

107TH CONGRESS  
2D SESSION

# S. 351

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2002

Referred to the Committee on Energy and Commerce

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## AN ACT

To amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, 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 Reduction Act  
5       of 2002”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) mercury is a persistent and toxic pollutant  
4 that bioaccumulates in the environment;

5 (2) according to recent studies, mercury deposi-  
6 tion is a significant public health threat in many  
7 States throughout the United States;

8 (3) 40 States have issued fish advisories that  
9 warn certain individuals to restrict or avoid con-  
10 suming mercury-contaminated fish from affected  
11 bodies of water;

12 (4) according to a report by the National Acad-  
13 emy of Sciences, over 60,000 children are born each  
14 year in the United States at risk for adverse  
15 neurodevelopmental effects due to exposure to meth-  
16 yl mercury in utero;

17 (5) studies have documented that exposure to  
18 elevated levels of mercury in the environment results  
19 in serious harm to species of wildlife that consume  
20 fish;

21 (6) according to the Mercury Study Report,  
22 prepared by the Environmental Protection Agency  
23 and submitted to Congress in 1997, mercury fever  
24 thermometers contribute approximately 17 tons of  
25 mercury to solid waste each year;

1           (7) the Governors of the New England States  
 2           have endorsed a regional goal of “the virtual elimi-  
 3           nation of the discharge of anthropogenic mercury  
 4           into the environment”;

5           (8) mercury fever thermometers are easily bro-  
 6           ken, creating a potential risk of dangerous exposure  
 7           to mercury vapor in indoor air and risking mercury  
 8           contamination of the environment; and

9           (9) according to the Environmental Protection  
 10          Agency, the quantity of mercury in 1 mercury fever  
 11          thermometer, approximately 1 gram, is enough to  
 12          contaminate all fish in a lake with a surface area of  
 13          20 acres.

14 **SEC. 3. MERCURY.**

15          (a) IN GENERAL.—Subtitle C of the Solid Waste Dis-  
 16          posal Act (42 U.S.C. 6921 et seq.) is amended by adding  
 17          at the end the following:

18 **“SEC. 3024. MERCURY.**

19          “(a) PROHIBITION ON SALE OF MERCURY FEVER  
 20          THERMOMETERS EXCEPT BY PRESCRIPTION.—Effective  
 21          beginning 180 days after the date of enactment of this  
 22          section—

23                 “(1) a person shall not sell or supply mercury  
 24          fever thermometers to consumers, except by pre-  
 25          scription; and

1           “(2) with each mercury fever thermometer sold  
2           or supplied by prescription, the manufacturer of the  
3           thermometer shall provide clear instructions on—

4                   “(A) careful handling of the thermometer  
5                   to avoid breakage; and

6                   “(B) proper cleanup of the thermometer  
7                   and its contents in the event of breakage.

8           “(b) THERMOMETER EXCHANGE PROGRAM.—The  
9           Administrator shall make grants to States, municipalities,  
10          nonprofit organizations, or other suitable entities for im-  
11          plementation of a national program for the collection of  
12          liquid mercury fever thermometers from households and  
13          their exchange for thermometers that do not contain mer-  
14          cury.

15          “(c) MANAGEMENT OF COLLECTED MERCURY.—

16                   “(1) TASK FORCE.—

17                           “(A) ESTABLISHMENT.—There is estab-  
18                           lished an advisory committee to be known as  
19                           the ‘Task Force on Mercury’ (referred to in this  
20                           section as the ‘Task Force’).

21                           “(B) MEMBERSHIP.—The Task Force  
22                           shall be composed of 5 members, of whom—

23                                   “(i) 1 member shall be the Adminis-  
24                                   trator, who shall serve as Chairperson of  
25                                   the Task Force;

1 “(ii) 1 member shall be the Secretary  
2 of State;

3 “(iii) 1 member shall be the Secretary  
4 of Defense;

5 “(iv) 1 member shall be the Secretary  
6 of Energy; and

7 “(v) 1 member shall be the Director  
8 of the National Institute of Environmental  
9 Health Sciences of the Department of  
10 Health and Human Services.

11 “(C) DATE OF APPOINTMENTS.—The ap-  
12 pointment of a member of the Task Force shall  
13 be made not later than 30 days after the date  
14 of enactment of this section.

15 “(D) TERM; VACANCIES.—

16 “(i) TERM.—A member shall be ap-  
17 pointed for the life of the Task Force.

18 “(ii) VACANCIES.—A vacancy on the  
19 Task Force—

20 “(I) shall not affect the powers of  
21 the Task Force; and

22 “(II) shall be filled in the same  
23 manner as the original appointment  
24 was made.

25 “(E) MEETINGS.—

1           “(i) INITIAL MEETING.—Not later  
2 than 30 days after the date on which all  
3 members of the Task Force have been ap-  
4 pointed, the Task Force shall hold the ini-  
5 tial meeting of the Task Force.

