) CLOSURE.—A chlor-alkali facility for which
3 a closure notice is filed under paragraph (2)(B) shall
4 cease manufacturing chlorine or caustic soda using
5 mercury cells no later than June 30, 2013.

6 “(4) REPLACEMENT.—A chlor-alkali facility for
7 which a replacement notice is filed under paragraph
8 (2)(A) may continue to manufacture chlorine or caus-
9 tic soda using mercury cells until all of the permit-
10 ting, financing, engineering, and construction of a
11 non-mercury replacement facility is complete, or June
12 30, 2015, whichever is earlier.

13 “(c) EXPORT BAN.—Effective on the date of the enact-
14 ment of this section, the export of any elemental mercury
15 or the sale of elemental mercury for purposes of export, in-
16 cluding compounds and mixtures containing elemental
17 mercury, by the owner or operator of a chlor-alkali facility
18 is prohibited.

19 “(d) SAVINGS PROVISION.—Nothing in this section af-
20 fects the ability of the owner or operator of any chlor-alkali
21 facility to store elemental mercury in accordance with sec-
22 tion 5(g)(2) of the Mercury Export Ban Act of 2008 (42
23 U.S.C. 6939f).”.

24 “(b) CONFORMING AMENDMENTS.—(1) The table of con-
25 tents of the Toxic Substances Control Act (15 U.S.C. 2601

1 *note) is amended by inserting after the item relating to sec-*
2 *tion 6 the following:*

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

3 *(2) Paragraphs (1) and (2) of section 15 of such Act*
4 *are each amended by striking “or 6” and inserting “, 6*
5 *or 6A”.*

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