

H.R. 1534 – Mercury Export Ban Act of 2007

FLOOR SUMMARY

H.R. 1534 is being considered on the House floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Thomas Allen (D-ME). The bill was referred to the House Committee on Energy and Commerce. On August 2, 2007 the Subcommittee on Environment and Hazardous Materials forwarded the bill to the full committee by voice vote. The full committee reported the bill on October 30, 2007, by a vote of 45 to 2.

During committee consideration, Representative Allen offered an amendment that removed a provision to establish an Excess Mercury Storage Advisory Committee and replaced the section with long-term storage guidelines and liability protections (described below). The amendment was adopted by voice vote.

H.R. 1534 is expected to be considered on the House floor on November 13, 2007.

**Note: Senator Barack Obama (D-IL) has introduced similar legislation in the Senate (S. 906), which has been referred to the Senate Committee on Environment and Public Works. Senator Obama introduced similar legislation (S. 3627) during the 109th Congress.*

BACKGROUND

According to the legislation, as many as 10% of women in the United States have mercury in the blood at a level that could put a baby at risk and as many as 630,000 children born annually in the United States are at risk for neurological ingestion of mercury-contaminated fish. A 2004 report by the Environmental Protection Agency indicates that 44 states have fish advisories covering 13,000,000 lake acres and over 750,000 river miles. Of those states, 21 have statewide freshwater advisories and states have statewide coastal advisories.

According to the Centers for Disease Control (CDC), “inhalation exposure is the most typical route of elemental mercury toxicity. Acute toxicity might result in fever, fatigue, and clinical signs of pneumonitis. Chronic exposure results in neurologic, dermatologic, and renal manifestations. Signs and symptoms might include neuropsychiatric disturbances (e.g., memory loss, irritability, or depression), tremor, paresthesias, gingivostomatitis, flushing, discoloration and desquamation of the hands and feet, and hypertension (1-4).”

Plants and animals are often affected by mercury released into the environment, which, in turn, becomes a source of mercury ingestion.

Federal agencies that are currently in possession of mercury have agency policies not to transport or transfer the mercury. There is no law, however, that mandates that prohibition.

SUMMARY

Mercury Transfer Prohibition

H.R. 1534 prohibits federal agencies from selling, conveying or distributing elemental mercury to any other federal agency, state or local government agency, or private entity.

**Note: Federal agencies may transfer elemental mercury for the purpose of storage only.*

Mercury Export Prohibition

The bill prohibits (effective January 1, 2010) the export of elemental mercury. The Administrator of the Environmental Protection Agency (EPA) is required to submit a report to Congress within one year on mercuric chloride, mercurous chloride or calomel, mercuric oxide, and any other compounds that may currently be used in significant quantities or processes. The purpose of the report is to help Congress determine whether to expand the export prohibition to any other compounds.

Long-Term Storage

The bill requires the Secretary of Energy (prior to January 1, 2010) to accept custody of elemental mercury, including taking responsibility for the long-term storage and management of elemental mercury. Allows the Secretary to assess a fee for the management and storage from those that deliver elemental mercury to a facility designated by the Secretary. The fee should be published prior to October 1, 2009 and should cover the costs to the Department of Energy. The bill also requires an annual report to Congress on the costs incurred by the Department of Energy for the storage and management of elemental mercury.

The bill requires the Secretary of Energy (prior to October 1, 2009) to establish guidance on the standards for receipt of elemental mercury by the Department, management of the elemental mercury and its long-term storage. According to the bill, these standards shall “be protective of human health and the environment and shall ensure that the elemental mercury is stored in a safe, secure, and effective manner.”

**Note: the elemental mercury stored and managed at these facilities will be subject to the Solid Waste Disposal Act (P.L. 94-580)*

All staff that has responsibilities related to the management, storage, transfer or monitoring of the elemental mercury will be provided operational and emergency

training. Facilities will also be equipped by fire detection and suppression systems (unless the Secretary determines that a permanent suppression system is not necessary).

Liability Protections

The bill provides liability protections for persons who deliver elemental mercury to a facility from any suit, claim, liability, judgment, cost or fee that arising out of a claim of personal injury or property damage that resulted from a release or threatened release after delivery of the elemental mercury to the facility (unless the person contributed to the release or threatened release).

The bill outlines procedures and guidelines for indemnification (the Department's agreement not to hold the person delivering the elemental mercury responsible, which may lead to the Department making indemnification payments through a settlement).

COST

According to the Congressional Budget Office, "Assuming appropriation of the necessary amounts, CBO estimates that DOE would spend \$8 million over the 2008-2012 period and additional amounts thereafter to provide for the permanent storage of commercially generated mercury. CBO also estimates that enacting this bill would reduce net direct spending by \$8 million over the 2008-2017 period by increasing offsetting receipts (an offset to direct spending) from the one-time fee that would be paid by firms transferring mercury to DOE. Enacting this legislation would not affect revenues."

CBO Estimate: <http://www.cbo.gov/ftpdocs/88xx/doc8800/hr1534.pdf>

ADDITIONAL RESOURCES

Environmental Protection Agency: www.epa.gov/mercury/effects.htm

STAFF CONTACT

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