6           “(ii) CALLING OF MEETINGS.—The  
7 Task Force shall meet at the call of the  
8 Chairperson.

9           “(iii) QUORUM.—A majority of the  
10 members of the Task Force shall con-  
11 stitute a quorum, but a lesser number of  
12 members may hold hearings.

13          “(F) DUTIES.—

14           “(i) IN GENERAL.—Not later than 1  
15 year after the date of the initial meeting of  
16 the Task Force, the Task Force shall sub-  
17 mit to Congress a report containing rec-  
18 ommendations and suggested actions con-  
19 cerning—

20                   “(I) the long-term management  
21 of surplus mercury collected from—

22                           “(aa) mercury fever ther-  
23 mometers;

24                           “(bb) other medical and  
25 commercial sources;

1                   “(cc) government sources,  
2                   including mercury stored by the  
3                   Department of Defense and the  
4                   Department of Energy; and

5                   “(dd) industrial or other  
6                   sources in the United States;

7                   “(II) programs to test the long-  
8                   term durability of promising tech-  
9                   nologies for sequestration of mercury;

10                  “(III) storage of mercury col-  
11                  lected or sequestered under subclause  
12                  (I) or (II), in a manner that ensures  
13                  that there is no release of the mercury  
14                  into the environment;

15                  “(IV) reduction of the total  
16                  threat posed by mercury to humans  
17                  and the environment; and

18                  “(V) reduction of the total quan-  
19                  tity of mercury produced, used, and  
20                  released on a global basis, including  
21                  whether and how—

22                  “(aa) the quantity of virgin  
23                  mercury mined from the ground  
24                  and placed in circulation each  
25                  year can be reduced through bi-

1 lateral or international agree-  
2 ments or other means;

3 “(bb) the quantity of mer-  
4 cury intentionally used in prod-  
5 ucts, mining, and manufacturing  
6 can be reduced through substi-  
7 tution of mercury-free alter-  
8 natives that are safer, available,  
9 and affordable; and

10 “(cc) essential mercury  
11 needs can be met through use of  
12 stockpiles in existence on the  
13 date of enactment of this section  
14 rather than through use of virgin  
15 mercury.

16 “(ii) CONSULTATION.—In carrying  
17 out this subparagraph, the Task Force  
18 shall consult with States, industries, and  
19 health, environmental, and consumer orga-  
20 nizations.

21 “(G) HEARINGS.—The Task Force may  
22 hold such hearings, sit and act at such times  
23 and places, take such testimony, and receive  
24 such evidence as the Task Force considers ad-  
25 visable to carry out this section.



1                   “(H) INFORMATION FROM FEDERAL AGEN-  
2 CIES.—

3                   “(i) IN GENERAL.—The Task Force  
4 may secure directly from a Federal agency  
5 such information as the Task Force con-  
6 siders necessary to carry out this section.

7                   “(ii) PROVISION OF INFORMATION.—  
8 On request of the Chairperson of the Task  
9 Force, the head of the agency shall provide  
10 the information to the Task Force.

11                  “(I) POSTAL SERVICES.—The Task Force  
12 may use the United States mails in the same  
13 manner and under the same conditions as other  
14 agencies of the Federal Government.

15                  “(J) GIFTS.—The Task Force may accept,  
16 use, and dispose of gifts or donations of serv-  
17 ices or property.

18                  “(K) COMPENSATION OF MEMBERS; TRAV-  
19 EL EXPENSES.—

20                  “(i) FEDERAL EMPLOYEES.—A mem-  
21 ber of the Task Force who is an officer or  
22 employee of the Federal Government shall  
23 serve without compensation in addition to  
24 the compensation received for the services

1 of the member as an officer or employee of  
2 the Federal Government.

3 “(ii) TRAVEL EXPENSES.—A member  
4 of the Task Force shall be allowed travel  
5 expenses, including per diem in lieu of sub-  
6 sistence, at rates authorized for an em-  
7 ployee of an agency under subchapter I of  
8 chapter 57 of title 5, United States Code,  
9 while away from the home or regular place  
10 of business of the member in the perform-  
11 ance of the duties of the Task Force.

12 “(L) STAFF AND FUNDING.—

13 “(i) DETERMINATION.—The Chair-  
14 person of the Task Force shall determine  
15 the level of staff and funding that are ade-  
16 quate to carry out the activities of the  
17 Task Force.

18 “(ii) SOURCE.—The staff and funding  
19 shall be provided by and drawn equally  
20 from the resources of—

21 “(I) the Department of Energy;

22 “(II) the Department of Defense;

23 and

24 “(III) the Environmental Protec-  
25 tion Agency.

1 “(iii) APPOINTMENT OF STAFF.—The  
2 Chairperson may, without regard to the  
3 civil service laws (including regulations),  
4 appoint and terminate such staff as are  
5 necessary to enable the Task Force to per-  
6 form the duties of the Task Force.

