

107TH CONGRESS
1ST SESSION

S. 1875

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

DECEMBER 20 (legislative day, DECEMBER 18), 2001

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 2001”.

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 1999, 41 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; and

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.

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

20 (1) to greatly reduce the quantity of mercury
21 entering the environment by controlling air emis-
22 sions of mercury from fossil fuel-fired electric utility
23 steam generating units, coal- and oil-fired commer-
24 cial and industrial boiler units, solid waste inciner-
25 ation units, medical waste incinerators, hazardous

1 waste combustors, chlor-alkali plants, and Portland
2 cement plants;

3 (2) to reduce the quantity of mercury entering
4 solid waste landfills, incinerators, and composting
5 facilities by promoting recycling or proper disposal
6 of used batteries, fluorescent light bulbs, and other
7 products containing mercury;

8 (3) to increase the understanding of the volume
9 and sources of mercury emissions throughout North
10 America;

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

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

17 (6) to reduce the use of mercury in cases in
18 which technologically and economically feasible alter-
19 natives are available;

20 (7) to educate the public concerning the collec-
21 tion, recycling, and proper disposal of mercury-con-
22 taining products;

23 (8) to increase public knowledge of the sources
24 of mercury exposure and the threat to public health,
25 particularly the threat to the health of pregnant

1 women and their fetuses, women of childbearing age,
2 children, and individuals who subsist primarily on
3 fish;

4 (9) to significantly decrease the threat to
5 human health and the environment posed by mer-
6 cury; and

7 (10) to ensure that the health of sensitive popu-
8 lations, whether in the United States, Canada, or
9 Mexico, is protected, with an adequate margin of
10 safety, against adverse health effects caused by mer-
11 cury.

12 **SEC. 3. MERCURY EMISSION STANDARDS FOR FOSSIL**
13 **FUEL-FIRED ELECTRIC UTILITY STEAM GEN-**
14 **ERATING UNITS.**

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

17 (1) by redesignating subsection (s) as sub-
18 section (x); and

19 (2) by inserting after subsection (r) the fol-
20 lowing:

21 “(s) MERCURY EMISSION STANDARDS FOR FOSSIL
22 FUEL-FIRED ELECTRIC UTILITY STEAM GENERATING
23 UNITS.—

24 “(1) IN GENERAL.—

1 “(A) REGULATIONS.—Not later than 180
2 days after the date of enactment of this sub-
3 paragraph, the Administrator shall promulgate
4 regulations to establish standards for the emis-
5 sion of mercury and mercury compounds (col-
6 lectively referred to in this subsection as ‘mer-
7 cury’) applicable to existing and new fossil fuel-
8 fired electric utility steam generating units.

9 “(B) PERMIT REQUIREMENT.—Not later
10 than 2 years after the date of enactment of this
11 subparagraph, each fossil fuel-fired electric util-
12 ity steam generating unit shall have an enforce-
13 able permit issued under title V that complies
14 with this subsection.

15 “(C) PROCEDURES AND SCHEDULES FOR
16 COMPLIANCE WITH STANDARDS.—Each fossil
17 fuel-fired electric utility steam generating unit
18 shall achieve compliance with the mercury emis-
19 sion standards established under subparagraph
20 (A) in accordance with the procedures and
21 schedules established under subsection (i).

22 “(2) STANDARDS AND METHODS.—

23 “(A) EMISSION STANDARD.—Subject to
24 subparagraphs (B) and (C), the emission stand-
25 ards established under paragraph (1)(A) shall

1 require that each fossil fuel-fired electric utility
2 steam generating unit achieve the maximum de-
3 gree of reduction in emissions of mercury, as
4 determined under subsection (d).

5 “(B) MINIMUM REQUIRED EMISSION RE-
6 DUCTION.—The emission standards established
7 under paragraph (1)(A) shall reduce the total
8 emissions of mercury from fossil fuel-fired elec-
9 tric utility steam generating units in the United
10 States by not less than 90 percent from 1999
11 levels.

12 “(C) EMISSION TRADING WITHIN A GENER-
13 ATING STATION.—

14 “(i) IN GENERAL.—For the purpose
15 of this subsection, taking into consider-
16 ation the cost of achieving the emission re-
17 duction, the Administrator may allow emis-
18 sion trading among the fossil fuel-fired
19 electric utility steam generating units con-
20 tained in a power generating station at a
21 single site if the aggregate emissions of
22 mercury from all such units at the power
23 generating station are less than or equal to
24 the aggregate emissions that would result
25 if all such units complied with the emission

1 standards established under paragraph
2 (1)(A).

3 “(ii) PROHIBITION ON TRADING
4 AMONG SITES.—The Administrator shall
5 not allow emission trading among fossil
6 fuel-fired electric utility steam generating
7 units at different sites.

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

12 “(D) CONTROL METHODS.—For the pur-
13 pose of achieving compliance with the emission
14 standards established under paragraph (1)(A),
15 the Administrator shall authorize methods of
16 control of mercury emissions, including meas-
17 ures that—

18 “(i) reduce the volume of, or eliminate
19 emissions of, mercury through a process
20 change, substitution of material or fuel, or
21 other method;

22 “(ii) enclose systems or processes to
23 eliminate mercury emissions;

24 “(iii) collect, capture, or treat mer-
25 cury emissions when released from a proc-

1 ess, stack, storage, or fugitive emission
2 point;

3 “(iv) consist of design, equipment,
4 work practice, or operational standards
5 (including requirements for operator train-
6 ing or certification) in accordance with
7 subsection (h); or

8 “(v) consist of a combination of the
9 measures described in clauses (i) through
10 (iv).

11 “(3) PERMIT REQUIREMENTS AND CONDI-
12 TIONS.—

13 “(A) IN GENERAL.—Each permit issued in
14 accordance with paragraph (1)(B) shall
15 include—

16 “(i) enforceable mercury emission
17 standards;

18 “(ii) a schedule of compliance;

19 “(iii) a requirement that the permittee
20 submit to the permitting authority, not less
21 often than every 90 days, the results of
22 any required monitoring; and

23 “(iv) such other conditions as the Ad-
24 ministrators determine are necessary to en-
25 sure compliance with this subsection and

1 each applicable implementation plan under
2 section 110.

