

109TH CONGRESS
1ST SESSION

S. 730

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

APRIL 6, 2005

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.**

2 This Act may be cited as the “Mercury Emission Act
3 of 2005”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

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

11 (2) according to the report entitled “Toxi-
12 cological Effects of Methylmercury” and submitted
13 to Congress by the National Academy of Sciences in
14 2000, and other scientific and medical evidence,
15 pregnant women and their fetuses, women of child-
16 bearing age, children, and individuals who subsist
17 primarily on fish are most at risk for mercury-re-
18 lated health impacts such as neurotoxicity;

19 (3) although exposure to mercury occurs most
20 frequently through consumption of mercury-contami-
21 nated fish, exposure can also occur through—

22 (A) ingestion of drinking water, and food
23 sources other than fish, that are contaminated
24 with methyl mercury;

25 (B) dermal uptake through soil and water;
26 and

1 (C) inhalation of contaminated air;

2 (4) on the basis of the report entitled “Mercury
3 Study Report to Congress” and submitted by the
4 Environmental Protection Agency under section
5 112(n)(1)(B) of the Clean Air Act (42 U.S.C.
6 7412(n)(1)(B)), the major sources of mercury emis-
7 sions in the United States are, in descending order
8 of volume of emissions—

9 (A) fossil fuel-fired electric utility steam
10 generating units;

11 (B) solid waste incineration units;

12 (C) coal- and oil-fired commercial and in-
13 dustrial boiler units;

14 (D) medical waste incinerators;

15 (E) hazardous waste combustors;

16 (F) chlor-alkali plants; and

17 (G) Portland cement plants;

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

24 (B) the Environmental Protection Agency has
25 concluded that the geographical areas that have the

1 highest annual rate of deposition of mercury in all
2 forms are—

3 (i) the southern Great Lakes and Ohio
4 River Valley;

5 (ii) the Northeast and southern New Eng-
6 land; and

7 (iii) scattered areas in the South, with the
8 most elevated deposition occurring in the Miami
9 and Tampa areas and 2 areas in northeast
10 Texas; and

11 (C) analysis conducted before the date of the
12 Environmental Protection Agency report dem-
13 onstrates that mercury is being deposited into the
14 waters of Canada;

15 (6)(A) the Environmental Protection Agency re-
16 port described in paragraph (4) supports a plausible
17 link between mercury emissions from anthropogenic
18 combustion and industrial sources and concentra-
19 tions of methyl mercury in freshwater fish;

20 (B) in 2003, 45 States issued health advisories
21 that warned the public about consuming mercury-
22 tainted fish, as compared to 27 States that issued
23 such advisories in 1993;

1 (C) the total number of mercury advisories na-
2 tionwide increased from 899 in 1993 to 2,362 in
3 2003, an increase of 162 percent; and

4 (D) the United States and Canada have agreed
5 on a goal of virtual elimination of mercury from the
6 transboundary waters of the 2 countries;

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

10 (8) the presence of mercury in certain batteries
11 and fluorescent light bulbs is of special concern, par-
12 ticularly in light of the substantial quantities of used
13 batteries and fluorescent light bulbs that are dis-
14 carded annually in the solid waste stream and the
15 potential for environmental and health consequences
16 associated with land disposal, composting, or incin-
17 eration of the batteries and light bulbs;

18 (9) a comprehensive study of the use of mer-
19 cury by the Department of Defense would signifi-
20 cantly further the goal of reducing mercury pollu-
21 tion;

22 (10) because excess stockpiled mercury, if sold
23 domestically or internationally for commercial or in-
24 dustrial use, has the potential to threaten the envi-

1 ronment and public health, there is a need for meth-
2 ods to retire excess mercury permanently;

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

5 (A) determining current deposition trends;

6 (B) evaluating the local and regional trans-
7 port of mercury emissions; and

8 (C) assessing the impact of emission reduc-
9 tions; and

10 (12)(A) a recent reanalysis of data originally
11 reported in a January 2003 report by the Centers
12 for Disease Control and Prevention increased the es-
13 timate, from nearly 8 percent to nearly 16 percent,
14 of the fraction of women of childbearing age who
15 have mercury levels above the safe health threshold
16 established by the Environmental Protection Agency;
17 and

18 (B) the statistic described in subparagraph (A)
19 means that—

20 (i) nearly 4,900,000 women of childbearing
21 age have elevated levels of mercury from eating
22 contaminated fish; and

23 (ii) approximately 630,000 newborns per
24 year are at risk of neurological effects from

1 being exposed to elevated mercury levels before
2 birth.

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

4 (1) to greatly reduce the quantity of mercury
5 entering the environment by controlling air emis-
6 sions of mercury from—

7 (A) fossil fuel-fired electric utility steam
8 generating units;

9 (B) coal- and oil-fired commercial and in-
10 dustrial boiler units;

11 (C) solid waste incineration units;

12 (D) medical waste incinerators;

13 (E) hazardous waste combustors;

14 (F) chlor-alkali plants; and

15 (G) Portland cement plants;

16 (2) to reduce the quantity of mercury entering
17 solid waste landfills, incinerators, and composting
18 facilities by promoting recycling or proper disposal
19 of—

20 (A) used batteries;

21 (B) fluorescent light bulbs; and

22 (C) other products containing mercury;

23 (3) to increase the understanding of the volume
24 and sources of mercury emissions throughout North
25 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—

5 (A) coal cleaning;

6 (B) flue gas control systems; and

7 (C) other methods of mercury pollution
8 control;

