

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2729

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.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2001

Mr. ALLEN (for himself, Mr. SAXTON, Mr. BONIOR, Mr. WAXMAN, Mr. ABERCROMBIE, Ms. BALDWIN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. CAPUANO, Mr. DELAHUNT, Mr. FERGUSON, Mr. HINCHEY, Mr. INSLEE, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KUCINICH, Mr. LANTOS, Ms. LEE, Ms. MCKINNEY, Mrs. MALONEY of New York, Mr. GEORGE MILLER of California, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. QUINN, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SERRANO, and Mr. STARK) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “Omnibus Mercury Emissions Reduction Act of 2001”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Mercury emission standards for fossil fuel-fired electric utility steam  
generating units.
- Sec. 4. Mercury emission standards for coal- and oil-fired commercial and in-  
dustrial boiler units.
- Sec. 5. Reduction of mercury emissions from solid waste incineration units.
- Sec. 6. Mercury emission standards for chlor-alkali plants.
- Sec. 7. Mercury emission standards for Portland cement plants.
- Sec. 8. Report on implementation of mercury emission standards for medical  
waste incinerators.
- Sec. 9. Report on implementation of mercury emission standards for hazardous  
waste combustors.
- Sec. 10. Report on use of mercury and mercury compounds by Department of  
Defense.
- Sec. 11. International activities.
- Sec. 12. Mercury research.

8 **SEC. 2. FINDINGS AND PURPOSES.**

9 (a) FINDINGS.—Congress finds that—

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

15 (2) pregnant women and their fetuses, women  
 16 of childbearing age, children, and individuals who

1       subsist primarily on fish, are most at risk for mer-  
2       cury-related health impacts such as neurotoxicity;

3               (3) the National Academy of Sciences reports  
4       that 60,000 children are born each year in the  
5       United States at risk from neurodevelopmental ef-  
6       fects due to exposure to methyl mercury;

7               (4) although exposure to mercury occurs most  
8       frequently through consumption of mercury-contami-  
9       nated fish, such exposure can also occur through—

10               (A) ingestion of drinking water, and food  
11               sources other than fish, that are contaminated  
12               with methyl mercury;

13               (B) dermal uptake through soil and water;  
14               and

15               (C) inhalation of contaminated air;

16               (5) on the basis of the report entitled “Mercury  
17       Study Report to Congress” and submitted by the  
18       Environmental Protection Agency under section  
19       112(n)(1)(B) of the Clean Air Act (42 U.S.C.  
20       7412(n)(1)(B)), the major sources of mercury emis-  
21       sions in the United States are, in descending order  
22       of volume of emissions—

23               (A) fossil fuel-fired electric utility steam  
24               generating units;

25               (B) solid waste incineration units;

1 (C) coal- and oil-fired commercial and in-  
2 dustrial boiler units;

3 (D) medical waste incinerators;

4 (E) hazardous waste combustors;

5 (F) chlor-alkali plants; and

6 (G) Portland cement plants;

7 (6)(A) the Environmental Protection Agency re-  
8 port described in paragraph (5), in conjunction with  
9 available scientific knowledge, supports a plausible  
10 link between mercury emissions from anthropogenic  
11 combustion and industrial sources and mercury con-  
12 centrations in air, soil, water, and sediments;

13 (B) the Environmental Protection Agency has  
14 concluded that the geographical areas that have the  
15 highest annual rate of deposition of mercury in all  
16 forms are—

17 (i) the southern Great Lakes and Ohio  
18 River Valley;

19 (ii) the Northeast and southern New Eng-  
20 land; and

21 (iii) scattered areas in the South, with the  
22 most elevated deposition occurring in the Miami  
23 and Tampa areas and 2 areas in northeast  
24 Texas; and

1 (C) analysis conducted before the date of the  
2 Environmental Protection Agency report dem-  
3 onstrates that mercury is being deposited into the  
4 waters of Canada;

5 (7)(A) the Environmental Protection Agency re-  
6 port described in paragraph (4) supports a plausible  
7 link between mercury emissions from anthropogenic  
8 combustion and industrial sources and concentra-  
9 tions of methyl mercury in freshwater fish;

10 (B) 40 states have issued fish advisories that  
11 warn certain individuals to restrict or avoid con-  
12 suming mercury-contaminated fish from affected  
13 water bodies;

14 (C) the health and environmental concern  
15 caused by mercury has encouraged some States to  
16 regulate mercury, including legislation such as man-  
17 dating source separation; landfill and incinerator  
18 disposal bans; manufacturer requirements for prod-  
19 uct labeling; phase-outs (i.e., banning sale of mer-  
20 cury thermometers and novelties); notifications of  
21 products and formulations containing mercury; and  
22 extended producer responsibility;

23 (D) the sale of mercury thermometers has been  
24 banned by cities such as San Francisco, Cali-  
25 fornia; Duluth and Fergus Falls, Minnesota; Ann

1 Arbor, Michigan; Dane County, Deforest and  
2 Stoughton Wisconsin; Freeport, Maine; and Boston,  
3 Massachusetts; and

4 (E) 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 (8) 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 (9) 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; and

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

23 (1) to greatly reduce the quantity of mercury  
24 entering the environment by controlling air emis-  
25 sions of mercury from fossil fuel-fired electric utility

1 steam generating units, coal- and oil-fired commer-  
2 cial and industrial boiler units, solid waste inciner-  
3 ation units, medical waste incinerators, hazardous  
4 waste combustors, chlor-alkali plants, and Portland  
5 cement plants;

6 (2) to reduce the quantity of mercury entering  
7 solid waste landfills, incinerators, and composting  
8 facilities by promoting recycling or proper disposal  
9 of used batteries, fluorescent light bulbs, and other  
10 products containing mercury;

11 (3) to increase the understanding of the volume  
12 and sources of mercury emissions throughout North  
13 America;

14 (4) to promote efficient and cost-effective meth-  
15 ods of controlling mercury emissions;

16 (5) to promote permanent, safe, and stable dis-  
17 posal of mercury recovered through coal cleaning,  
18 flue gas control systems, and other methods of mer-  
19 cury pollution control;

20 (6) to reduce the use of mercury in cases in  
21 which technologically and economically feasible alter-  
22 natives are available;

23 (7) to educate the public concerning the collec-  
24 tion, recycling, and proper disposal of mercury-con-  
25 taining products;

1           (8) to increase public knowledge of the sources  
2 of mercury exposure and the threat to public health,  
3 particularly the threat to the health of pregnant  
4 women and their fetuses, women of childbearing age,  
5 children, and individuals who subsist primarily on  
6 fish;

7           (9) to significantly decrease the threat to  
8 human health and the environment posed by mer-  
9 cury; and

10           (10) to ensure that the health of sensitive popu-  
11 lations, whether in the United States, Canada, or  
12 Mexico, is protected, with an adequate margin of  
13 safety, against adverse health effects caused by mer-  
14 cury.