3 “(B) MONITORING AND ANALYSIS.—

4 “(i) PROCEDURES AND METHODS.—

5 The regulations promulgated by the Ad-
6 ministrator under paragraph (1)(A) shall
7 prescribe procedures and methods for—

8 “(I) monitoring and analysis for
9 mercury; and

10 “(II) determining compliance
11 with this subsection.

12 “(ii) INFORMATION.—Application of
13 the procedures and methods shall result in
14 reliable and timely information for deter-
15 mining compliance.

16 “(iii) OTHER REQUIREMENTS.—The
17 requirements for monitoring and analysis
18 under this subparagraph shall include—

19 “(I) such requirements that re-
20 sult in a representative determination
21 of mercury in ash and sludge; and

22 “(II) such combination of re-
23 quirements for continuous or other re-
24 liable and representative direct emis-
25 sion monitoring methods that results

1 in a representative determination of
2 mercury in fuel as received by each
3 fossil fuel-fired electric utility steam
4 generating unit;

5 as are requisite to provide accurate and re-
6 liable data for determining emissions of
7 mercury from each fossil fuel-fired electric
8 utility steam generating unit.

9 “(iv) EFFECT ON OTHER LAW.—

10 Nothing in this subsection affects any con-
11 tinuous emission monitoring requirement
12 of title IV or any other provision of this
13 Act.

14 “(C) INSPECTION, ENTRY, MONITORING,

15 CERTIFICATION, AND REPORTING.—

16 “(i) IN GENERAL.—Each permit

17 issued in accordance with paragraph
18 (1)(B) shall specify inspection, entry, mon-
19 itoring, compliance certification, and re-
20 porting requirements to ensure compliance
21 with the permit terms and conditions.

22 “(ii) CONFORMITY WITH OTHER REG-

23 ULATIONS.—The monitoring and reporting
24 requirements shall conform to each appli-
25 cable regulation under subparagraph (B).

1 “(iii) SIGNATURE.—Each report re-
2 quired under clause (i) and subparagraph
3 (B)(iii) shall be signed by a responsible of-
4 ficial of the fossil fuel-fired electric utility
5 steam generating unit, who shall certify
6 the accuracy of the report.

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

9 “(A) IN GENERAL.—

10 “(i) CAPTURED OR RECOVERED MER-
11 CURY.—The regulations promulgated by
12 the Administrator under paragraph (1)(A)
13 shall ensure that mercury that is captured
14 or recovered through the use of an emis-
15 sion control, coal cleaning, or another
16 method is disposed of in a manner that en-
17 sures 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 SLUDGES
4 AND WASTES.—The regulations promul-
5 gated by the Administrator under para-
6 graph (1)(A) shall ensure that mercury-
7 containing sludges and wastes are handled
8 and disposed of in accordance with all ap-
9 plicable Federal and State laws (including
10 regulations).

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

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

1 other applicable requirement established under this
2 Act or a standard issued under State law.

3 “(6) PUBLIC REPORTING OF DATA PERTAINING
4 TO EMISSIONS OF MERCURY.—

5 “(A) IN GENERAL.—The Administrator
6 shall annually make available to the public,
7 through 1 or more published reports and 1 or
8 more forms of electronic media, facility-specific
9 mercury emission data for each fossil fuel-fired
10 electric utility steam generating unit.

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

15 **SEC. 4. MERCURY EMISSION STANDARDS FOR COAL- AND**
16 **OIL-FIRED COMMERCIAL AND INDUSTRIAL**
17 **BOILER UNITS.**

18 Section 112 of the Clean Air Act (as amended by sec-
19 tion 3) is amended by inserting after subsection (s) the
20 following:

21 “(t) MERCURY EMISSION STANDARDS FOR COAL-
22 AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER
23 UNITS.—

24 “(1) IN GENERAL.—

1 “(A) REGULATIONS.—Not later than 180
2 days after the date of enactment of this sub-
3 paragraph, the Administrator shall promulgate
4 regulations to establish standards for the emis-
5 sion of mercury and mercury compounds (col-
6 lectively referred to in this subsection as ‘mer-
7 cury’) applicable to existing and new coal- and
8 oil-fired commercial and industrial boiler units
9 that have a maximum design heat input capac-
10 ity of 10 mmBtu per hour or greater.

11 “(B) PERMIT REQUIREMENT.—Not later
12 than 2 years after the date of enactment of this
13 subparagraph, each coal- or oil-fired commercial
14 or industrial boiler unit shall have an enforce-
15 able permit issued under title V that complies
16 with this subsection.

17 “(C) PROCEDURES AND SCHEDULES FOR
18 COMPLIANCE WITH STANDARDS.—Each coal- or
19 oil-fired commercial or industrial boiler unit
20 shall achieve compliance with the mercury emis-
21 sion standards established under subparagraph
22 (A) in accordance with the procedures and
23 schedules established under subsection (i).

24 “(2) STANDARDS AND METHODS.—

1 “(A) EMISSION STANDARD.—Subject to
2 subparagraphs (B) and (C), the emission stand-
3 ards established under paragraph (1)(A) shall
4 require that each coal- or oil-fired commercial
5 or industrial boiler unit achieve the maximum
6 degree of reduction in emissions of mercury, as
7 determined under subsection (d).

8 “(B) MINIMUM REQUIRED EMISSION RE-
9 DUCTION.—The emission standards established
10 under paragraph (1)(A) shall reduce the total
11 emissions of mercury from coal- and oil-fired
12 commercial and industrial boiler units in the
13 United States by not less than 90 percent from
14 1999 levels.