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

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

15 (8) to increase public knowledge of the sources
16 of mercury exposure and the threats to public health
17 associated with mercury exposure, particularly the
18 threat to the health of pregnant women and their
19 fetuses, women of childbearing age, children, and in-
20 dividuals who subsist primarily on fish;

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

24 (10) to ensure that the health of sensitive popu-
25 lations, whether in the United States, Canada, or

1 Mexico, is protected, with an adequate margin of
2 safety, against adverse health effects caused by mer-
3 cury.

4 **SEC. 3. MERCURY EMISSION LIMITATIONS.**

5 (a) IN GENERAL.—

6 (1) REGULATIONS.—

7 (A) IN GENERAL.—Not later than 1 year
8 after the date of enactment of this Act, the Ad-
9 ministrator of the Environmental Protection
10 Agency shall promulgate regulations to estab-
11 lish emission limitations for mercury emissions
12 by coal-fired electricity generating facilities.

13 (B) NO EXCEEDANCE OF NATIONAL LIM-
14 ITATION.—The regulations shall ensure that the
15 national limitation for mercury emissions from
16 each coal-fired electricity generating facility es-
17 tablished under subsection (c) is not exceeded.

18 (C) EMISSION LIMITATIONS FOR 2009 AND
19 THEREAFTER.—In carrying out subparagraph
20 (A), for 2009 and each year thereafter, the Ad-
21 ministrator shall not—

22 (i) subject to subsections (e) and (f)
23 of section 112 of the Clean Air Act (42
24 U.S.C. 7412), establish limitations on
25 emissions of mercury from coal-fired elec-

1 tricity generating facilities that allow emis-
2 sions in excess of 2.48 grams of mercury
3 per 1000 megawatt hours; or

4 (ii) differentiate between facilities that
5 burn different types of coal.

6 (2) ANNUAL REVIEW AND DETERMINATION.—

7 (A) IN GENERAL.—Not later than April 1
8 of each year, the Administrator shall—

9 (i) review the total mercury emissions
10 during the 2 previous years from electricity
11 generating facilities located in all States;
12 and

13 (ii) determine whether, during the 2
14 previous years, the total mercury emissions
15 from facilities described in clause (i) ex-
16 ceeded the national limitation for mercury
17 emissions established under subsection
18 (c)(1)(D).

19 (B) EXCEEDANCE OF NATIONAL LIMITA-
20 TION.—If the Administrator determines under
21 subparagraph (A)(ii) that, during the 2 pre-
22 vious years, the total mercury emissions from
23 facilities described in subparagraph (A)(i) ex-
24 ceeded the national limitation for mercury emis-
25 sions established under subsection (c)(1)(D),

1 the Administrator shall, not later than 1 year
2 after the date of the determination, revise the
3 regulations promulgated under paragraph (1) to
4 reduce the emission rates specified in the regu-
5 lations as necessary to ensure that the national
6 limitation for mercury emissions is not exceeded
7 in any future year.

8 (3) COMPLIANCE FLEXIBILITY.—

9 (A) IN GENERAL.—Each coal-fired elec-
10 tricity generating facility subject to an emission
11 limitation under this section shall be in compli-
12 ance with that limitation if that limitation is
13 greater than or equal to the quotient obtained
14 by dividing—

15 (i) the total mercury emissions of the
16 coal-fired electricity generating facility dur-
17 ing each 30-day period; by

18 (ii) the quantity of electricity gen-
19 erated by the coal-fired electricity gener-
20 ating facility during that period.

21 (B) MORE THAN 1 UNIT AT A FACILITY.—

22 In any case in which more than 1 coal-fired
23 electricity generating unit at a coal-fired elec-
24 tricity generating facility subject to an emission
25 limitation under this section was operated in

1 1999 under common ownership or control, com-
2 pliance with the emission limitation may be de-
3 termined by averaging the emission rates of all
4 coal-fired electricity generating units at the
5 electricity generating facility during each 30-
6 day period.

7 (b) PREVENTION OF RE-RELEASE.—

8 (1) REGULATIONS.—Not later than July 1,
9 2006, the Administrator shall promulgate regula-
10 tions to ensure that any mercury captured or recov-
11 ered by emission controls installed at an electricity
12 generating facility is not re-released into the envi-
13 ronment.

14 (2) REQUIRED ELEMENTS.—The regulations
15 shall require—

16 (A) daily covers on all active waste disposal
17 units, and permanent covers on all inactive
18 waste disposal units, to prevent the release of
19 mercury into the air;

20 (B) monitoring of groundwater to ensure
21 that mercury or mercury compounds do not mi-
22 grate from the waste disposal unit;

23 (C) waste disposal siting requirements and
24 cleanup requirements to protect groundwater
25 and surface water resources;

1 (D) elimination of agricultural application
2 of coal combustion wastes; and

3 (E) appropriate limitations on mercury
4 emissions from sources or processes that re-
5 process or use coal combustion waste, including
6 manufacturers of wallboard and cement.

7 (c) EMISSION LIMITATIONS.—

8 (1) IN GENERAL.—Subject to paragraphs (2)
9 and (3), the Administrator shall promulgate regula-
10 tions to ensure that, during 2010 and each year
11 thereafter, the total annual emissions of covered pol-
12 lutants from all electricity generating facilities lo-
13 cated in all States does not exceed—

14 (A) in the case of sulfur dioxide—

15 (i) 275,000 tons in the western re-
16 gion; or

17 (ii) 1,975,000 tons in the nonwestern
18 region;

19 (B) in the case of nitrogen oxides,
20 1,510,000 tons;

21 (C) in the case of carbon dioxide,
22 2,050,000,000 tons; or

23 (D) in the case of mercury, 5 tons.

