

111TH CONGRESS
1ST SESSION

H. R. 821

To amend the Clean Air Act to require that mercury emissions from electric utility steam generating units be subject to the MACT standard for hazardous air pollutants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2009

Ms. EDDIE BERNICE JOHNSON of Texas (for herself and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Clean Air Act to require that mercury emissions from electric utility steam generating units be subject to the MACT standard for hazardous air pollutants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mercury Emissions
5 Reduction Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) Mercury is a potent neurotoxin that can
2 cause adverse health effects at very low concentra-
3 tions.

4 (2) Coal-fired electric powerplants, or electric
5 generating units, are the leading source of United
6 States air emissions of mercury. When released into
7 the atmosphere, mercury a potent neurotoxin that
8 can have adverse health effects at low concentra-
9 tions.

10 (3) Concerns about public exposure to mercury
11 have grown in recent years as research has indicated
12 its presence at significant levels in numerous species
13 of fish, and as analyses of dietary intake and result-
14 ing blood levels have pointed to potential health risks
15 from mercury ingestion, particularly for women of
16 child-bearing age and developing fetuses.

17 (4) According to the Environmental Protection
18 Agency's (EPA) National Listing of Fish Advisories,
19 there are approximately 3,852 advisories in 48 of
20 the 50 States, the District of Columbia, 2 of the 4
21 territories, and 5 Indian tribes. Forty-four States
22 have issued fish consumption advisories due to mer-
23 cury.

24 (5) With the exception of electric utilities, sec-
25 tion 112 of the Clean Air Act regulates all major

1 sources of mercury emissions through Maximum
2 Achievable Control Technology (MACT).

3 (6) The EPA was required by the terms of the
4 Clean Air Act Amendments of 1990 and a 1998 con-
5 sent agreement to determine whether regulation of
6 mercury from powerplants under section 112 of the
7 Clean Air Act was appropriate and necessary.

8 (7) In a December 2000 regulatory finding, the
9 EPA concluded that regulation of mercury from
10 powerplants was appropriate and necessary. The
11 finding triggered other provisions of the consent
12 agreement: That the agency propose Maximum
13 Achievable Control Technology (MACT) standards
14 for electric powerplants by December 15, 2003, and
15 finalize them by March 15, 2005.

16 (8) In 2005, the EPA discarded its 2000 regu-
17 latory finding for a national cap-and-trade system
18 for mercury emissions from powerplants, the Clean
19 Air Mercury Rule (CAMR).

20 (9) The CAMR rule was immediately challenged
21 in petitions for review filed by New Jersey and 16
22 other States as well as other petitioners. The DC
23 Circuit, in a 3–0 decision handed down February 8,
24 2008, vacated the rule. The court found that once
25 the EPA had listed electric generating units as a

1 source of hazardous air pollutants, it had to proceed
2 with MACT regulations under section 112 of the Act
3 unless it delisted the source category, under proce-
4 dures the Act sets forth in section 112(c)(9).

5 (b) PURPOSE.—The purpose of this Act is to require
6 the Administrator of the Environmental Protection Agen-
7 cy to promulgate a rule for mercury emissions from elec-
8 tric utility steam generating units be subject to MACT
9 standards under section 112 of the Clean Air Act for haz-
10 ardous air pollutants.

11 **SEC. 3. MERCURY FROM ELECTRIC UTILITY STEAM GENER-**
12 **ATING UNITS.**

13 Section 112(c)(6) of the Clean Air Act (42 U.S.C.
14 7412(c)(6)) is amended by inserting “(A)” after “(6)”,
15 by striking the last sentence, and by adding the following
16 new subparagraph at the end thereof:

17 “(B) The Administrator shall promulgate
18 standards under this section for mercury emissions
19 from electric utility steam generating units to take
20 effect one year after the enactment of this subpara-
21 graph.”.

○