15 “(C) EMISSION TRADING WITHIN A FACIL-
16 ITY.—

17 “(i) IN GENERAL.—For the purpose
18 of this subsection, taking into consider-
19 ation the cost of achieving the emission re-
20 duction, the Administrator may allow emis-
21 sion trading among the coal- and oil-fired
22 commercial and industrial boiler units con-
23 tained in a facility at a single site if the
24 aggregate emissions of mercury from all
25 such units at the facility are less than or

1 equal to the aggregate emissions that
2 would result if all such units complied with
3 the emission standards established under
4 paragraph (1)(A).

5 “(ii) PROHIBITION ON TRADING
6 AMONG SITES.—The Administrator shall
7 not allow emission trading among coal-
8 and oil-fired commercial and industrial
9 boiler units at different sites.

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

14 “(D) CONTROL METHODS.—For the pur-
15 pose of achieving compliance with the emission
16 standards established under paragraph (1)(A),
17 the Administrator shall authorize methods of
18 control of mercury emissions, including meas-
19 ures that—

20 “(i) reduce the volume of, or eliminate
21 emissions of, mercury through a process
22 change, substitution of material or fuel, or
23 other method;

24 “(ii) enclose systems or processes to
25 eliminate mercury emissions;

1 “(iii) collect, capture, or treat mer-
2 cury emissions when released from a proc-
3 ess, stack, storage, or fugitive emission
4 point;

5 “(iv) consist of design, equipment,
6 work practice, or operational standards
7 (including requirements for operator train-
8 ing or certification) in accordance with
9 subsection (h); or

10 “(v) consist of a combination of the
11 measures described in clauses (i) through
12 (iv).

13 “(3) PERMIT REQUIREMENTS AND CONDI-
14 TIONS.—

15 “(A) IN GENERAL.—Each permit issued in
16 accordance with paragraph (1)(B) shall
17 include—

18 “(i) enforceable mercury emission
19 standards;

20 “(ii) a schedule of compliance;

21 “(iii) a requirement that the permittee
22 submit to the permitting authority, not less
23 often than every 90 days, the results of
24 any required monitoring; and

1 “(iv) such other conditions as the Ad-
2 ministrators determine are necessary to en-
3 sure compliance with this subsection and
4 each applicable implementation plan under
5 section 110.

6 “(B) MONITORING AND ANALYSIS.—

7 “(i) PROCEDURES AND METHODS.—
8 The regulations promulgated by the Ad-
9 ministrators under paragraph (1)(A) shall
10 prescribe procedures and methods for—

11 “(I) monitoring and analysis for
12 mercury; and

13 “(II) determining compliance
14 with this subsection.

15 “(ii) INFORMATION.—Application of
16 the procedures and methods shall result in
17 reliable and timely information for deter-
18 mining compliance.

19 “(iii) OTHER REQUIREMENTS.—The
20 requirements for monitoring and analysis
21 under this subparagraph shall include—

22 “(I) such requirements that re-
23 sult in a representative determination
24 of mercury in ash and sludge; and

1 “(II) such combination of re-
2 quirements for continuous or other re-
3 liable and representative direct emis-
4 sion monitoring methods that results
5 in a representative determination of
6 mercury in fuel as received by each
7 coal- or oil-fired commercial or indus-
8 trial boiler unit;

9 as are requisite to provide accurate and re-
10 liable data for determining emissions of
11 mercury from each coal- or oil-fired com-
12 mercial or industrial boiler unit.

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

18 “(C) INSPECTION, ENTRY, MONITORING,
19 CERTIFICATION, AND REPORTING.—

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

1 “(ii) CONFORMITY WITH OTHER REG-
2 ULATIONS.—The monitoring and reporting
3 requirements shall conform to each appli-
4 cable regulation under subparagraph (B).

5 “(iii) SIGNATURE.—Each report re-
6 quired under clause (i) and subparagraph
7 (B)(iii) shall be signed by a responsible of-
8 ficial of the coal- or oil-fired commercial or
9 industrial boiler unit, who shall certify the
10 accuracy of the report.

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

13 “(A) IN GENERAL.—

14 “(i) CAPTURED OR RECOVERED MER-
15 CURY.—The regulations promulgated by
16 the Administrator under paragraph (1)(A)
17 shall ensure that mercury that is captured
18 or recovered through the use of an emis-
19 sion control, coal cleaning, or another
20 method is disposed of in a manner that en-
21 sures that—

22 “(I) the hazards from mercury
23 are not transferred from 1 environ-
24 mental medium to another; and

1 “(II) there is no release of mer-
2 cury into the environment (as the
3 terms ‘release’ and ‘environment’ are
4 defined in section 101 of the Com-
5 prehensive Environmental Response,
6 Compensation, and Liability Act of
7 1980 (42 U.S.C. 9601)).

8 “(ii) MERCURY-CONTAINING SLUDGES
9 AND WASTES.—The regulations promul-
10 gated by the Administrator under para-
11 graph (1)(A) shall ensure that mercury-
12 containing sludges and wastes are handled
13 and disposed of in accordance with all ap-
14 plicable Federal and State laws (including
15 regulations).

16 “(B) RESEARCH PROGRAM.—To promote
17 permanent and cost-effective disposal of mer-
18 cury from coal- and oil-fired commercial and in-
19 dustrial boiler units, the Administrator shall es-
20 tablish a program of long-term research to de-
21 velop and disseminate information on methods
22 and techniques such as separating, solidifying,
23 recycling, and encapsulating mercury-containing
24 waste so that mercury does not volatilize, mi-

1 grate to ground water or surface water, or con-
2 taminates the soil.

3 “(5) OTHER REQUIREMENTS.—An emission
4 standard or other requirement promulgated under
5 this subsection does not diminish or replace any re-
6 quirement of a more stringent emission limitation or
7 other applicable requirement established under this
8 Act or a standard issued under State law.

9 “(6) PUBLIC REPORTING OF DATA PERTAINING
10 TO EMISSIONS OF MERCURY.—

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

17 “(B) SOURCE OF DATA.—The emission
18 data shall be taken from the monitoring and
19 analysis reports submitted under paragraph
20 (3)(C).”.