24 (2) EXCESS EMISSIONS BASED ON UNUSED AL-
25 LOWANCES.—The regulations promulgated under

1 paragraph (1) shall authorize emissions of covered
2 pollutants in excess of the national emission limita-
3 tions established under that subsection for a year to
4 the extent that the number of tons of the excess
5 emissions is less than or equal to the number of
6 emission allowances that are—

7 (A) used in the year; but

8 (B) allocated for any previous year under
9 Federal law.

10 (3) REDUCTIONS.—For 2010 and each year
11 thereafter, the quantity of emissions specified for
12 each covered pollutant in paragraph (1) shall be re-
13 duced by the sum of—

14 (A) the number of tons of the covered pol-
15 lutant that were emitted by small electricity
16 generating facilities in the second preceding
17 year; and

18 (B) any number of tons of reductions in
19 emissions of the covered pollutant required
20 under Federal law.

21 **SEC. 4. MERCURY EMISSION STANDARDS FOR COAL- AND**
22 **OIL-FIRED COMMERCIAL AND INDUSTRIAL**
23 **BOILER UNITS.**

24 Section 112 of the Clean Air Act is amended by in-
25 serting after subsection (s) the following:

1 “(t) MERCURY EMISSION STANDARDS FOR COAL-
2 AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER
3 UNITS.—

4 “(1) IN GENERAL.—

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

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

21 “(C) PROCEDURES AND SCHEDULES FOR
22 COMPLIANCE WITH STANDARDS.—Each coal- or
23 oil-fired commercial or industrial boiler unit
24 shall achieve compliance with the mercury emis-
25 sion standards established under subparagraph

1 (A) in accordance with the procedures and
2 schedules established under subsection (i).

3 “(2) STANDARDS AND METHODS.—

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

11 “(B) MINIMUM REQUIRED EMISSION RE-
12 Duction.—The emission standards established
13 under paragraph (1)(A) shall reduce the total
14 emissions of mercury from coal- and oil-fired
15 commercial and industrial boiler units in the
16 United States by not less than 90 percent from
17 1999 levels.

18 “(C) EMISSION TRADING WITHIN A FACIL-
19 ITY.—

20 “(i) IN GENERAL.—For the purpose
21 of this subsection, taking into consider-
22 ation the cost of achieving the emission re-
23 duction, the Administrator may allow emis-
24 sion trading among the coal- and oil-fired
25 commercial and industrial boiler units con-

1 tained in a facility at a single site if the
2 aggregate emissions of mercury from all
3 such units at the facility are less than or
4 equal to the aggregate emissions that
5 would result if all such units complied with
6 the emission standards established under
7 paragraph (1)(A).

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

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

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

23 “(i) reduce the volume of, or eliminate
24 emissions of, mercury through a process

1 change, substitution of material or fuel, or
2 other method;

3 “(ii) enclose systems or processes to
4 eliminate mercury emissions;

5 “(iii) collect, capture, or treat mer-
6 cury emissions when released from a proc-
7 ess, stack, storage, or fugitive emission
8 point;

9 “(iv) consist of design, equipment,
10 work practice, or operational standards
11 (including requirements for operator train-
12 ing or certification) in accordance with
13 subsection (h); or

14 “(v) consist of a combination of the
15 measures described in clauses (i) through
16 (iv).

17 “(3) PERMIT REQUIREMENTS AND CONDI-
18 TIONS.—

19 “(A) IN GENERAL.—Each permit issued in
20 accordance with paragraph (1)(B) shall in-
21 clude—

22 “(i) enforceable mercury emission
23 standards;

24 “(ii) a schedule of compliance;

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

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

10 “(B) MONITORING AND ANALYSIS.—

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

15 “(I) monitoring and analysis for
16 mercury; and

17 “(II) determining compliance
18 with this subsection.

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

23 “(iii) OTHER REQUIREMENTS.—The
24 requirements for monitoring and analysis
25 under this subparagraph shall include, to

1 the extent necessary to provide accurate
2 and reliable data for determining emissions
3 of mercury from each coal- or oil-fired
4 commercial or industrial boiler unit—

5 “(I) requirements that result in a
6 representative determination of mer-
7 cury in ash and sludge; and

8 “(II) a combination of require-
9 ments for continuous or other reliable
10 and representative direct emission
11 monitoring methods that results in a
12 representative determination of mer-
13 cury in fuel as received by each coal-
14 or oil-fired commercial or industrial
15 boiler unit.

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

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

23 “(i) IN GENERAL.—Each permit
24 issued in accordance with paragraph
25 (1)(B) shall specify inspection, entry, mon-

1 itoring, compliance certification, and re-
2 porting requirements to ensure compliance
3 with the terms and conditions or the per-
4 mit.

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.—A report required
10 under clause (i) or subparagraph (B)(iii)
11 shall be signed by a responsible official of
12 the coal- or oil-fired commercial or indus-
13 trial boiler unit, who shall certify the accu-
14 racy of the report.

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

17 “(A) IN GENERAL.—

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

19 “(B) RESEARCH PROGRAM.—To promote
20 permanent and cost-effective disposal of mer-
21 cury from coal- and oil-fired commercial and in-
22 dustrial boiler units, the Administrator shall es-
23 tablish a program of long-term research to de-
24 velop and disseminate information on methods
25 and techniques such as separating, solidifying,

1 recycling, and encapsulating mercury-containing
2 waste so that mercury does not volatilize, mi-
3 grate to ground water or surface water, or con-
4 taminates the soil.

