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November 14, 2000

Carol Browner, Administrator  
U.S. Environmental Protection Agency  
401 M. St.  
Washington, DC

Dear Administrator Browner,

For several years, you have worked to reduce risks and protect children, pregnant women and the developing fetus from environmental health risks, including mercury. Yet more needs to be done on reducing exposure risks to mercury, given the findings of a July 2000 National Academy of Sciences report indicating "...that each year about 60,000 children may be born in the United States with neurological damage..." resulting from the maternal consumption of methylmercury-contaminated fish during pregnancy.

Over the next few months, we strongly encourage you to reduce mercury releases and human, fish and wildlife exposures to mercury through:

- supporting the storage and retirement of mercury,
- releasing the long-delayed Mercury Action Plan,
- reducing mercury emissions from all sources,
- gathering information on all mercury sources,
- ceasing the incineration of all mercury wastes,
- setting a date-certain goal for the virtual elimination of anthropogenic mercury.

At a conference earlier this year sponsored by EPA in Baltimore, many state officials and experts present stated that one of EPA's top priorities on mercury should be developing research and policies to support interim storage and permanent retirement of mercury. The announced closing of HoltraChem, a chlor-alkali plant in Maine, has brought the issue to a head with the planned sale of the 260,000 pounds of mercury currently on-site--rumored to be destined for India--unless they are allowed to ship the mercury for interim storage to a federal stockpile site.

In the strongest possible terms, we urge you to take the lead role in immediately developing an interagency agreement between EPA and the Departments of Defense and Energy to accept HoltraChem's mercury into the federal stockpile. We also strongly encourage you to support our request that President Clinton issue an executive order (see attached draft) to support retirement policies for mercury and associated research needs.

Many of these same points were made in a May 10, 2000 letter to President Clinton from the six New England Governors. More recently, on September 22, 2000 the New England Governors adopted a resolution directing their appropriate state officials: "...to make every effort ...to ensure that large quantities of stockpiled or recovered mercury are permanently retired in a manner that safely and securely avoids reintroduction of that mercury into the marketplace, or potentially, into the environment."

Increasingly, federal agencies, states and municipalities, health care facilities and industries are phasing out mercury uses and hosting collections for discarded mercury-containing products. Concurrently, there is a growing consensus nationally that we must develop interim storage of mercury until a more permanent retirement option can be perfected. Without the availability of interim storage or long term options, much of this recycled mercury is being recirculated back into commerce in the U.S. or in Third World countries where it often is released into the global environment. We therefore urge you to take the lead in developing a consensus-based process in conjunction with states, tribes, environmental organizations, DOE, DOD, and EPA to develop a protocol for the interim storage of mercury while a more permanent, environmentally sound retirement option can be identified and then developed.

At the same time, we strongly believe that EPA should establish an aggressive goal for the virtual elimination of mercury by a date certain, release its Mercury Action Plan and set strict emissions limits for all known sources of mercury. Unfortunately, EPA is not taking advantage of all available opportunities to reduce mercury emissions to the environment. For instance, the Agency recently decided not to regulate sewage sludge incinerators for mercury and issued a MACT standard for cement kilns without mercury emission limits.

Further, EPA needs to immediately suspend its requirements for waste treatment of mercury wastes through incineration. Since 1990, USEPA has required waste treatment through incineration for mercury wastes that cannot be retorted (recycled). EPA's regulations actually state that these wastes should be sent to combustion facilities and burned. When this flawed regulation was developed, no one in EPA's waste program gave a thought about the immediate release, through incineration, and the resulting health and environmental effects of air emissions of mercury. Clearly, this approach is contrary to the efforts EPA is engaged in at the national and international levels to reduce and eliminate anthropogenic mercury emissions and should be corrected immediately.

Finally, although the Mercury Study Report to Congress indicates that mercury emissions may be significantly underestimated, EPA has not inventoried certain industries known to generate large mercury releases. Under existing authorities in Section 114 of the Clean Air Act, EPA should be issuing Information Collection Requests for all suspected mercury emitters. Since mercury is the first persistent bioaccumulative toxic to be addressed, the Office of Air Quality, Planning, and Standards should be looking at going beyond-the-floor controls for all persistent bioaccumulative toxins, including mercury.

Thank you for your attention to these important matters.