21 **SEC. 5. REDUCTION OF MERCURY EMISSIONS FROM SOLID**
22 **WASTE INCINERATION UNITS.**

23 (a) SEPARATION OF MERCURY-CONTAINING
24 ITEMS.—Section 3002 of the Solid Waste Disposal Act

1 (42 U.S.C. 6922) is amended by adding at the end the
2 following:

3 “(c) SEPARATION OF MERCURY-CONTAINING
4 ITEMS.—

5 “(1) PUBLICATION OF LIST.—

6 “(A) IN GENERAL.—Not later than 180
7 days after the date of enactment of this sub-
8 section, the Administrator shall publish a list of
9 mercury-containing items that shall be required
10 to be separated and removed from the waste
11 streams that feed solid waste management fa-
12 cilities.

13 “(B) REQUIRED ITEMS.—The list shall in-
14 clude mercury-containing items such as fluores-
15 cent light bulbs and tubes, batteries, pharma-
16 ceuticals, laboratory chemicals and reagents,
17 electrical devices such as thermostats, relays,
18 and switches, and medical and scientific instru-
19 ments.

20 “(C) LABELING REQUIREMENT.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clause (ii), to facilitate the process
23 of separating and removing items listed
24 under subparagraph (A), each manufac-
25 turer of a listed item shall ensure that

1 each item is clearly labeled to indicate that
2 the product contains mercury.

3 “(ii) BUTTON CELL BATTERIES.—In
4 the case of button cell batteries for which,
5 due to size constraints, labeling described
6 in clause (i) is not practicable, the pack-
7 aging shall indicate that the product con-
8 tains mercury.

9 “(2) PLAN.—

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

22 “(i) separating and removing mer-
23 cury-containing items listed by the Admin-
24 istrator under paragraph (1) from the

1 waste streams that feed any solid waste
2 management facility;

3 “(ii) subject to the other requirements
4 of this subtitle, transferring the separated
5 waste to a recycling facility or a treatment,
6 storage, or disposal facility that holds a
7 permit under this subtitle;

8 “(iii) monitoring and reporting on
9 compliance with the plan; and

10 “(iv) achieving full compliance with
11 the plan not later than 18 months after
12 the date of approval of the plan in accord-
13 ance with subparagraph (B).

14 “(B) PLAN APPROVAL.—

15 “(i) DEADLINE.—The Administrator
16 (or the State) shall determine whether to
17 approve or disapprove a plan submitted
18 under subparagraph (A) not later than 180
19 days after the date of receipt of the plan.

20 “(ii) PREFERENCE.—In determining
21 whether to approve a plan, the Adminis-
22 trator (or the State) shall give preference
23 to recycling or stabilization of mercury-
24 containing items over disposal of the items.

25 “(C) AMENDED PLAN.—

1 “(i) SUBMISSION.—If the Adminis-
2 trator (or the State) disapproves a plan,
3 the person may submit an amended plan
4 not later than 90 days after the date of
5 disapproval.

6 “(ii) APPROVAL.—The Administrator
7 (or the State) shall approve or disapprove
8 the amended plan not later than 30 days
9 after the date of receipt of the plan.

10 “(D) PLAN BY ADMINISTRATOR (OR
11 STATE).—

12 “(i) IN GENERAL.—If an amended
13 plan is not submitted to the Administrator
14 (or the State) within 90 days after the
15 date of disapproval, or if an amended plan
16 has been submitted and subsequently dis-
17 approved, the Administrator (or the State)
18 shall issue a determination that it is nec-
19 essary for the Administrator (or the State)
20 to promulgate a plan for the person.

21 “(ii) PLAN.—Not later than 180 days
22 after issuing the determination, the Ad-
23 ministrator (or the State) shall develop,
24 publish in the Federal Register (or submit
25 to the Administrator for publication in the

1 Federal Register), implement, and enforce
2 a plan that meets the criteria specified in
3 subparagraph (A) and ensures that full
4 compliance with the plan will be achieved
5 not later than 18 months after the date of
6 publication of the plan.

7 “(E) ENFORCEABILITY.—Upon approval
8 by the Administrator (or the State) of a plan
9 submitted under subparagraph (A), or upon
10 publication of a plan developed by the Adminis-
11 trator (or the State) under subparagraph (D),
12 the plan shall be enforceable under this Act.”.

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

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

18 “(1) IN GENERAL.—Beginning (A) 36”;

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

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

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

24 “(A) PROCEDURES AND METHODS.—

1 “(i) IN GENERAL.—Not later than
2 180 days after the date of enactment of
3 this subparagraph, the Administrator shall
4 promulgate regulations prescribing proce-
5 dures and methods for—

6 “(I) monitoring and analysis for
7 mercury emissions from solid waste
8 combustion flue gases; and

9 “(II) determining compliance
10 with this paragraph.

11 “(ii) INFORMATION.—Application of
12 the procedures and methods shall result in
13 reliable and timely information for deter-
14 mining compliance.

15 “(B) PERMIT REQUIREMENTS.—

16 “(i) IN GENERAL.—Each permit de-
17 scribed in paragraph (1) shall specify in-
18 spection, entry, monitoring, compliance
19 certification, and reporting requirements
20 with respect to mercury to ensure compli-
21 ance with the permit terms and conditions,
22 including a requirement that the permittee
23 submit to the permitting authority, not less
24 often than every 90 days, the results of
25 any required monitoring.

1 “(ii) SIGNATURE.—Each report re-
2 quired under clause (i) shall be signed by
3 a responsible official of the solid waste in-
4 cineration unit or by a municipal official,
5 who shall certify the accuracy of the re-
6 port.

7 “(C) ESTABLISHMENT OF MAXIMUM MER-
8 CURY EMISSION RATE.—

9 “(i) DETERMINATION BY THE ADMIN-
10 ISTRATOR.—Based on the reports required
11 to be submitted under subparagraph (B)(i)
12 36 months, 39 months, and 42 months
13 after the date of enactment of this sub-
14 paragraph, the Administrator (or the
15 State) shall make a determination as to
16 whether the solid waste incinerator unit
17 has achieved and is continuously maintain-
18 ing a mercury emission rate of not more
19 than 0.080 milligrams per dry standard
20 cubic meter.