5 “(5) OTHER REQUIREMENTS.—An emission
6 standard or other requirement promulgated under
7 this subsection does not diminish or replace—

8 “(A) any requirement of a more stringent
9 emission limitation or other applicable require-
10 ment established under this Act; or

11 “(B) a standard issued under State law.

12 “(6) PUBLIC REPORTING OF DATA PERTAINING
13 TO EMISSIONS OF MERCURY.—

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

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

1 **SEC. 5. REDUCTION OF MERCURY EMISSIONS FROM SOLID**
2 **WASTE INCINERATION UNITS.**

3 (a) SEPARATION OF MERCURY-CONTAINING
4 ITEMS.—Section 3002 of the Solid Waste Disposal Act
5 (42 U.S.C. 6922) is amended by adding at the end the
6 following:

7 “(c) SEPARATION OF MERCURY-CONTAINING
8 ITEMS.—

9 “(1) PUBLICATION OF LIST.—

10 “(A) IN GENERAL.—Not later than 180
11 days after the date of enactment of this sub-
12 section, the Administrator shall publish a list of
13 mercury-containing items that shall be required
14 to be separated and removed from a waste
15 stream that feeds a solid waste management fa-
16 cility.

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

24 “(C) LABELING REQUIREMENT.—

25 “(i) IN GENERAL.—Except as pro-
26 vided in clause (ii), to facilitate the process

1 of separating and removing items listed
2 under subparagraph (A), each manufac-
3 turer of a listed item shall ensure that
4 each item is clearly labeled to indicate that
5 the product contains mercury.

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

12 “(2) PLAN.—

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

1 “(i) separating and removing mer-
2 cury-containing items listed under para-
3 graph (1) from the waste streams that feed
4 any solid waste management facility;

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

10 “(iii) monitoring and reporting on
11 compliance with the plan; and

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

16 “(B) PLAN APPROVAL.—

17 “(i) DEADLINE.—Not later than 180
18 days after the date of receipt of the plan,
19 the Administrator (or the State) shall de-
20 termine whether to approve or disapprove
21 a plan submitted under subparagraph (A).

22 “(ii) PREFERENCE.—In determining
23 whether to approve a plan, the Adminis-
24 trator (or the State) shall give preference

1 to recycling or stabilization of mercury-
2 containing items over disposal of the items.

3 “(C) AMENDED PLAN.—

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

9 “(ii) APPROVAL.—Not later than 30
10 days after the date of receipt of the
11 amended plan, the Administrator (or the
12 State) shall approve or disapprove the
13 plan.

14 “(D) PLAN BY ADMINISTRATOR (OR
15 STATE).—

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

1 “(ii) PLAN.—Not later than 180 days
2 after issuing the determination, the Ad-
3 ministrator (or the State) shall develop,
4 publish in the Federal Register (or submit
5 to the Administrator for publication in the
6 Federal Register), implement, and enforce
7 a plan that—

8 “(I) meets the criteria specified
9 in subparagraph (A); and

10 “(II) ensures that full compliance
11 with the plan will be achieved not
12 later than 18 months after the date of
13 publication of the plan.

14 “(E) ENFORCEABILITY.—On approval by
15 the Administrator (or the State) of a plan sub-
16 mitted under subparagraph (A), or on publica-
17 tion of a plan developed by the Administrator
18 (or the State) under subparagraph (D), the
19 plan shall be enforceable under this Act.”.

20 (b) SOLID WASTE INCINERATION UNIT MERCURY
21 EMISSION MONITORING AND ANALYSIS.—Section 129 of
22 the Clean Air Act (42 U.S.C. 7429) is amended by strik-
23 ing subsection (e) and inserting the following:

24 “(e) PERMITS.—

1 “(1) IN GENERAL.—Beginning on the date that
2 is the later of the dates described in paragraph (2),
3 each unit in the category shall operate pursuant to
4 a permit issued under this subsection and title V.

5 “(2) INITIAL DATES.—The dates referred to in
6 paragraph (1) are—

7 “(A) the date that is 36 months after the
8 promulgation of a performance standard under
9 subsection (a) and section 111 applicable to a
10 category of solid waste incineration units; and

11 “(B) the effective date of a permit pro-
12 gram under title V in the State in which the
13 unit is located.

14 “(3) PERIOD OF ISSUANCE.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of this Act, a permit for a solid
17 waste incineration unit combusting municipal
18 waste issued under this Act—

19 “(i) shall be issued for a period of not
20 greater than 12 years; and

21 “(ii) shall be reviewed every 5 years
22 after the date of issuance or reissuance.

23 “(B) CONTINUATION.—

24 “(i) IN GENERAL.—Unless the Admin-
25 istrator or the State determines that a unit

1 is not in compliance with all standards and
2 conditions contained in a permit, the per-
3 mit described in subparagraph (A) shall
4 continue in effect after the date of issuance
5 until the date of termination of the permit.

6 “(ii) DETERMINATION.—The deter-
7 mination of the Administrator or the State
8 under clause (i) shall be made—

9 “(I) at regular intervals, not to
10 exceed 5 years, during the term of the
11 permit; and

12 “(II) after an opportunity for
13 public comment and a public hearing.

14 “(4) RENEWAL.—A permit described in para-
15 graph (1) may be renewed in accordance with title
16 V.