15 **SEC. 3. MERCURY EMISSION STANDARDS FOR FOSSIL**  
16 **FUEL-FIRED ELECTRIC UTILITY STEAM GEN-**  
17 **ERATING UNITS.**

18           Section 112 of the Clean Air Act (42 U.S.C. 7412)  
19 is amended—

20           (1) by redesignating subsection (s) as sub-  
21 section (x); and

22           (2) by inserting after subsection (r) the fol-  
23 lowing:

24           “(s) MERCURY EMISSION STANDARDS FOR ELECTRIC  
25 UTILITY STEAM GENERATING UNITS.—

1 “(1) IN GENERAL.—

2 “(A) REGULATIONS.—Not later than 180  
3 days after the date of enactment of this sub-  
4 paragraph, the Administrator shall promulgate  
5 regulations to establish standards for the emis-  
6 sion of mercury and mercury compounds (col-  
7 lectively referred to in this subsection as ‘mer-  
8 cury’) applicable to existing and new electric  
9 utility steam generating units.

10 “(B) PERMIT REQUIREMENT.—Not later  
11 than 2 years after the date of enactment of this  
12 subparagraph, each electric utility steam gener-  
13 ating unit shall have an enforceable permit  
14 issued under title V that complies with this sub-  
15 section.

16 “(C) PROCEDURES AND SCHEDULES FOR  
17 COMPLIANCE WITH STANDARDS.—Each electric  
18 utility steam generating unit shall achieve com-  
19 pliance with the mercury emission standards es-  
20 tablished under subparagraph (A) in accordance  
21 with the procedures and schedules established  
22 under subsection (i).

23 “(2) STANDARDS AND METHODS.—

24 “(A) MINIMUM REQUIRED EMISSION RE-  
25 Duction.—Subject to subparagraph (C), the

1 emission standards established under paragraph  
2 (1)(A) shall require that each electric utility  
3 steam generating unit reduce its annual pound-  
4 age of mercury emitted, as calculated under  
5 subparagraph (B), below its mercury emission  
6 baseline, as calculated under paragraph (3)(D),  
7 by not less than 90 percent.

8 “(B) CALCULATION OF ANNUAL POUND-  
9 AGE OF MERCURY EMITTED.—

10 “(i) IN GENERAL.—For each electric  
11 utility steam generating unit (referred to  
12 in this subparagraph as a ‘unit’) and each  
13 calendar year, the Administrator shall cal-  
14 culate the poundage of mercury emitted  
15 per unit for the calendar year, which shall  
16 be equal to the product obtained by multi-  
17 plying—

18 “(I) the fuel consumption deter-  
19 mined under clause (ii) for the unit  
20 for the calendar year; by

21 “(II) the average mercury con-  
22 tent determined under clause (iii) for  
23 the unit for the calendar year.

24 “(ii) FUEL CONSUMPTION.—The fuel  
25 consumption for a unit shall be equal to

1 the annual average quantity of millions of  
2 British thermal units (referred to in this  
3 subparagraph as ‘mmBtu’s’) consumed by  
4 the unit during the calendar year, as sub-  
5 mitted to the Secretary of Energy on De-  
6 partment of Energy Form 767.

7 “(iii) AVERAGE MERCURY CON-  
8 TENT.—

9 “(I) SPECIFIC DATA.—The aver-  
10 age mercury content per mmBtu of  
11 fuel consumed by a unit shall be de-  
12 termined using the best available data  
13 from the Department of the Interior  
14 and the Department of Energy that  
15 characterize the average mercury con-  
16 tent of the fuel consumed by the unit  
17 during the calendar year.

18 “(II) ESTIMATED DATA.—If spe-  
19 cific mercury content data from the  
20 Department of the Interior and the  
21 Department of Energy are not avail-  
22 able, the average mercury content  
23 shall be estimated using the average  
24 mercury content of fossil fuel from  
25 mines or wells in the geographic re-

1                   gion of each mine or well that supplies  
2                   the unit.

3                   “(C) EMISSION TRADING WITHIN A GENER-  
4                   ATING STATION.—

5                   “(i) IN GENERAL.—For the purpose  
6                   of this subsection, taking into consider-  
7                   ation the cost of achieving the emission re-  
8                   duction, the Administrator may allow emis-  
9                   sion trading among the electric utility  
10                  steam generating units contained in a  
11                  power generating station at a single site if  
12                  the aggregate annual reduction from all  
13                  such units at the power generating station  
14                  is not less than 90 percent.

15                  “(ii) UNDERLYING DATA.—In car-  
16                  rying out clause (i), the Administrator  
17                  shall use mercury emission data calculated  
18                  under paragraph (3)(D).

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

1           “(i) reduce the volume of, or eliminate  
2           emissions of, mercury through a process  
3           change, substitution of material or fuel, or  
4           other method;

5           “(ii) enclose systems or processes to  
6           eliminate mercury emissions;

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

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

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

19          “(3) PERMIT REQUIREMENTS AND CONDI-  
20          TIONS.—

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

24                         “(i) enforceable mercury emission  
25                         standards;

1 “(ii) a schedule of compliance;

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

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

11 “(B) MONITORING AND ANALYSIS.—

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

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

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

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

24 “(iii) OTHER REQUIREMENTS.—

1           “(I) IN GENERAL.—The require-  
2           ments for monitoring and analysis  
3           under this subparagraph shall in-  
4           clude—

5                   “(aa) such requirements  
6                   that result in a representative de-  
7                   termination of mercury in ash  
8                   and sludge; and

9                   “(bb) such combination of  
10                  requirements for continuous or  
11                  other reliable and representative  
12                  emission monitoring methods  
13                  that results in a representative  
14                  determination of mercury in fuel  
15                  as received by each electric utility  
16                  steam generating unit;

17           as are requisite to provide accurate  
18           and reliable data for determining  
19           baseline and controlled emissions of  
20           mercury from each electric utility  
21           steam generating unit.

22           “(II) MINIMUM REQUIREMENT.—  
23           If, under subclause (I)(bb), the Ad-  
24           ministrator does not require an elec-  
25           tric utility steam generating unit to

1 use direct emission monitoring meth-  
2 ods, the requirements under subclause  
3 (I)(bb) shall, at a minimum, result in  
4 representative determinations of mer-  
5 cury in fuel as received by the electric  
6 utility steam generating unit at such  
7 frequencies as are sufficient to deter-  
8 mine whether compliance with this  
9 subsection is continuous.

10 “(iv) EFFECT ON OTHER LAW.—

11 Nothing in this subsection affects any con-  
12 tinuous emission monitoring requirement  
13 of title IV or any other provision of this  
14 Act.