21 “(ii) REQUIREMENT OF INSTALLA-
22 TION OF CONTROLS.—If the mercury emis-
23 sion rate specified in clause (i) is not
24 achieved and maintained over the period
25 covered by the reports referred to in clause

1 (i), or over any 2 out of 3 reporting peri-
2 ods thereafter, the Administrator shall re-
3 quire that the solid waste incineration unit
4 install control equipment and techniques
5 that will, within 3 years, result in a mer-
6 cury emission rate by the unit of not more
7 than 0.060 milligrams per dry standard
8 cubic meter.

9 “(iii) ENFORCEABILITY.—The re-
10 quirements of this subparagraph shall be
11 an enforceable modification to any existing
12 or new permit described in paragraph (1)
13 for the solid waste incineration unit.

14 “(D) OTHER REQUIREMENTS.—An emis-
15 sion standard or other requirement promulgated
16 under this subsection does not diminish or re-
17 place any requirement of a more stringent emis-
18 sion limitation or other applicable requirement
19 established under this Act or a standard issued
20 under State law.

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

23 “(i) IN GENERAL.—The Administrator
24 shall annually make available to the public,
25 through 1 or more published reports and 1

1 or more forms of electronic media, facility-
2 specific mercury emission data for each
3 solid waste incineration unit.

4 “(ii) SOURCE OF DATA.—The emis-
5 sion data shall be taken from the moni-
6 toring and analysis reports submitted
7 under subparagraph (B).”.

8 (c) PHASEOUT OF MERCURY IN PRODUCTS.—Section
9 112 of the Clean Air Act (as amended by section 4) is
10 amended by inserting after subsection (t) the following:

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

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

15 “(2) PROHIBITION ON SALE.—Beginning 3
16 years after the date of enactment of this paragraph,
17 a manufacturer shall not sell any mercury-con-
18 taining product, whether manufactured domestically,
19 imported, or manufactured for export, unless the
20 manufacturer has applied for and has been granted
21 by the Administrator an exemption from the prohibi-
22 tion on sale specified in this paragraph.

23 “(3) PROCEDURES FOR MAKING EXEMPTION
24 APPLICATION DETERMINATIONS.—Before making a

1 determination on an application, the Administrator
2 shall—

3 “(A) publish notice of the application in
4 the Federal Register;

5 “(B) provide a public comment period of
6 60 days; and

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

8 “(4) CRITERIA FOR EXEMPTION.—In making a
9 determination on an application, the Administrator
10 may grant an exemption from the prohibition on sale
11 only if—

12 “(A) the Administrator determines that
13 the mercury-containing product is a product the
14 use of which is essential;

15 “(B) the Administrator determines that
16 there is no comparable product that does not
17 contain mercury and that is available in the
18 marketplace at a reasonable cost; and

19 “(C) through documentation submitted by
20 the manufacturer, the Administrator determines
21 that the manufacturer has established a pro-
22 gram to take back, after use by the consumer,
23 all mercury-containing products subject to the
24 exemption that are manufactured after the date
25 of approval of the application.

1 “(5) TERM OF EXEMPTION.—

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

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

7 “(6) PUBLICATIONS IN THE FEDERAL REG-
8 ISTER.—The Administrator shall publish in the Fed-
9 eral Register—

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

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

15 **SEC. 6. MERCURY EMISSION STANDARDS FOR CHLOR-AL-**
16 **KALI PLANTS.**

17 Section 112 of the Clean Air Act (as amended by sec-
18 tion 5(e)) is amended by inserting after subsection (u) the
19 following:

20 “(v) MERCURY EMISSION STANDARDS FOR CHLOR-
21 ALKALI PLANTS.—

22 “(1) IN GENERAL.—

23 “(A) REGULATIONS.—Not later than 180
24 days after the date of enactment of this sub-
25 paragraph, the Administrator shall promulgate

1 regulations to establish standards for the direct
2 and fugitive emission of mercury and mercury
3 compounds (collectively referred to in this sub-
4 section as ‘mercury’) applicable to existing and
5 new chlor-alkali plants that use the mercury cell
6 production process (referred to in this sub-
7 section as ‘mercury cell chlor-alkali plants’).

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

13 “(C) PROCEDURES AND SCHEDULES FOR
14 COMPLIANCE WITH STANDARDS.—Each mer-
15 cury cell chlor-alkali plant shall achieve compli-
16 ance with the mercury emission standards es-
17 tablished under subparagraph (A) in accordance
18 with the procedures and schedules established
19 under subsection (i).

20 “(2) STANDARDS AND METHODS.—

21 “(A) MINIMUM REQUIRED EMISSION RE-
22 DUCTION.—The emission standards established
23 under paragraph (1)(A) shall require that each
24 mercury cell chlor-alkali plant reduce its annual
25 poundage of direct and fugitive mercury emit-

1 ted below its mercury emission baseline, as de-
2 termined by the Administrator, by not less than
3 95 percent.

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

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

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

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

20 “(iv) consist of design, equipment,
21 manufacturing process, work practice, or
22 operational standards (including require-
23 ments for operator training or certification
24 or spill prevention) in accordance with sub-
25 section (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
8 include—

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

14 “(C) INSPECTION, ENTRY, MONITORING,
15 CERTIFICATION, AND REPORTING.—

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

22 “(ii) CONFORMITY WITH OTHER REG-
23 ULATIONS.—The monitoring and reporting
24 requirements shall conform to each appli-
25 cable regulation under subparagraph (B).

1 “(iii) SIGNATURE.—Each report re-
2 quired under clause (i) shall be signed by
3 a responsible official of the mercury cell
4 chlor-alkali plant, who shall certify the ac-
5 curacy of the report.

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

8 “(A) IN GENERAL.—

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

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

19 “(II) there is no release of mer-
20 cury into the environment (as the
21 terms ‘release’ and ‘environment’ are
22 defined in section 101 of the Com-
23 prehensive Environmental Response,
24 Compensation, and Liability Act of
25 1980 (42 U.S.C. 9601)).