Sincerely,

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cc Maine Congressional Delegation  
Honorable Patrick Leahy, U.S. Senate  
Honorable Frank Pallone, U.S. House of Representatives  
George Frampton, Council on Environmental Quality  
EPA Regional Administrators  
New England Governors  
New England State Environmental Commissioners  
New England Governors Conference  
David Lennet, ME DEP  
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**Executive Order on Mercury Retirement**  
**Draft 11/14/00**

Whereas, there has been a 2- to 3-fold global increase in mercury in the environment over the past century, and atmospheric deposition resulting from human activities, including area sources, waste disposal, chlorine and caustic soda manufacturing wastes and fossil fuel burning contribute significantly to the global mercury loading in the environment;

Whereas, mercury bioaccumulates in the aquatic food chain and at least 1,500 public health advisories have been adopted by 40 states throughout the country due to mercury contamination in both freshwater and saltwater fish and the FDA has issued advisories for mercury-contaminated commercial fish;

Whereas, the National Research Council's July 2000 report estimates that over 60,000 children are born each year at risk for adverse neurodevelopmental effects due to in-utero exposure to methylmercury resulting from their mother's consumption of fish;

Whereas, the United State use of mercury in consumer products has declined more than 80% over the past 10 years and will likely continue to decline;

Whereas, the United States is meeting virtually all of its current domestic needs for mercury via recycling, and mercury use and demand are similarly declining in developed countries due to increased awareness of health and environmental impacts and increased regulation;

Whereas, large volume mercury sales depress world prices, increase world supply of mercury, and result in increased mercury use in countries with lesser or non-existent regulations concerning waste management, air emissions, and protection of worker safety and the environment;

Whereas, the United States Government owns in excess of 10 million pounds of mercury in Department of Defense and Department of Energy stockpiles, and U.S. government sales of stockpiled mercury were halted in 1994 so that environmental considerations could be assessed;

Whereas, the largest sources of secondary mercury in the U.S. comes from the dismantling of chlorine and caustic soda manufacturing systems, and collection of discarded mercury-containing products, equipment and devices;

Whereas, mercury is truly a national and international concern because mercury is atmospherically transported indiscriminately across political boundaries, and exported U.S. mercury returns to this country in atmospheric deposition, contaminated fish, and products; and

Whereas, in recent years federal and state governments have taken many actions to reduce mercury in the environment and the Environmental Protection Agency is working cooperatively within the international community to reduce global risks of mercury.

The President of the United States directs that:

The DOD make every effort to work constructively and efficiently with industry, EPA, ECOS and other state and federal agencies as needed to ensure that large quantities of stockpiled mercury or recovered mercury can be stored on an interim basis by the Defense National Stockpile Center at one of its five U.S. sites, so that these mercury quantities can eventually be retired in a manner that safely and securely avoids reintroduction into the marketplace or, potentially, into the environment;

The DOD develop and support a policy to permanently retire the federal mercury stockpile and prevent its sale in the marketplace;

The EPA, in cooperation with other affected federal or state agencies, develop policies and a plan for the federal government to purchase large quantities of mercury before they become available in commerce so as to discourage and eventually halt all future sales, thereby avoiding reintroduction of large quantities of mercury into the marketplace or, potentially, into the environment; and

The EPA, DOD, DOE and the public, shall

(1) form a task force which will report to Congress annually and is to last three years or until all long term durability testing is conducted on potentially promising long term mercury stabilization technologies;

(2) develop a plan for the deployment of mercury stabilization technology(s) to include (a) an assessment of the necessary research needs on mercury stabilization technologies, (b) an assessment of the technology(s) for efficacy and public acceptability, and (c) a plan to actively involve the states and the public in the process of stabilizing large quantities of stockpiled mercury or recovered mercury, and

(3) conduct long term durability testing on mercury stabilization technologies that have already been developed. EPA and the task force shall provide a report to Congress by September 1, 2001, outlining the following:

(1) a projection of the quantities of mercury that will eventually require stabilization, including DOD and DOE mercury stockpiles and mercury in commerce),

(2) the viability of currently developed stabilization technologies and the research needed to bring them into deployment, and

(3) the cost of such research.

After that, EPA and the task force shall provide an annual report each year to Congress on its progress on the above tasks until they are completed.