17 “(5) LACK OF AUTHORITY TO ISSUE.—No per-
18 mit for a solid waste incineration unit may be issued
19 under this Act by an agency, instrumentality, or per-
20 son that is responsible (in whole or in part) for the
21 design and construction or operation of the unit.

22 “(6) REQUIREMENTS.—Notwithstanding any
23 other provision of this subsection, if the Adminis-
24 trator or a State determines, at the discretion of the
25 Administrator or State, that emissions in the ab-

1 sence of limitations or other measures may reason-
 2 ably be anticipated to endanger public health or the
 3 environment, the Administrator or the State shall
 4 require the owner or operator of a unit—

5 “(A) to comply with emission limitations;

6 or

7 “(B) to implement any other measure the
 8 Administrator or the State determines is prac-
 9 ticable.

10 “(7) SOLID WASTE INCINERATION UNIT MER-
 11 CURY EMISSION MONITORING AND ANALYSIS.—

12 “(A) PROCEDURES AND METHODS.—

13 “(i) IN GENERAL.—Not later than
 14 180 days after the date of enactment of
 15 this paragraph, the Administrator shall
 16 promulgate regulations prescribing proce-
 17 dures and methods for—

18 “(I) monitoring and analysis for
 19 mercury emissions from solid waste
 20 combustion flue gases; and

21 “(II) determining compliance
 22 with this paragraph.

23 “(ii) INFORMATION.—Application of
 24 the procedures and methods shall result in

1 reliable and timely information for deter-
2 mining compliance.

3 “(B) PERMIT REQUIREMENTS.—

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

14 “(ii) SIGNATURE.—A report required
15 under clause (i) shall be signed by a re-
16 sponsible official of the solid waste inciner-
17 ation unit or by a municipal official, who
18 shall certify the accuracy of the report.

19 “(C) ESTABLISHMENT OF MAXIMUM MER-
20 CURY EMISSION RATE.—

21 “(i) DETERMINATION BY THE ADMIN-
22 ISTRATOR.—Not later than 36 months, 39
23 months, and 42 months after the date of
24 enactment of this subparagraph, based on
25 the reports required under subparagraph

1 (B)(i), the Administrator (or the State)
2 shall determine whether a solid waste in-
3 cinerator unit has achieved and is continu-
4 ously maintaining a mercury emission rate
5 of not more than 0.080 milligrams per dry
6 standard cubic meter.

7 “(ii) REQUIREMENT OF INSTALLA-
8 TION OF CONTROLS.—If the mercury emis-
9 sion rate specified in clause (i) is not
10 achieved and maintained over the period
11 covered by the reports required under sub-
12 paragraph (B)(i), or over any 2 out of 3
13 reporting periods thereafter, the Adminis-
14 trator shall require the solid waste inciner-
15 ation unit—

16 “(I) to install control equipment;

17 and

18 “(II) to implement techniques
19 that will result in a mercury emission
20 rate by the unit of not more than
21 0.060 milligrams per dry standard
22 cubic meter within 3 years.

23 “(iii) ENFORCEABILITY.—The re-
24 quirements of this subparagraph shall be
25 an enforceable modification to any existing

1 or new permit described in paragraph (1)
2 for the solid waste incineration unit.

3 “(D) OTHER REQUIREMENTS.—An emis-
4 sion standard or other requirement promulgated
5 under this subsection does not diminish or re-
6 place—

7 “(i) any requirement of a more strin-
8 gent emission limitation or other applicable
9 requirement established under this Act; or

10 “(ii) a standard issued under State
11 law.

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

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

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

1 (c) PHASEOUT OF MERCURY IN PRODUCTS.—Section
2 112 of the Clean Air Act (as amended by section 4) is
3 amended by inserting after subsection (t) the following:

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

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

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

16 “(3) PROCEDURES FOR MAKING EXEMPTION
17 APPLICATION DETERMINATIONS.—Before making a
18 determination on an application for exemption from
19 the prohibition under paragraph (2), the Adminis-
20 trator shall—

21 “(A) publish notice of the application in
22 the Federal Register;

23 “(B) provide a public comment period of
24 60 days; and

1 “(C) conduct a hearing on the record on
2 the application.

3 “(4) CRITERIA FOR EXEMPTION.—In making a
4 determination on an application described in para-
5 graph (3), the Administrator may grant an exemp-
6 tion from the prohibition under paragraph (2) if—

7 “(A) the Administrator determines that
8 the mercury-containing product is a product the
9 use of which is essential;

10 “(B) the Administrator determines that
11 there is no comparable product that does not
12 contain mercury and that is available in the
13 marketplace at a reasonable cost; and

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

21 “(5) TERM OF EXEMPTION.—

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

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

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

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

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

12 **SEC. 6. MERCURY EMISSION STANDARDS FOR CHLOR-AL-**
 13 **KALI PLANTS.**

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

17 “(v) MERCURY EMISSION STANDARDS FOR CHLOR-
 18 ALKALI PLANTS.—

19 “(1) IN GENERAL.—

20 “(A) REGULATIONS.—Not later than 180
 21 days after the date of enactment of this sub-
 22 paragraph, the Administrator shall promulgate
 23 regulations to establish standards for the direct
 24 and fugitive emission of mercury and mercury
 25 compounds (collectively referred to in this sub-

1 section as ‘mercury’) applicable to existing and
2 new chlor-alkali plants that use the mercury cell
3 production process (referred to in this sub-
4 section as ‘mercury cell chlor-alkali plants’).