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

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

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. 7. MERCURY EMISSION STANDARDS FOR PORTLAND**
12 **CEMENT PLANTS.**

13 Section 112 of the Clean Air Act (as amended by sec-
14 tion 6) is amended by inserting after subsection (v) the
15 following:

16 “(w) MERCURY EMISSION STANDARDS FOR PORT-
17 LAND CEMENT PLANTS.—

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—

23 “(i) to establish standards for the
24 control of direct dust emission of mercury
25 and mercury compounds (collectively re-

1 ferred to in this subsection as ‘mercury’
2 from crushers, mills, dryers, kilns (exclud-
3 ing emission from such burning of haz-
4 ardous waste-containing fuel in a cement
5 kiln as is regulated under section 3004(q)
6 of the Solid Waste Disposal Act (42
7 U.S.C. 6924(q)), and clinker coolers at ex-
8 isting and new Portland cement plants;
9 and

10 “(ii) to establish standards for the
11 control of fugitive dust emission of mer-
12 cury from storage, transport, charging,
13 and discharging operations at existing and
14 new Portland cement plants.

15 “(B) PERMIT REQUIREMENT.—Not later
16 than 2 years after the date of enactment of this
17 subparagraph, each Portland cement plant shall
18 have an enforceable permit issued under title V
19 that complies with this subsection.

20 “(C) PROCEDURES AND SCHEDULES FOR
21 COMPLIANCE WITH STANDARDS.—Each Port-
22 land cement plant shall achieve compliance with
23 the mercury emission standards established
24 under subparagraph (A) in accordance with the

1 procedures and schedules established under
2 subsection (i).

3 “(2) STANDARDS AND METHODS.—

4 “(A) MINIMUM REQUIRED EMISSION RE-
5 DUCTION.—The emission standards established
6 under paragraph (1)(A) shall require that each
7 Portland cement plant reduce its annual pound-
8 age of direct and fugitive mercury emitted
9 below its mercury emission baseline, as deter-
10 mined by the Administrator, by not less than
11 95 percent.

12 “(B) CONTROL METHODS.—For the pur-
13 pose of achieving compliance with the emission
14 standards established under paragraph (1)(A),
15 the Administrator shall authorize methods of
16 control of mercury emissions, including meas-
17 ures that—

18 “(i) reduce the volume of, or eliminate
19 emissions of, mercury through a process
20 change, substitution of material, or other
21 method;

22 “(ii) enclose systems, processes, or
23 storage to eliminate mercury emissions;

24 “(iii) collect, capture, or treat mer-
25 cury emissions when released from a proc-

1 ess, stack, storage, or fugitive emission
2 point;

3 “(iv) consist of design, equipment,
4 manufacturing process, work practice, or
5 operational standards (including require-
6 ments for operator training or certifi-
7 cation) in accordance with subsection (h);
8 or

9 “(v) consist of a combination of the
10 measures described in clauses (i) through
11 (iv).

12 “(3) PERMIT REQUIREMENTS AND CONDI-
13 TIONS.—

14 “(A) IN GENERAL.—Each permit issued in
15 accordance with paragraph (1)(B) shall
16 include—

17 “(i) enforceable mercury emission
18 standards;

19 “(ii) a schedule of compliance;

20 “(iii) a requirement that the permittee
21 submit to the permitting authority, not less
22 often than every 90 days, the results of
23 any required monitoring; and

24 “(iv) such other conditions as the Ad-
25 ministrators determine are necessary to en-

1 sure compliance with this subsection and
2 each applicable implementation plan under
3 section 110.

4 “(B) MONITORING AND ANALYSIS.—

5 “(i) PROCEDURES AND METHODS.—

6 The regulations promulgated by the Ad-
7 ministrators under paragraph (1)(A) shall
8 prescribe procedures and methods for—

9 “(I) monitoring and analysis for
10 mercury; and

11 “(II) determining compliance
12 with this subsection.

13 “(ii) INFORMATION.—Application of
14 the procedures and methods shall result in
15 reliable and timely information for deter-
16 mining compliance.

17 “(iii) EFFECT ON OTHER LAW.—

18 Nothing in this subsection affects any con-
19 tinuous emission monitoring requirement
20 of title IV or any other provision of this
21 Act.

22 “(C) INSPECTION, ENTRY, MONITORING,
23 CERTIFICATION, AND REPORTING.—

24 “(i) IN GENERAL.—Each permit
25 issued in accordance with paragraph

1 (1)(B) shall specify inspection, entry, mon-
2 itoring, compliance certification, and re-
3 porting requirements to ensure compliance
4 with the permit terms and conditions.

5 “(ii) CONFORMITY WITH OTHER REG-
6 ULATIONS.—The monitoring and reporting
7 requirements shall conform to each appli-
8 cable regulation under subparagraph (B).

9 “(iii) SIGNATURE.—Each report re-
10 quired under clause (i) shall be signed by
11 a responsible official of the Portland ce-
12 ment plant, who shall certify the accuracy
13 of the report.

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

16 “(A) IN GENERAL.—

17 “(i) CAPTURED OR RECOVERED MER-
18 CURY.—The regulations promulgated by
19 the Administrator under paragraph (1)(A)
20 shall ensure that mercury that is captured
21 or recovered through the use of an emis-
22 sion control or another method is disposed
23 of in a manner that ensures that—

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

4 “(II) there is no release of mer-
5 cury into the environment (as the
6 terms ‘release’ and ‘environment’ are
7 defined in section 101 of the Com-
8 prehensive Environmental Response,
9 Compensation, and Liability Act of
10 1980 (42 U.S.C. 9601)).

11 “(ii) MERCURY-CONTAINING
12 WASTES.—The regulations promulgated by
13 the Administrator under paragraph (1)(A)
14 shall ensure that mercury-containing
15 wastes are handled and disposed of in ac-
16 cordance with all applicable Federal and
17 State laws (including regulations).