15 “(C) INSPECTION, ENTRY, MONITORING,  
16 CERTIFICATION, AND REPORTING.—

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

23 “(ii) CONFORMITY WITH OTHER REG-  
24 ULATIONS.—The monitoring and reporting

1 requirements shall conform to each appli-  
2 cable regulation under subparagraph (B).

3 “(iii) SIGNATURE.—Each report re-  
4 quired under clause (i) and subparagraph  
5 (B)(iii) shall be signed by a responsible of-  
6 ficial of the electric utility steam gener-  
7 ating unit, who shall certify the accuracy  
8 of the report.

9 “(D) MERCURY EMISSION BASELINE.—

10 “(i) IN GENERAL.—For each electric  
11 utility steam generating unit (referred to  
12 in this subparagraph as a ‘unit’), the Ad-  
13 ministrator shall calculate the baseline an-  
14 nual average poundage of mercury emitted  
15 per unit, which shall be equal to the prod-  
16 uct obtained by multiplying—

17 “(I) the baseline fuel consump-  
18 tion determined under clause (ii) for  
19 the unit; by

20 “(II) the baseline average mer-  
21 cury content determined under clause  
22 (iii) for the unit.

23 “(ii) BASELINE FUEL CONSUMP-  
24 TION.—

1                   “(I) UNITS IN COMMERCIAL OP-  
2                   ERATION BEFORE JANUARY 1, 1996.—  
3                   For each unit that began commercial  
4                   operation before January 1, 1996, the  
5                   baseline fuel consumption shall be  
6                   equal to the annual average quantity  
7                   of millions of British thermal units  
8                   (referred to in this subparagraph as  
9                   ‘mmBtu’s’) consumed by the unit dur-  
10                  ing the period of calendar years 1996,  
11                  1997, and 1998, as submitted annu-  
12                  ally to the Secretary of Energy on De-  
13                  partment of Energy Form 767 (re-  
14                  ferred to in this clause as ‘Form  
15                  767’).

16                  “(II) UNITS BEGINNING COM-  
17                  MERCIAL OPERATION BETWEEN JANU-  
18                  ARY 1, 1996, AND 180 DAYS AFTER EN-  
19                  ACTMENT.—Subject to subclause  
20                  (III), for each unit that begins com-  
21                  mercial operation between January 1,  
22                  1996, and the date that is 180 days  
23                  after the date of enactment of this  
24                  subparagraph, the baseline fuel con-  
25                  sumption shall be based on the annual

1 average of the fuel use data submitted  
2 on Form 767 for each full year of com-  
3 mercial operation that begins on or  
4 after January 1, 1996.

5 “(III) UNITS IN COMMERCIAL  
6 OPERATION LESS THAN 1 YEAR AS OF  
7 180 DAYS AFTER ENACTMENT.—For  
8 each unit that has not been in com-  
9 mercial operation for at least 1 year  
10 as of the date that is 180 days after  
11 the date of enactment of this subpara-  
12 graph, the Administrator may deter-  
13 mine an interim baseline fuel con-  
14 sumption by—

15 “(aa) extrapolating from  
16 monthly fuel use data available  
17 for the unit; or

18 “(bb) assigning a baseline  
19 fuel consumption based on the  
20 annual average of the fuel use  
21 data submitted on Form 767 for  
22 other units that are of similar de-  
23 sign and capacity.

24 “(IV) UNITS BEGINNING COM-  
25 MERCIAL OPERATION MORE THAN 180

1                   DAYS AFTER ENACTMENT.—For each  
2                   unit that begins commercial operation  
3                   more than 180 days after the date of  
4                   enactment of this subparagraph, the  
5                   application for a permit issued in ac-  
6                   cordance with paragraph (1)(B) for  
7                   the unit shall include an initial base-  
8                   line fuel consumption that is based on  
9                   the maximum design capacity for the  
10                  unit.

11                   “(V) RECALCULATION AFTER EX-  
12                   TENDED PERIOD OF COMMERCIAL OP-  
13                   ERATION.—At such time as a unit de-  
14                   scribed in any of subclauses (II)  
15                   through (IV) has submitted fuel use  
16                   data for 3 consecutive years of com-  
17                   mercial operation on Form 767, the  
18                   Administrator shall recalculate the  
19                   baseline fuel consumption and make  
20                   modifications, as necessary, to the  
21                   mercury emission limitations con-  
22                   tained in the permit for the unit  
23                   issued in accordance with paragraph  
24                   (1)(B).

1 “(iii) BASELINE AVERAGE MERCURY  
2 CONTENT.—

3 “(I) UNITS IN COMMERCIAL OP-  
4 ERATION BEFORE JANUARY 1, 1998.—  
5 In the case of a unit described in  
6 clause (ii)(I), the baseline average  
7 mercury content per mmBtu of fuel  
8 consumed by a unit shall be deter-  
9 mined using the best available data  
10 from the Department of the Interior  
11 and the Department of Energy that  
12 characterize the average mercury con-  
13 tent of the fuel consumed by the unit  
14 during the 3-year period described in  
15 clause (ii)(I).

16 “(II) UNITS BEGINNING COM-  
17 Mercial OPERATION BETWEEN JANU-  
18 ARY 1, 1996, AND 180 DAYS AFTER EN-  
19 ACTMENT.—In the case of a unit de-  
20 scribed in clause (ii)(II), the baseline  
21 average mercury content per mmBtu  
22 of fuel consumed by a unit shall be  
23 determined using the best available  
24 data from the Department of the In-  
25 terior and the Department of Energy

1 that characterize the average mercury  
2 content of the fuel consumed by the  
3 unit during each full year of commer-  
4 cial operation that begins on or after  
5 January 1, 1996.

6 “(III) UNITS IN COMMERCIAL  
7 OPERATION LESS THAN 1 YEAR AS OF  
8 180 DAYS AFTER ENACTMENT.—In the  
9 case of a unit described in clause  
10 (ii)(III), the baseline average mercury  
11 content per mmBtu of fuel consumed  
12 by a unit shall be determined using  
13 the best available data from the De-  
14 partment of the Interior and the De-  
15 partment of Energy that characterize  
16 the average mercury content of the  
17 fuel consumed by the unit—

18 “(aa) during the months  
19 used for the extrapolation under  
20 clause (ii)(III); or

21 “(bb) based on the average  
22 mercury content of fuel con-  
23 sumed by other units that are of  
24 similar design and capacity.

1                   “(IV) UNITS BEGINNING COM-  
2                   MERCIAL OPERATION MORE THAN 180  
3                   DAYS AFTER ENACTMENT.—In the  
4                   case of a unit described in clause  
5                   (ii)(IV), the baseline average mercury  
6                   content per mmBtu of fuel consumed  
7                   by a unit shall be determined using  
8                   the best available data from the De-  
9                   partment of the Interior and the De-  
10                  partment of Energy, or data sub-  
11                  mitted by the unit under subpara-  
12                  graph (B)(iii), that characterize the  
13                  average mercury content of the fuel  
14                  consumed by the unit based on the  
15                  maximum design capacity for the  
16                  unit.