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

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

17 “(2) STANDARDS AND METHODS.—

18 “(A) MINIMUM REQUIRED EMISSION RE-
19 Duction.—The emission standards established
20 under paragraph (1)(A) shall require that each
21 mercury cell chlor-alkali plant reduce its annual
22 poundage of direct and fugitive mercury emit-
23 ted below its mercury emission baseline, as de-
24 termined by the Administrator, by not less than
25 95 percent.

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

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

11 “(ii) enclose systems or processes to
12 eliminate mercury emissions;

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

17 “(iv) consist of design, equipment,
18 manufacturing process, work practice, or
19 operational standards (including require-
20 ments for operator training or certification
21 or spill prevention) in accordance with sub-
22 section (h); or

23 “(v) consist of a combination of the
24 measures described in clauses (i) through
25 (iv).

1 “(3) PERMIT REQUIREMENTS AND CONDI-
2 TIONS.—

3 “(A) IN GENERAL.—Each permit issued in
4 accordance with paragraph (1)(B) shall in-
5 clude—

6 “(i) enforceable mercury emission
7 standards;

8 “(ii) a schedule of compliance;

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

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

18 “(B) MONITORING AND ANALYSIS.—

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

23 “(I) monitoring and analysis for
24 mercury; and

1 “(II) determining compliance
2 with this subsection.

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

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

12 “(C) INSPECTION, ENTRY, MONITORING,
13 CERTIFICATION, AND REPORTING.—

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

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

1 “(iii) SIGNATURE.—A report required
2 under clause (i) shall be signed by a re-
3 sponsible official of the mercury cell chlor-
4 alkali plant, who shall certify the accuracy
5 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—

21 “(A) any requirement of a more stringent
22 emission limitation or other applicable require-
23 ment established under this Act; or

24 “(B) 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 mercury cell
8 chlor-alkali 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. 7. MERCURY EMISSION STANDARDS FOR PORTLAND**
14 **CEMENT PLANTS.**

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

18 “(w) MERCURY EMISSION STANDARDS FOR PORT-
19 LAND CEMENT PLANTS.—

20 “(1) IN GENERAL.—

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

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

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

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

23 “(C) PROCEDURES AND SCHEDULES FOR
24 COMPLIANCE WITH STANDARDS.—Each Port-
25 land cement plant shall achieve compliance with

1 the mercury emission standards established
2 under subparagraph (A) in accordance with the
3 procedures and schedules established under
4 subsection (i).

5 “(2) STANDARDS AND METHODS.—

6 “(A) MINIMUM REQUIRED EMISSION RE-
7 Duction.—The emission standards established
8 under paragraph (1)(A) shall require that each
9 Portland cement plant reduce its annual pound-
10 age of direct and fugitive mercury emitted
11 below its mercury emission baseline, as deter-
12 mined by the Administrator, by not less than
13 95 percent.

14 “(B) 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 other
23 method;

24 “(ii) enclose systems, processes, or
25 storage to 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 manufacturing process, work practice, or
7 operational standards (including require-
8 ments for operator training or certifi-
9 cation) in accordance with subsection (h);
10 or

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

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

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

19 “(i) enforceable mercury emission
20 standards;

21 “(ii) a schedule of compliance;

22 “(iii) 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; 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) EFFECT ON OTHER LAW.—
20 Nothing in this subsection affects any con-
21 tinuous emission monitoring requirement
22 of title IV or any other provision of this
23 Act.

24 “(C) INSPECTION, ENTRY, MONITORING,
25 CERTIFICATION, AND REPORTING.—

1 “(i) IN GENERAL.—Each permit
2 issued in accordance with paragraph
3 (1)(B) shall specify inspection, entry, mon-
4 itoring, compliance certification, and re-
5 porting requirements to ensure compliance
6 with the terms and conditions of the per-
7 mit.

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

12 “(iii) SIGNATURE.—A report required
13 under clause (i) shall be signed by a re-
14 sponsible official of the Portland cement
15 plant, who shall certify the accuracy of the
16 report.

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

19 “(A) IN GENERAL.—

20 “(i) CAPTURED OR RECOVERED MER-
21 CURY.—The regulations promulgated by
22 the Administrator under paragraph (1)(A)
23 shall ensure that mercury that is captured
24 or recovered through the use of an emis-

1 sion control or another method is disposed
2 of in a manner that ensures that—

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

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

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

20 “(B) RESEARCH PROGRAM.—To promote
21 permanent and cost-effective disposal of mer-
22 cury from Portland cement plants, the Adminis-
23 trator shall establish a program of long-term re-
24 search to develop and disseminate information
25 on methods and techniques such as separating,

1 solidifying, recycling, and encapsulating mer-
2 cury-containing waste so that mercury does not
3 volatilize, migrate to ground water or surface
4 water, or contaminate the soil.

5 “(5) OTHER REQUIREMENTS.—An emission
6 standard or other requirement promulgated under
7 this subsection does not diminish or replace—

8 “(A) any requirement of a more stringent
9 emission limitation or other applicable require-
10 ment established under this Act; or

11 “(B) a standard issued under State law.

12 “(6) PUBLIC REPORTING OF DATA PERTAINING
13 TO EMISSIONS OF MERCURY.—

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

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

1 **SEC. 8. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**
2 **SION STANDARDS FOR MEDICAL WASTE IN-**
3 **CINERATORS.**

4 (a) IN GENERAL.—Not later than 2 years after the
5 date of enactment of this Act, the Administrator of the
6 Environmental Protection Agency shall submit to Con-
7 gress a report describing the extent to which the annual
8 poundage of mercury and mercury compounds emitted by
9 each medical waste incinerator in the United States has
10 been reduced below the baseline for the medical waste in-
11 cinerator determined under subsection (b).