18 “(B) RESEARCH PROGRAM.—To promote
19 permanent and cost-effective disposal of mer-
20 cury from Portland cement plants, the Adminis-
21 trator shall establish a program of long-term re-
22 search to develop and disseminate information
23 on methods and techniques such as separating,
24 solidifying, recycling, and encapsulating mer-
25 cury-containing waste so that mercury does not

1 volatilize, migrate to ground water or surface
2 water, or contaminate the soil.

3 “(5) OTHER REQUIREMENTS.—An emission
4 standard or other requirement promulgated under
5 this subsection does not diminish or replace any re-
6 quirement of a more stringent emission limitation or
7 other applicable requirement established under this
8 Act or a standard issued under State law.

9 “(6) PUBLIC REPORTING OF DATA PERTAINING
10 TO EMISSIONS OF MERCURY.—

11 “(A) IN GENERAL.—The Administrator
12 shall annually make available to the public,
13 through 1 or more published reports and 1 or
14 more forms of electronic media, facility-specific
15 mercury emission data for each Portland ce-
16 ment plant.

17 “(B) SOURCE OF DATA.—The emission
18 data shall be taken from the monitoring and
19 analysis reports submitted under paragraph
20 (3)(C).”.

21 **SEC. 8. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**
22 **SION STANDARDS FOR MEDICAL WASTE IN-**
23 **CINERATORS.**

24 (a) IN GENERAL.—Not later than 2 years after the
25 date of enactment of this Act, the Administrator of the

1 Environmental Protection Agency shall submit to Con-
2 gress a report on the extent to which the annual poundage
3 of mercury and mercury compounds emitted by each med-
4 ical waste incinerator in the United States has been re-
5 duced below the baseline for the medical waste incinerator
6 determined under subsection (b).

7 (b) BASELINE.—

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

14 (2) LACK OF ACTUAL DATA.—If the data de-
15 scribed in paragraph (1) are not available, the Ad-
16 ministrator shall develop an estimate of baseline
17 mercury emissions based on other sources of data
18 and the best professional judgment of the Adminis-
19 trator.

20 **SEC. 9. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**
21 **SION STANDARDS FOR HAZARDOUS WASTE**
22 **COMBUSTORS.**

23 (a) IN GENERAL.—Not later than 2 years after the
24 date of enactment of this Act, the Administrator of the
25 Environmental Protection Agency shall submit to Con-

1 gress a report on the extent to which the annual poundage
2 of mercury and mercury compounds emitted by each haz-
3 ardous waste combustor in the United States has been re-
4 duced below the baseline for the hazardous waste com-
5 bustor determined under subsection (b).

6 (b) BASELINE.—

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

13 (2) LACK OF ACTUAL DATA.—If the data de-
14 scribed in paragraph (1) are not available, the Ad-
15 ministrator shall develop an estimate of baseline
16 mercury emissions based on other sources of data
17 and the best professional judgment of the Adminis-
18 trator.

19 **SEC. 10. DEFENSE ACTIVITIES.**

20 (a) REPORT.—

21 (1) IN GENERAL.—Not later than 2 years after
22 the date of enactment of this Act, the Secretary of
23 Defense shall submit to Congress a report on the
24 use of mercury and mercury compounds by the De-
25 partment of Defense.

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

3 (A) measures that the Department of De-
4 fense is carrying out to reduce the use and
5 emissions of mercury and mercury compounds
6 by the Department; and

7 (B) measures that the Department of De-
8 fense is carrying out to stabilize or recycle dis-
9 carded mercury or discarded mercury-con-
10 taining products.

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

18 **SEC. 11. INTERNATIONAL ACTIVITIES.**

19 (a) STUDY AND REPORT.—Not later than 2 years
20 after the date of enactment of this Act, the Administrator
21 of the Environmental Protection Agency, in cooperation
22 with appropriate representatives of Canada and Mexico,
23 shall study and submit to Congress a report on the sources
24 and extent of mercury emissions in North America.

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

3 (1) internal and external scientific peer review;

4 and

5 (2) review by the Science Advisory Board estab-
6 lished by section 8 of the Environmental Research,
7 Development, and Demonstration Authorization Act
8 of 1978 (42 U.S.C. 4365).

9 (c) REQUIRED ELEMENTS.—The report shall
10 include—

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

13 (2) a description of the patterns and pathways
14 taken by mercury pollution through the atmosphere
15 and surface water; and

16 (3) recommendations for pollution control meas-
17 ures, options, and strategies that, if implemented in-
18 dividually or jointly by the United States, Canada,
19 and Mexico, will eliminate or greatly reduce
20 transboundary atmospheric and surface water mer-
21 cury pollution in North America.

22 **SEC. 12. MERCURY RESEARCH.**

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

25 “(1) MERCURY RESEARCH.—

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

3 “(A) ESTABLISHMENT OF ADVISORY COM-
4 MITTEE.—Not later than 3 years after the date
5 of enactment of this subsection, the Secretary
6 of Health and Human Services and the Admin-
7 istrator shall establish an advisory committee to
8 evaluate and prepare a report on the progress
9 made by the Federal Government, State and
10 local governments, industry, and other regu-
11 lated entities to implement and comply with the
12 mercury-related amendments to the Clean Air
13 Act (42 U.S.C. 7401 et seq.) made by the Om-
14 nibus Mercury Emission Reduction Act of
15 2001.

16 “(B) MEMBERSHIP.—

17 “(i) IN GENERAL.—The advisory com-
18 mittee shall consist of at least 15 mem-
19 bers, of whom at least 1 member shall rep-
20 resent each of the following:

21 “(I) The Department of Health
22 and Human Services.

23 “(II) The Agency for Toxic Sub-
24 stances and Disease Registry.

1 “(III) The Food and Drug Ad-
2 ministration.

3 “(IV) The Environmental Protec-
4 tion Agency.

5 “(V) The National Academy of
6 Sciences.

7 “(VI) Native American popu-
8 lations.

9 “(VII) State and local govern-
10 ments.

11 “(VIII) Industry.

12 “(IX) Environmental organiza-
13 tions.