7 “(iv) COMPENSATION.—

8 “(I) IN GENERAL.—Except as  
9 provided in subclause (II), the Chair-  
10 person may fix the compensation of  
11 the staff of the Task Force that are  
12 not officers or employees of the Fed-  
13 eral Government without regard to  
14 the provisions of chapter 51 and sub-  
15 chapter III of chapter 53 of title 5,  
16 United States Code, relating to classi-  
17 fication of positions and General  
18 Schedule pay rates.

19 “(II) MAXIMUM RATE OF PAY.—

20 The rate of pay for the staff shall not  
21 exceed the rate payable for level V of  
22 the Executive Schedule under section  
23 5316 of title 5, United States Code.

24 “(v) DETAIL OF FEDERAL GOVERN-  
25 MENT EMPLOYEES.—

1                   “(I) IN GENERAL.—An employee  
2                   of the Federal Government may be  
3                   detailed to the Task Force without re-  
4                   imbursement.

5                   “(II) CIVIL SERVICE STATUS.—  
6                   The detail of the employee shall be  
7                   without interruption or loss of civil  
8                   service status or privilege.

9                   “(vi) PROCUREMENT OF TEMPORARY  
10                  AND     INTERMITTENT     SERVICES.—The  
11                  Chairperson of the Task Force may pro-  
12                  cure for the purposes of the Task Force  
13                  temporary and intermittent services in ac-  
14                  cordance with section 3109(b) of title 5,  
15                  United States Code, at rates for individ-  
16                  uals that do not exceed the daily equivalent  
17                  of the annual rate of basic pay prescribed  
18                  for level V of the Executive Schedule under  
19                  section 5316 of that title.

20                  “(M) TERMINATION OF TASK FORCE.—  
21                  The Task Force shall terminate on the date  
22                  that is 90 days after the date on which the  
23                  Task Force submits the report required under  
24                  subparagraph (F)(i).

1           “(N) NO EFFECT ON OTHER LAW.—Noth-  
2           ing in this paragraph affects the regulation of  
3           mercury under—

4                   “(i) any other provision of this sub-  
5                   title; or

6                   “(ii) any other law.

7           “(2) RESPONSIBILITY OF THE ADMINISTRATOR  
8           FOR SAFE MANAGEMENT AND STORAGE OF MER-  
9           CURY.—In consultation with the Task Force, the  
10          Administrator shall—

11                   “(A)(i) purchase or otherwise take title to  
12                   the mercury collected under the thermometer  
13                   exchange program established under subsection  
14                   (b), or collected from any other source;

15                   “(ii) manage (or designate a contractor to  
16                   manage) the mercury collected in a manner  
17                   that ensures that the mercury collected is not  
18                   released into the environment;

19                   “(iii) ensure, to the maximum extent prac-  
20                   ticable, that the mercury collected under the  
21                   thermometer exchange program established  
22                   under subsection (b), or an equivalent quantity  
23                   of mercury, is not reintroduced into commerce;  
24                   and

1           “(iv) provide to the Task Force, for inclu-  
2           sion in the report of the Task Force under  
3           paragraph (1)(F)(i), an analysis of, and rec-  
4           ommendations relating to, the mercury collec-  
5           tion and management activities carried out  
6           under this section; and

7           “(B)(i) identify potential mercury stabiliza-  
8           tion technologies and long-term storage meas-  
9           ures that ensure minimal release of mercury  
10          into the environment; and

11          “(ii) conduct such research, development,  
12          and demonstration of the technologies and  
13          measures as the Administrator determines to be  
14          appropriate.

15          “(d) RELATION TO OTHER LAW.—Nothing in this  
16          section—

17               “(1) precludes any State from imposing any ad-  
18               ditional requirement; or

19               “(2) diminishes any obligation, liability, or  
20               other responsibility under other Federal law.

21          “(e) AUTHORIZATION OF APPROPRIATIONS.—

22               “(1) IN GENERAL.—There is authorized to be  
23               appropriated to carry out this section (other than  
24               subsection (c)(2)(A)) \$20,000,000, of which—

1           “(A) not more than 2.5 percent shall be  
 2           used to carry out the activities of the Task  
 3           Force; and

4           “(B) not more than 2.5 percent shall be  
 5           used to carry out subsection (c)(2)(B).

6           “(2) SAFE MANAGEMENT AND STORAGE.—In  
 7           addition to the amount authorized to be appro-  
 8           priated under paragraph (1), there is authorized to  
 9           be appropriated to carry out subsection (c)(2)(A)  
 10          \$1,000,000 for each fiscal year.”.

11          (b) CONFORMING AMENDMENT.—Section 1001 of the  
 12          Solid Waste Disposal Act (42 U.S.C. prec. 6901) is  
 13          amended by adding at the end of the items relating to  
 14          subtitle C the following:

“Sec. 3024. Mercury.”.

Passed the Senate September 5, 2002.

Attest:

JERI THOMSON,

*Secretary.*