12 (b) BASELINE.—

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

19 (2) LACK OF ACTUAL DATA.—If the data de-
20 scribed in paragraph (1) are not available, the Ad-
21 ministrator shall develop an estimate of baseline
22 mercury emissions based on—

23 (A) other sources of data; and

24 (B) the best professional judgment of the
25 Administrator.

1 **SEC. 9. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**
2 **SION STANDARDS FOR HAZARDOUS WASTE**
3 **COMBUSTORS.**

4 (a) IN GENERAL.—Not later than 2 years after the
5 date of enactment of this Act, the Administrator of the
6 Environmental Protection Agency shall submit to Con-
7 gress a report on the extent to which the annual poundage
8 of mercury and mercury compounds emitted by each haz-
9 ardous waste combustor in the United States has been re-
10 duced below the baseline for the hazardous waste com-
11 bustor determined under subsection (b).

12 (b) BASELINE.—

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

19 (2) LACK OF ACTUAL DATA.—If the data de-
20 scribed in paragraph (1) are not available, the Ad-
21 ministrator shall develop an estimate of baseline
22 mercury emissions based on—

23 (A) other sources of data; and

24 (B) the best professional judgment of the
25 Administrator.

1 **SEC. 10. DEFENSE ACTIVITIES.**

2 (a) REPORT.—

3 (1) IN GENERAL.—Not later than 2 years after
4 the date of enactment of this Act, the Secretary of
5 Defense shall submit to Congress a report describing
6 the use of mercury and mercury compounds by the
7 Department of Defense.

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

10 (A) any measures that the Department of
11 Defense is carrying out to reduce the use and
12 emissions of mercury and mercury compounds
13 by the Department; and

14 (B) measures that the Department of De-
15 fense is carrying out to stabilize or recycle dis-
16 carded mercury or discarded mercury-con-
17 taining products.

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

1 **SEC. 11. INTERNATIONAL ACTIVITIES.**

2 (a) STUDY AND REPORT.—Not later than 2 years
3 after the date of enactment of this Act, the Administrator
4 of the Environmental Protection Agency, in cooperation
5 with appropriate representatives of Canada and Mexico,
6 shall study and submit to Congress a report describing
7 the sources and extent of mercury emissions in North
8 America.

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

11 (1) internal and external scientific peer review;

12 and

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

17 (c) REQUIRED ELEMENTS.—The report shall in-
18 clude—

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

21 (2) a description of the patterns and pathways
22 taken by mercury pollution through the atmosphere
23 and surface water; and

24 (3) recommendations for pollution control meas-
25 ures, options, and strategies that, if implemented in-
26 dividually or jointly by the United States, Canada,

1 and Mexico, will eliminate or greatly reduce
2 transboundary atmospheric and surface water mer-
3 cury pollution in North America.

4 **SEC. 12. MERCURY RESEARCH.**

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

7 “(1) MERCURY RESEARCH.—

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

10 “(A) ESTABLISHMENT OF ADVISORY COM-
11 MITTEE.—Not later than 3 years after the date
12 of enactment of this subsection, the Secretary
13 of Health and Human Services and the Admin-
14 istrator shall establish an advisory committee to
15 evaluate and prepare a report describing the
16 progress made by the Federal Government,
17 State and local governments, industry, and
18 other regulated entities to implement and com-
19 ply with the mercury-related amendments to
20 this Act made by the Mercury Emission Act of
21 2005.

22 “(B) MEMBERSHIP.—

23 “(i) IN GENERAL.—The advisory com-
24 mittee shall consist of at least 15 mem-

1 bers, of whom at least 1 member shall rep-
2 resent each of the following:

3 “(I) The Department of Health
4 and Human Services.

5 “(II) The Agency for Toxic Sub-
6 stances and Disease Registry.

7 “(III) The Food and Drug Ad-
8 ministration.

9 “(IV) The Environmental Protec-
10 tion Agency.

11 “(V) The National Academy of
12 Sciences.

13 “(VI) Native American popu-
14 lations.

15 “(VII) State and local govern-
16 ments.

17 “(VIII) Industry.

18 “(IX) Environmental organiza-
19 tions.

20 “(X) Public health organizations.

21 “(ii) APPOINTMENT.—The Secretary
22 of Health and Human Services and the
23 Administrator shall each appoint not fewer
24 than 7 members of the advisory committee.

1 “(C) DUTIES.—The advisory committee
2 shall—

3 “(i) evaluate the adequacy and com-
4 pleteness of data collected and dissemi-
5 nated by the Environmental Protection
6 Agency and each State that measures and
7 reports on mercury contamination in the
8 environment;

9 “(ii) make recommendations to the
10 Secretary of Health and Human Services
11 and the Administrator concerning—

12 “(I) changes necessary to im-
13 prove the quality and ensure consist-
14 ency from State to State of Federal
15 and State data collection, reporting,
16 and characterization of baseline envi-
17 ronmental conditions; and

18 “(II) methods for improving pub-
19 lic education, particularly among high-
20 risk populations (such as pregnant
21 women and their fetuses, women of
22 childbearing age, children, and indi-
23 viduals who subsist primarily on fish),
24 concerning the pathways and effects

1 of mercury contamination and con-
2 sumption; and

3 “(iii) not later than 4 years after the
4 date of enactment of this subsection, com-
5 pile and make available to the public,
6 through 1 or more published reports and 1
7 or more forms of electronic media, the
8 findings, recommendations, and supporting
9 data (including State-specific data) of the
10 advisory committee under this subpara-
11 graph.