14 “(X) Public health organizations.

15 “(ii) APPOINTMENT.—The Secretary
16 of Health and Human Services and the
17 Administrator shall each appoint not fewer
18 than 7 members of the advisory committee.

19 “(C) DUTIES.—The advisory committee
20 shall—

21 “(i) evaluate the adequacy and com-
22 pleteness of data collected and dissemi-
23 nated by the Environmental Protection
24 Agency and each State that reports on and

1 measures mercury contamination in the en-
2 vironment;

3 “(ii) make recommendations to the
4 Secretary of Health and Human Services
5 and the Administrator concerning—

6 “(I) changes necessary to im-
7 prove the quality and ensure consist-
8 ency from State to State of Federal
9 and State data collection, reporting,
10 and characterization of baseline envi-
11 ronmental conditions; and

12 “(II) methods for improving pub-
13 lic education, particularly among high-
14 risk populations (such as pregnant
15 women and their fetuses, women of
16 childbearing age, children, and indi-
17 viduals who subsist primarily on fish),
18 concerning the pathways and effects
19 of mercury contamination and con-
20 sumption; and

21 “(iii) not later than 4 years after the
22 date of enactment of this subsection, com-
23 pile and make available to the public,
24 through 1 or more published reports and 1
25 or more forms of electronic media, the

1 findings, recommendations, and supporting
2 data, including State-specific data, of the
3 advisory committee under this subpara-
4 graph.

5 “(D) COMPENSATION.—

6 “(i) IN GENERAL.—A member of the
7 advisory committee shall receive no com-
8 pensation by reason of the service of the
9 member on the advisory committee.

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

20 “(E) DURATION OF ADVISORY COM-
21 MITTEE.—The advisory committee—

22 “(i) shall terminate not earlier than
23 the date on which the Secretary of Health
24 and Human Services and the Adminis-
25 trator determine that the findings, rec-

1 ommendations, and supporting data pre-
2 pared by the advisory committee have been
3 made available to the public; and

4 “(ii) may, at the discretion of the Sec-
5 retary of Health and Human Services and
6 the Administrator, continue in existence
7 after that date to further carry out the du-
8 ties described in subparagraph (C).

9 “(F) APPLICABILITY OF FEDERAL ADVI-
10 SORY COMMITTEE ACT.—The Federal Advisory
11 Committee Act (5 U.S.C. App.) shall not apply
12 to the advisory committee established under
13 this paragraph.

14 “(G) FUNDING.—The Secretary of Health
15 and Human Services and the Administrator
16 shall each provide 50 percent of the funding
17 necessary to carry out this paragraph.

18 “(2) REPORT ON MERCURY SEDIMENTATION
19 TRENDS.—Not later than 1 year after the date of
20 enactment of this subsection, the Administrator shall
21 submit to Congress a report that characterizes mer-
22 cury and mercury-compound sedimentation trends in
23 Lake Champlain, Chesapeake Bay, the Great Lakes,
24 the finger lakes region of upstate New York, Tampa

1 Bay, and other water bodies of concern (as deter-
2 mined by the Administrator).

3 “(3) EVALUATION OF FISH CONSUMPTION
4 ADVISORIES.—

5 “(A) IN GENERAL.—The Administrator
6 shall evaluate the adequacy, consistency, com-
7 pleteness, and public dissemination of—

8 “(i) data collected by the Environ-
9 mental Protection Agency and each State
10 concerning mercury contamination of fish;
11 and

12 “(ii) advisories to warn the public
13 about the consumption of mercury-con-
14 taminated fish (referred to in this para-
15 graph as ‘fish consumption advisories’).

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

1 “(C) REPORTING.—Not later than 2 years
2 after the date of enactment of this subsection
3 and every 2 years thereafter, the Administrator
4 shall prepare and make available to the public,
5 through 1 or more published reports and 1 or
6 more forms of electronic media, information
7 providing detail by State, watershed, water
8 body, and river reach of mercury levels in fish
9 and any fish consumption advisories that have
10 been issued during the preceding 2-year period.

11 “(D) EFFECT ON STATE AUTHORITY.—
12 Nothing in this paragraph affects any authority
13 of a State to advise residents of the mercury
14 content of commercially sold foods and other
15 products.

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

19 “(A) conduct a study to—

20 “(i) assess—

21 “(I) the total quantity and dis-
22 tribution of excess mercury in the
23 United States in stockpiles, collection
24 programs, and other sources; and

1 “(II) the potential for the excess
2 mercury to reenter the global market;

3 “(ii) evaluate whether any methods
4 may exist or be developed for the collection
5 and permanent retirement of excess mer-
6 cury in a manner that ensures that there
7 is no release of mercury into the environ-
8 ment;

9 “(iii) recommend research programs
10 to investigate and develop the methods
11 evaluated under clause (ii) that the Acad-
12 emy determines are potentially practicable;

13 “(iv) identify Federal or State policies
14 that may facilitate or impede the perma-
15 nent retirement of excess mercury;

16 “(v) evaluate the potential for reduc-
17 ing the mining of virgin mercury
18 through—

19 “(I) international agreements;

20 “(II) recycling of mercury; or

21 “(III) the use of existing pri-
22 vately owned stockpiles of mercury;

23 “(vi) evaluate the potential for reduc-
24 ing global use of mercury in products and
25 industrial processes through the promotion

1 and dissemination of substitute products
2 and processes that do not use mercury;
3 and

4 “(vii) make any other recommenda-
5 tions concerning excess mercury that the
6 Academy determines to be useful; and

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

10 “(5) MERCURY DEPOSITION MONITORING.—

11 “(A) MODERNIZATION AND EXPANSION.—

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

20 “(B) OPERATIONAL SUPPORT.—In addi-
21 tion to amounts made available under any other
22 law, there are authorized to be appropriated for
23 operational support of the National Atmos-
24 pheric Deposition Program Mercury Deposition

1 Network for each of fiscal years 2003 through
2 2012—

3 “(i) \$400,000 to the Environmental
4 Protection Agency;

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

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

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

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