17                  “(V) ESTIMATED DATA.—If mer-  
18                  cury content data described in clauses  
19                  (I) through (IV) are not available, the  
20                  baseline average mercury content shall  
21                  be estimated using the average mer-  
22                  cury content of fossil fuel from mines  
23                  or wells in the geographic region of  
24                  each mine or well that supplies the  
25                  unit.

1           “(4) DISPOSAL OF MERCURY CAPTURED  
2 THROUGH EMISSION CONTROLS.—

3           “(A) IN GENERAL.—

4           “(i) CAPTURED OR RECOVERED MER-  
5 CURY.—The regulations promulgated by  
6 the Administrator under paragraph (1)(A)  
7 shall ensure that mercury that is captured  
8 or recovered through the use of an emis-  
9 sion control, coal cleaning, or another  
10 method is disposed of in a manner that en-  
11 sures that—

12           “(I) the hazards from mercury  
13 are not transferred from 1 environ-  
14 mental medium to another; and

15           “(II) there is no release of mer-  
16 cury into the environment (as the  
17 terms ‘release’ and ‘environment’ are  
18 defined in section 101 of the Com-  
19 prehensive Environmental Response,  
20 Compensation, and Liability Act of  
21 1980 (42 U.S.C. 9601)).

22           “(ii) MERCURY-CONTAINING SLUDGES  
23 AND WASTES.—The regulations promul-  
24 gated by the Administrator under para-  
25 graph (1)(A) shall ensure that mercury-

1 containing sludges and wastes are handled  
2 and disposed of in accordance with all ap-  
3 plicable Federal and State laws (including  
4 regulations).

5 “(B) RESEARCH PROGRAM.—To promote  
6 permanent and cost-effective disposal of mer-  
7 cury from electric utility steam generating  
8 units, the Administrator shall establish a pro-  
9 gram of long-term research to develop and dis-  
10 seminate information on methods and tech-  
11 niques such as separating, solidifying, recycling,  
12 and encapsulating mercury-containing waste so  
13 that mercury does not volatilize, migrate to  
14 ground water or surface water, or contaminate  
15 the soil.

16 “(5) OTHER REQUIREMENTS.—An emission  
17 standard or other requirement promulgated under  
18 this subsection does not diminish or replace any re-  
19 quirement of a more stringent emission limitation or  
20 other applicable requirement established under this  
21 Act or a standard issued under State law.

22 “(6) PUBLIC REPORTING OF DATA PERTAINING  
23 TO EMISSIONS OF MERCURY.—

24 “(A) IN GENERAL.—The Administrator  
25 shall annually make available to the public,

1 through 1 or more published reports and 1 or  
2 more forms of electronic media, facility-specific  
3 mercury emission data for each electric utility  
4 steam generating unit.

5 “(B) SOURCE OF DATA.—The emission  
6 data shall be taken from the monitoring and  
7 analysis reports submitted under paragraph  
8 (3)(C).”.

9 **SEC. 4. MERCURY EMISSION STANDARDS FOR COAL- AND**  
10 **OIL-FIRED COMMERCIAL AND INDUSTRIAL**  
11 **BOILER UNITS.**

12 Section 112 of the Clean Air Act (as amended by sec-  
13 tion 3) is amended by inserting after subsection (s) the  
14 following:

15 “(t) MERCURY EMISSION STANDARDS FOR COAL-  
16 AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER  
17 UNITS.—

18 “(1) IN GENERAL.—

19 “(A) REGULATIONS.—Not later than 180  
20 days after the date of enactment of this sub-  
21 paragraph, the Administrator shall promulgate  
22 regulations to establish standards for the emis-  
23 sion of mercury and mercury compounds (col-  
24 lectively referred to in this subsection as ‘mer-  
25 cury’) applicable to existing and new coal- and

1 oil-fired commercial and industrial boiler units  
2 that have a maximum design heat input capac-  
3 ity of 10 mmBtu per hour or greater.

4 “(B) PERMIT REQUIREMENT.—Not later  
5 than 2 years after the date of enactment of this  
6 subparagraph, each coal- or oil-fired commercial  
7 or industrial boiler unit shall have an enforce-  
8 able permit issued under title V that complies  
9 with this subsection.

10 “(C) PROCEDURES AND SCHEDULES FOR  
11 COMPLIANCE WITH STANDARDS.—Each coal- or  
12 oil-fired commercial or industrial boiler unit  
13 shall achieve compliance with the mercury emis-  
14 sion standards established under subparagraph  
15 (A) in accordance with the procedures and  
16 schedules established under subsection (i).

17 “(2) STANDARDS AND METHODS.—

18 “(A) MINIMUM REQUIRED EMISSION RE-  
19 Duction.—Subject to subparagraph (C), the  
20 emission standards established under paragraph  
21 (1)(A) shall require that each coal- or oil-fired  
22 commercial or industrial boiler unit reduce its  
23 annual poundage of mercury emitted, as cal-  
24 culated under subparagraph (B), below its mer-

1           cury emission baseline, as calculated under  
2           paragraph (3)(D), by not less than 90 percent.

3           “(B) CALCULATION OF ANNUAL POUND-  
4           AGE OF MERCURY EMITTED.—

5           “(i) IN GENERAL.—For each coal- or  
6           oil-fired commercial or industrial boiler  
7           unit (referred to in this subparagraph as a  
8           ‘unit’) and each calendar year, the Admin-  
9           istrator shall calculate the poundage of  
10          mercury emitted per unit for the calendar  
11          year, which shall be equal to the product  
12          obtained by multiplying—

13                  “(I) the fuel consumption deter-  
14                  mined under clause (ii) for the unit  
15                  for the calendar year; by

16                  “(II) the average mercury con-  
17                  tent determined under clause (iii) for  
18                  the unit for the calendar year.

19          “(ii) FUEL CONSUMPTION.—The fuel  
20          consumption for a unit shall be equal to  
21          the annual average quantity of millions of  
22          British thermal units (referred to in this  
23          subparagraph as ‘mmBtu’s’) consumed by  
24          the unit during the calendar year, as sub-  
25          mitted to the Secretary of Energy on De-

1           partment of Energy Forms EIA-3 and  
2           EIA-846 (A,B,C).

3           “(iii) AVERAGE MERCURY CON-  
4           TENT.—

5                   “(I) SPECIFIC DATA.—The aver-  
6           age mercury content per mmBtu of  
7           fuel consumed by a unit shall be de-  
8           termined using the best available data  
9           from the Department of the Interior  
10          and the Department of Energy (as  
11          submitted to the Secretary of Energy  
12          on Department of Energy Form EIA-  
13          3A) that characterize the average  
14          mercury content of the fuel consumed  
15          by the unit during the calendar year.