12 “(D) COMPENSATION.—

13 “(i) IN GENERAL.—A member of the
14 advisory committee shall receive no com-
15 pensation for the service of the member on
16 the advisory committee.

17 “(ii) TRAVEL EXPENSES.—A member
18 of the advisory committee shall be allowed
19 travel expenses, including per diem in lieu
20 of subsistence, at rates authorized for em-
21 ployees of agencies under subchapter I of
22 chapter 57 of title 5, United States Code,
23 while away from the home or regular place
24 of business of the member in the perform-

1 ance of services for the advisory com-
2 mittee.

3 “(E) DURATION OF ADVISORY COM-
4 MITTEE.—The advisory committee—

5 “(i) shall terminate not earlier than
6 the date on which the Secretary of Health
7 and Human Services and the Adminis-
8 trator determine that the findings, rec-
9 ommendations, and supporting data pre-
10 pared by the advisory committee have been
11 made available to the public; and

12 “(ii) may, at the discretion of the Sec-
13 retary of Health and Human Services and
14 the Administrator, continue in existence
15 after that date to continue to carry out the
16 duties described in subparagraph (C).

17 “(F) APPLICABILITY OF FEDERAL ADVI-
18 SORY COMMITTEE ACT.—The Federal Advisory
19 Committee Act (5 U.S.C. App.) shall not apply
20 to the advisory committee established under
21 this paragraph.

22 “(G) FUNDING.—The Secretary of Health
23 and Human Services and the Administrator
24 shall each provide 50 percent of the funding
25 necessary to carry out this paragraph.

1 “(2) REPORT ON MERCURY SEDIMENTATION
2 TRENDS.—Not later than 1 year after the date of
3 enactment of this subsection, the Administrator shall
4 submit to Congress a report that characterizes mer-
5 cury and mercury-compound sedimentation trends in
6 Lake Champlain, the Chesapeake Bay, the Great
7 Lakes, the finger lakes region of upstate New York,
8 Tampa Bay, and other water bodies of concern (as
9 determined by the Administrator).

10 “(3) EVALUATION OF FISH CONSUMPTION
11 ADVISORIES.—

12 “(A) IN GENERAL.—The Administrator
13 shall evaluate the adequacy, consistency, com-
14 pleteness, and public dissemination of—

15 “(i) data collected by the Environ-
16 mental Protection Agency and each State
17 concerning mercury contamination of fish;
18 and

19 “(ii) advisories to warn the public
20 about the consumption of mercury-con-
21 taminated fish (referred to in this para-
22 graph as ‘fish consumption advisories’).

23 “(B) IMPROVEMENT OF QUALITY AND
24 CONSISTENCY.—In conjunction with each State
25 or unilaterally, the Administrator shall imple-

1 ment any changes necessary to improve the
2 quality and ensure consistency from State to
3 State of Federal and State data collection, re-
4 porting, characterization of mercury contamina-
5 tion, and thresholds concerning mercury con-
6 tamination in fish above which fish consump-
7 tion advisories will be issued.

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

18 “(D) EFFECT ON STATE AUTHORITY.—
19 Nothing in this paragraph affects the authority
20 of a State to advise residents of the mercury
21 content of commercially sold foods and other
22 products.

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

1 “(A) conduct a study to—

2 “(i) assess—

3 “(I) the total quantity and dis-
4 tribution of excess mercury in the
5 United States in stockpiles, collection
6 programs, and other sources; and

7 “(II) the potential for the excess
8 mercury to reenter the global market;

9 “(ii) evaluate whether any methods
10 may exist or be developed for the collection
11 and permanent retirement of excess mer-
12 cury in a manner that ensures that there
13 is no release of mercury into the environ-
14 ment;

15 “(iii) recommend research programs
16 to investigate and develop the methods
17 evaluated under clause (ii) that the Acad-
18 emy determines are potentially practicable;

19 “(iv) identify Federal or State policies
20 that may facilitate or impede the perma-
21 nent retirement of excess mercury;

22 “(v) evaluate the potential for reduc-
23 ing the mining of virgin mercury
24 through—

25 “(I) international agreements;

1 “(II) recycling of mercury; or
2 “(III) the use of existing pri-
3 vately owned stockpiles of mercury;
4 “(vi) evaluate the potential for reduc-
5 ing global use of mercury in products and
6 industrial processes through the promotion
7 and dissemination of substitute products
8 and processes that do not use mercury;
9 and

10 “(vii) make any other recommenda-
11 tions concerning excess mercury that the
12 Academy determines to be useful; and

13 “(B) not later than 1 year after the date
14 of enactment of this subsection, submit to Con-
15 gress a report describing the results of the
16 study.

17 “(5) AUTHORIZATION OF APPROPRIATIONS.—

18 “(A) MODERNIZATION AND EXPANSION.—

19 In addition to amounts made available under
20 any other law, there is authorized to be appro-
21 priated to the Administrator for equipment and
22 site modernization and network expansion of
23 the National Atmospheric Deposition Program
24 Mercury Deposition Network \$2,000,000, to re-
25 main available until expended.

1 “(B) OPERATIONAL SUPPORT.—In addi-
2 tion to amounts made available under any other
3 law, there are authorized to be appropriated for
4 operational support of the National Atmos-
5 pheric Deposition Program Mercury Deposition
6 Network for each of fiscal years 2006 through
7 2015—

8 “(i) \$400,000 to the Environmental
9 Protection Agency;

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

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

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

○