16                   “(II) ESTIMATED DATA.—If spe-  
17          cific mercury content data from the  
18          Department of the Interior and the  
19          Department of Energy are not avail-  
20          able, the average mercury content  
21          shall be estimated using the average  
22          mercury content of coal mined or oil  
23          produced in the geographic region of  
24          each mine or well that supplies the  
25          unit.

1           “(C) EMISSION TRADING WITHIN A FACIL-  
2           ITY.—

3           “(i) IN GENERAL.—For the purpose  
4           of this subsection, taking into consider-  
5           ation the cost of achieving the emission re-  
6           duction, the Administrator may allow emis-  
7           sion trading among the coal- and oil-fired  
8           commercial and industrial boiler units con-  
9           tained in a facility at a single site if the  
10          aggregate annual reduction from all such  
11          units at the facility is not less than 95 per-  
12          cent.

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

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.—

24               “(I) IN GENERAL.—The require-  
25 ments for monitoring and analysis

1 under this subparagraph shall in-  
2 clude—

3 “(aa) such requirements  
4 that result in a representative de-  
5 termination of mercury in ash  
6 and sludge; and

7 “(bb) such combination of  
8 requirements for continuous or  
9 other reliable and representative  
10 emission monitoring methods  
11 that results in a representative  
12 determination of mercury in fuel  
13 as received by each coal- or oil-  
14 fired commercial or industrial  
15 boiler unit;

16 as are requisite to provide accurate  
17 and reliable data for determining  
18 baseline and controlled emissions of  
19 mercury from each coal- or oil-fired  
20 commercial or industrial boiler unit.

21 “(II) MINIMUM REQUIREMENT.—

22 If, under subclause (I)(bb), the Ad-  
23 ministrator does not require a coal- or  
24 oil-fired commercial or industrial boil-  
25 er unit to use direct emission moni-

1 toring methods, the requirements  
2 under subclause (I)(bb) shall, at a  
3 minimum, result in representative de-  
4 terminations of mercury in fuel as re-  
5 ceived by the boiler unit at such fre-  
6 quencies as are sufficient to determine  
7 whether compliance with this sub-  
8 section is continuous.

9 “(iv) EFFECT ON OTHER LAW.—

10 Nothing in this subsection affects any con-  
11 tinuous emission monitoring requirement  
12 of title IV or any other provision of this  
13 Act.

14 “(C) INSPECTION, ENTRY, MONITORING,  
15 CERTIFICATION, AND REPORTING.—

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

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

1           “(iii) SIGNATURE.—Each report re-  
2           quired under clause (i) and subparagraph  
3           (B)(iii) shall be signed by a responsible of-  
4           ficial of the coal- or oil-fired commercial or  
5           industrial boiler unit, who shall certify the  
6           accuracy of the report.

7           “(D) MERCURY EMISSION BASELINE.—

8           “(i) IN GENERAL.—For each coal- or  
9           oil-fired commercial or industrial boiler  
10          unit (referred to in this subparagraph as a  
11          ‘unit’), the Administrator shall calculate  
12          the baseline annual average poundage of  
13          mercury emitted per unit, which shall be  
14          equal to the product obtained by multi-  
15          plying—

16                 “(I) the baseline fuel consump-  
17                 tion determined under clause (ii) for  
18                 the unit; by

19                 “(II) the baseline average mer-  
20                 cury content determined under clause  
21                 (iii) for the unit.

22           “(ii) BASELINE FUEL CONSUMP-  
23           TION.—

24                 “(I) UNITS IN COMMERCIAL OP-  
25                 ERATION BEFORE JANUARY 1, 1998.—

1 For each unit that began commercial  
2 operation before January 1, 1998, the  
3 baseline fuel consumption shall be  
4 equal to the annual average quantity  
5 of millions of British thermal units  
6 (referred to in this subparagraph as  
7 ‘mmBtu’s’) consumed by the unit dur-  
8 ing the period of calendar years 1998,  
9 1999, and 2000, as submitted annu-  
10 ally to the Secretary of Energy on De-  
11 partment of Energy Forms EIA-3  
12 and EIA-846 (A,B,C) (referred to in  
13 this clause as the ‘Forms’).

14 “(II) UNITS BEGINNING COM-  
15 MERCIAL OPERATION BETWEEN JANU-  
16 ARY 1, 1998, AND 180 DAYS AFTER EN-  
17 ACTMENT.—Subject to subclause  
18 (III), for each unit that begins com-  
19 mercial operation between January 1,  
20 1998, and the date that is 180 days  
21 after the date of enactment of this  
22 subparagraph, the baseline fuel con-  
23 sumption shall be based on the annual  
24 average of the fuel use data submitted  
25 on the Forms for each full year of

1 commercial operation that begins on  
2 or after January 1, 1998.

3 “(III) UNITS IN COMMERCIAL  
4 OPERATION LESS THAN 1 YEAR AS OF  
5 180 DAYS AFTER ENACTMENT.—For  
6 each unit that has not been in com-  
7 mercial operation for at least 1 year  
8 as of the date that is 180 days after  
9 the date of enactment of this subpara-  
10 graph, the Administrator may deter-  
11 mine an interim baseline fuel con-  
12 sumption by—

13 “(aa) extrapolating from  
14 monthly fuel use data available  
15 for the unit; or

16 “(bb) assigning a baseline  
17 fuel consumption based on the  
18 annual average of the fuel use  
19 data submitted on the Forms for  
20 other units that are of similar de-  
21 sign and capacity.

22 “(IV) UNITS BEGINNING COM-  
23 Mercial OPERATION MORE THAN 180  
24 DAYS AFTER ENACTMENT.—For each  
25 unit that begins commercial operation

1 more than 180 days after the date of  
2 enactment of this subparagraph, the  
3 application for a permit issued in ac-  
4 cordance with paragraph (1)(B) for  
5 the unit shall include an initial base-  
6 line fuel consumption that is based on  
7 the maximum design capacity for the  
8 unit.

9 “(V) RECALCULATION AFTER EX-  
10 TENDED PERIOD OF COMMERCIAL OP-  
11 ERATION.—At such time as a unit de-  
12 scribed in any of subclauses (II)  
13 through (IV) has submitted fuel use  
14 data for 3 consecutive years of com-  
15 mercial operation on the Forms, the  
16 Administrator shall recalculate the  
17 baseline fuel consumption and make  
18 modifications, as necessary, to the  
19 mercury emission limitations con-  
20 tained in the permit for the unit  
21 issued in accordance with paragraph  
22 (1)(B).

23 “(iii) BASELINE AVERAGE MERCURY  
24 CONTENT.—

1                   “(I) UNITS IN COMMERCIAL OP-  
2                   ERATION BEFORE JANUARY 1, 1998.—  
3                   In the case of a unit described in  
4                   clause (ii)(I), the baseline average  
5                   mercury content per mmBtu of fuel  
6                   consumed by a unit shall be deter-  
7                   mined using the best available data  
8                   from the Department of the Interior  
9                   and the Department of Energy (as  
10                  submitted to the Secretary of Energy  
11                  on Department of Energy Form EIA-  
12                  3A) that characterize the average  
13                  mercury content of the fuel consumed  
14                  by the unit during the 3-year period  
15                  described in clause (ii)(I).

16                  “(II) UNITS BEGINNING COM-  
17                  MERCIAL OPERATION BETWEEN JANU-  
18                  ARY 1, 1998, AND 180 DAYS AFTER EN-  
19                  ACTMENT.—In the case of a unit de-  
20                  scribed in clause (ii)(II), the baseline  
21                  average mercury content per mmBtu  
22                  of fuel consumed by a unit shall be  
23                  determined using the best available  
24                  data from the Department of the In-  
25                  terior and the Department of Energy

1 (as submitted to the Secretary of En-  
2 ergy on Department of Energy Form  
3 EIA-3A) that characterize the aver-  
4 age mercury content of the fuel con-  
5 sumed by the unit during each full  
6 year of commercial operation that be-  
7 gins on or after January 1, 1998.

8 “(III) UNITS IN COMMERCIAL  
9 OPERATION LESS THAN 1 YEAR AS OF  
10 180 DAYS AFTER ENACTMENT.—In the  
11 case of a unit described in clause  
12 (ii)(III), the baseline average mercury  
13 content per mmBtu of fuel consumed  
14 by a unit shall be determined using  
15 the best available data from the De-  
16 partment of the Interior and the De-  
17 partment of Energy (as submitted to  
18 the Secretary of Energy on Depart-  
19 ment of Energy Form EIA-3A) that  
20 characterize the average mercury con-  
21 tent of the fuel consumed by the  
22 unit—

23 “(aa) during the months  
24 used for the extrapolation under  
25 clause (ii)(III); or

1                   “(bb) based on the average  
2                   mercury content of fuel con-  
3                   sumed by other units that are of  
4                   similar design and capacity.

5                   “(IV) UNITS BEGINNING COM-  
6                   MERCIAL OPERATION MORE THAN 180  
7                   DAYS AFTER ENACTMENT.—In the  
8                   case of a unit described in clause  
9                   (ii)(IV), the baseline average mercury  
10                  content per mmBtu of fuel consumed  
11                  by a unit shall be determined using  
12                  the best available data from the De-  
13                  partment of the Interior and the De-  
14                  partment of Energy (as submitted to  
15                  the Secretary of Energy on Depart-  
16                  ment of Energy Form EIA-3A), or  
17                  data submitted by the unit under sub-  
18                  paragraph (B)(iii), that characterize  
19                  the average mercury content of the  
20                  fuel consumed by the unit based on  
21                  the maximum design capacity for the  
22                  unit.

23                  “(V) ESTIMATED DATA.—If mer-  
24                  cury content data described in clauses  
25                  (I) through (IV) are not available, the

1 baseline average mercury content shall  
2 be estimated using the average mer-  
3 cury content of coal mined or oil pro-  
4 duced in the geographic region of each  
5 mine or well that supplies the unit.

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, coal cleaning, or another  
15 method is disposed of in a manner that en-  
16 sures that—

17 “(I) the hazards from mercury  
18 are not transferred from 1 environ-  
19 mental medium to another; and

20 “(II) there is no release of mer-  
21 cury into the environment (as the  
22 terms ‘release’ and ‘environment’ are  
23 defined in section 101 of the Com-  
24 prehensive Environmental Response,

1 Compensation, and Liability Act of  
2 1980 (42 U.S.C. 9601)).

3 “(ii) MERCURY-CONTAINING SLUDGES  
4 AND WASTES.—The regulations promul-  
5 gated by the Administrator under para-  
6 graph (1)(A) shall ensure that mercury-  
7 containing sludges and wastes are handled  
8 and disposed of in accordance with all ap-  
9 plicable Federal and State laws (including  
10 regulations).

11 “(B) RESEARCH PROGRAM.—To promote  
12 permanent and cost-effective disposal of mer-  
13 cury from coal- and oil-fired commercial and in-  
14 dustrial boiler units, the Administrator shall es-  
15 tablish a program of long-term research to de-  
16 velop and disseminate information on methods  
17 and techniques such as separating, solidifying,  
18 recycling, and encapsulating mercury-containing  
19 waste so that mercury does not volatilize, mi-  
20 grate to ground water or surface water, or con-  
21 taminates the soil.

22 “(5) OTHER REQUIREMENTS.—An emission  
23 standard or other requirement promulgated under  
24 this subsection does not diminish or replace any re-  
25 quirement of a more stringent emission limitation or

1 other applicable requirement established under this  
2 Act or a standard issued under State law.

3 “(6) PUBLIC REPORTING OF DATA PERTAINING  
4 TO EMISSIONS OF MERCURY.—

5 “(A) IN GENERAL.—The Administrator  
6 shall annually make available to the public,  
7 through 1 or more published reports and 1 or  
8 more forms of electronic media, facility-specific  
9 mercury emission data for each coal- or oil-fired  
10 commercial or industrial boiler unit.

11 “(B) SOURCE OF DATA.—The emission  
12 data shall be taken from the monitoring and  
13 analysis reports submitted under paragraph  
14 (3)(C).”.

15 **SEC. 5. REDUCTION OF MERCURY EMISSIONS FROM SOLID**  
16 **WASTE INCINERATION UNITS.**

17 (a) SEPARATION OF MERCURY-CONTAINING  
18 ITEMS.—Section 3002 of the Solid Waste Disposal Act  
19 (42 U.S.C. 6922) is amended by adding at the end the  
20 following:

21 “(c) SEPARATION OF MERCURY-CONTAINING  
22 ITEMS.—

23 “(1) PUBLICATION OF LIST.—

24 “(A) IN GENERAL.—Not later than 180  
25 days after the date of enactment of this sub-

1 section, the Administrator shall publish a list of  
2 mercury-containing items that shall be required  
3 to be separated and removed from the waste  
4 streams that feed solid waste management fa-  
5 cilities.

6 “(B) REQUIRED ITEMS.—The list shall in-  
7 clude mercury-containing items such as fluores-  
8 cent light bulbs, batteries, pharmaceuticals, lab-  
9 oratory chemicals and reagents, electrical de-  
10 vices such as thermostats, relays, and switches,  
11 and medical and scientific instruments such as  
12 mercury thermometers.

13 “(C) LABELING REQUIREMENT.—

14 “(i) IN GENERAL.—Except as pro-  
15 vided in clause (ii), to facilitate the process  
16 of separating and removing items listed  
17 under subparagraph (A), each manufac-  
18 turer of a listed item shall ensure that  
19 each item is clearly labeled to indicate that  
20 the product contains mercury.

21 “(ii) BUTTON CELL BATTERIES AND  
22 OTHER SMALL MERCURY CONTAINING COM-  
23 PONENTS.—In the case of button cell bat-  
24 teries and other small mercury containing  
25 components for which, due to size con-

1           strains, labeling described in clause (i) is  
2           not practicable, the packaging shall indi-  
3           cate that the product contains mercury.

4           “(2) PLAN REGARDING SOLID WASTE CON-  
5           TAINING LISTED MERCURY-CONTAINING ITEM.—

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

18                 “(i) separating and removing mer-  
19                 cury-containing items listed by the Admin-  
20                 istrator under paragraph (1) from the  
21                 waste streams that feed any solid waste  
22                 management facility;

23                 “(ii) subject to the other requirements  
24                 of this subtitle, transferring the separated  
25                 waste to a recycling facility or a treatment,

1 storage, or disposal facility that holds a per-  
2 mit under this subtitle;

3 “(iii) monitoring and reporting on  
4 compliance with the plan; and

5 “(iv) achieving full compliance with  
6 the plan not later than 18 months after  
7 the date of approval of the plan in accord-  
8 ance with subparagraph (B).

9 “(B) PLAN APPROVAL.—

10 “(i) DEADLINE.—The Administrator  
11 (or the State) shall determine whether to  
12 approve or disapprove a plan submitted  
13 under subparagraph (A) not later than 180  
14 days after the date of receipt of the plan.

15 “(ii) PREFERENCE.—In determining  
16 whether to approve a plan, the Adminis-  
17 trator (or the State) shall give preference  
18 to recycling or stabilization of mercury-  
19 containing items over disposal of the items.

20 “(C) AMENDED PLAN.—

21 “(i) SUBMISSION.—If the Adminis-  
22 trator (or the State) disapproves a plan,  
23 the person may submit an amended plan  
24 not later than 90 days after the date of  
25 disapproval.

1                   “(ii) APPROVAL.—The Administrator  
2                   (or the State) shall approve or disapprove  
3                   the amended plan not later than 30 days  
4                   after the date of receipt of the plan.

5                   “(D) PLAN BY ADMINISTRATOR (OR  
6                   STATE).—

7                   “(i) IN GENERAL.—If an amended  
8                   plan is not submitted to the Administrator  
9                   (or the State) within 90 days after the  
10                  date of disapproval, or if an amended plan  
11                  has been submitted and subsequently dis-  
12                  approved, the Administrator (or the State)  
13                  shall issue a determination that it is nec-  
14                  essary for the Administrator (or the State)  
15                  to promulgate a plan for the person.

16                  “(ii) PLAN.—Not later than 180 days  
17                  after issuing the determination, the Ad-  
18                  ministrator (or the State) shall develop,  
19                  publish in the Federal Register (or submit  
20                  to the Administrator for publication in the  
21                  Federal Register), implement, and enforce  
22                  a plan that meets the criteria specified in  
23                  subparagraph (A) and ensures that full  
24                  compliance with the plan will be achieved

1 not later than 18 months after the date of  
2 publication of the plan.

3 “(E) ENFORCEABILITY.—Upon approval  
4 by the Administrator (or the State) of a plan  
5 submitted under subparagraph (A), or upon  
6 publication of a plan developed by the Adminis-  
7 trator (or the State) under subparagraph (D),  
8 the plan shall be enforceable under this Act.

9 “(3) MERCURY THERMOMETERS.—

10 “(A) IN GENERAL.—Effective January 1,  
11 2002, no person shall sell or supply mercury  
12 thermometers to consumers unless medically  
13 mandated.

14 “(B) BREAKAGE.—Mercury thermometers  
15 shall contain instructions on how to properly  
16 handle and clean up should breakage occur.

17 “(C) GRANT PROGRAM.—The Adminis-  
18 trator shall provide for the coordination, plan-  
19 ning, and implementation of a mercury ther-  
20 mometer trade-in program. In carrying out  
21 such program, the Administrator may make  
22 grants to public and nonprofit private entities,  
23 including State governments, municipal authori-  
24 ties, and health care facilities.”.

1 (b) SOLID WASTE INCINERATION UNIT MERCURY  
2 EMISSION MONITORING AND ANALYSIS.—Section 129(e)  
3 of the Clean Air Act (42 U.S.C. 7429(e)) is amended—

4 (1) by striking “Beginning (1) 36” and insert-  
5 ing the following:

6 “(1) IN GENERAL.—Beginning (A) 36”;

7 (2) in the first sentence, by redesignating para-  
8 graph (2) as subparagraph (B); and

9 (3) by adding at the end the following:

10 “(2) 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 subparagraph, 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;

21 “(II) preventing mercury which  
22 can not be retorted from being dis-  
23 posed of by incineration; and

24 “(III) determining compliance  
25 with this paragraph.

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

5           “(B) PERMIT REQUIREMENTS.—

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

16           “(ii) SIGNATURE.—Each report re-  
17 quired under clause (i) shall be signed by  
18 a responsible official of the solid waste in-  
19 cineration unit or by a municipal official,  
20 who shall certify the accuracy of the re-  
21 port.

22           “(C) ESTABLISHMENT OF MAXIMUM MER-  
23 CURY EMISSION RATE.—

24           “(i) DETERMINATION BY THE ADMIN-  
25 ISTRATOR.—Based on the reports required

1 to be submitted under subparagraph (B)(i)  
2 36 months, 39 months, and 42 months  
3 after the date of enactment of this sub-  
4 paragraph, the Administrator (or the  
5 State) shall make a determination as to  
6 whether the solid waste incinerator unit  
7 has achieved and is continuously maintain-  
8 ing a mercury emission rate of not more  
9 than 0.080 milligrams per dry standard  
10 cubic meter.

11 “(ii) REQUIREMENT OF INSTALLA-  
12 TION OF CONTROLS.—If the mercury emis-  
13 sion rate specified in clause (i) is not  
14 achieved and maintained over the period  
15 covered by the reports referred to in clause  
16 (i), or over any 2 out of 3 reporting peri-  
17 ods thereafter, the Administrator shall re-  
18 quire that the solid waste incineration unit  
19 install control equipment and techniques  
20 that will, within 3 years, result in a mer-  
21 cury emission rate by the unit of not more  
22 than 0.060 milligrams per dry standard  
23 cubic meter.

24 “(iii) ENFORCEABILITY.—The re-  
25 quirements of this subparagraph shall be

1 an enforceable modification to any existing  
2 or new permit described in paragraph (1)  
3 for the solid waste incineration unit.

4 “(D) OTHER REQUIREMENTS.—An emis-  
5 sion standard or other requirement promulgated  
6 under this subsection does not diminish or re-  
7 place any requirement of a more stringent emis-  
8 sion limitation or other applicable requirement  
9 established under this Act or a standard issued  
10 under State law.

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

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

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

23 (c) PHASEOUT OF MERCURY IN PRODUCTS.—Section  
24 112 of the Clean Air Act (as amended by section 4) is  
25 amended by inserting after subsection (t) the following:

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

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

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

13 “(3) PROCEDURES FOR MAKING EXEMPTION  
14 APPLICATION DETERMINATIONS.—Before making a  
15 determination on an application, the Administrator  
16 shall—

17 “(A) publish notice of the application in  
18 the Federal Register;

19 “(B) provide a public comment period of  
20 60 days; and

21 “(C) conduct a hearing on the record.

22 “(4) CRITERIA FOR EXEMPTION.—In making a  
23 determination on an application, the Administrator  
24 may grant an exemption from the prohibition on sale  
25 only if—

1           “(A) the Administrator determines that  
2 the mercury-containing product is a product the  
3 use of which is essential;

4           “(B) the Administrator determines that  
5 there is no comparable product that does not  
6 contain mercury and that is available in the  
7 marketplace at a reasonable cost; and

8           “(C) through documentation submitted by  
9 the manufacturer, the Administrator determines  
10 that the manufacturer has established a pro-  
11 gram to take back, after use by the consumer,  
12 all mercury-containing products subject to the  
13 exemption that are manufactured after the date  
14 of approval of the application.

15           “(5) TERM OF EXEMPTION.—

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

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

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

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

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

4 **SEC. 6. MERCURY EMISSION STANDARDS FOR CHLOR-AL-**  
5 **KALI PLANTS.**

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

9           “(v) **MERCURY EMISSION STANDARDS FOR CHLOR-**  
10 **ALKALI PLANTS.—**

11           “(1) **IN GENERAL.—**

12           “(A) **REGULATIONS.—**Not later than 180  
13           days after the date of enactment of this sub-  
14           paragraph, the Administrator shall promulgate  
15           regulations to establish standards for the direct  
16           and fugitive emission of mercury and mercury  
17           compounds (collectively referred to in this sub-  
18           section as ‘mercury’) applicable to existing and  
19           new chlor-alkali plants that use the mercury cell  
20           production process (referred to in this sub-  
21           section as ‘mercury cell chlor-alkali plants’).

22           “(B) **PERMIT REQUIREMENT.—**Not later  
23           than 2 years after the date of enactment of this  
24           subparagraph, each mercury cell chlor-alkali

1 plant shall have an enforceable permit issued  
2 under title V that complies with this subsection.

3 “(C) PROCEDURES AND SCHEDULES FOR  
4 COMPLIANCE WITH STANDARDS.—Each mer-  
5 cury cell chlor-alkali plant shall achieve compli-  
6 ance with the mercury emission standards es-  
7 tablished under subparagraph (A) in accordance  
8 with the procedures and schedules established  
9 under subsection (i).

10 “(2) STANDARDS AND METHODS.—

11 “(A) MINIMUM REQUIRED EMISSION RE-  
12 Duction.—The emission standards established  
13 under paragraph (1)(A) shall require that each  
14 mercury cell chlor-alkali plant reduce its annual  
15 poundage of direct and fugitive mercury emit-  
16 ted below its mercury emission baseline, as de-  
17 termined by the Administrator, by not less than  
18 95 percent.

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

1           “(i) reduce the volume of, or eliminate  
2           emissions of, mercury through a process  
3           change, substitution of material, or other  
4           method;

5           “(ii) enclose systems or processes to  
6           eliminate mercury emissions;

7           “(iii) collect, capture, or treat mer-  
8           cury emissions when released from a proc-  
9           ess, stack, storage, or fugitive emission  
10          point, or through evaporation of a spill;

11          “(iv) consist of design, equipment,  
12          manufacturing process, work practice, or  
13          operational standards (including require-  
14          ments for operator training or certification  
15          or spill prevention) in accordance with sub-  
16          section (h); or

17          “(v) consist of a combination of the  
18          measures described in clauses (i) through  
19          (iv).

20          “(3) PERMIT REQUIREMENTS AND CONDI-  
21          TIONS.—

22                 “(A) IN GENERAL.—Each permit issued in  
23                 accordance with paragraph (1)(B) shall in-  
24                 clude—

1           “(i) enforceable mercury emission  
2 standards;

3           “(ii) a schedule of compliance;

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

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

13           “(B) MONITORING AND ANALYSIS.—

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

18                   “(I) monitoring and analysis for  
19 mercury; and

20                   “(II) determining compliance  
21 with this subsection.

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

1           “(iii) EFFECT ON OTHER LAW.—  
2           Nothing in this subsection affects any con-  
3           tinuous emission monitoring requirement  
4           of title IV or any other provision of this  
5           Act.

6           “(C) INSPECTION, ENTRY, MONITORING,  
7           CERTIFICATION, AND REPORTING.—

8           “(i) IN GENERAL.—Each permit  
9           issued in accordance with paragraph  
10          (1)(B) shall specify inspection, entry, mon-  
11          itoring, compliance certification, and re-  
12          porting requirements to ensure compliance  
13          with the permit terms and conditions.

14          “(ii) CONFORMITY WITH OTHER REG-  
15          ULATIONS.—The monitoring and reporting  
16          requirements shall conform to each appli-  
17          cable regulation under subparagraph (B).

18          “(iii) SIGNATURE.—Each report re-  
19          quired under clause (i) shall be signed by  
20          a responsible official of the mercury cell  
21          chlor-alkali plant, who shall certify the ac-  
22          curacy of the report.

23          “(4) DISPOSAL OF MERCURY CAPTURED  
24          THROUGH EMISSION CONTROLS.—

25          “(A) IN GENERAL.—

1           “(i) CAPTURED OR RECOVERED MER-  
2           CURY.—The regulations promulgated by  
3           the Administrator under paragraph (1)(A)  
4           shall ensure that mercury that is captured  
5           or recovered through the use of an emis-  
6           sion control or another method is disposed  
7           of in a manner that ensures that—

8                       “(I) the hazards from mercury  
9                       are not transferred from 1 environ-  
10                      mental medium to another; and

11                     “(II) there is no release of mer-  
12                     cury into the environment (as the  
13                     terms ‘release’ and ‘environment’ are  
14                     defined in section 101 of the Com-  
15                     prehensive Environmental Response,  
16                     Compensation, and Liability Act of  
17                     1980 (42 U.S.C. 9601)).

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

1           “(B) RESEARCH PROGRAM.—To promote  
2 permanent and cost-effective disposal of mer-  
3 cury from mercury cell chlor-alkali plants, the  
4 Administrator shall establish a program of long-  
5 term research to develop and disseminate infor-  
6 mation on methods and techniques such as sep-  
7 arating, solidifying, recycling, and encapsulating  
8 mercury-containing waste so that mercury does  
9 not volatilize, migrate to ground water or sur-  
10 face water, or contaminate the soil.

11           “(5) OTHER REQUIREMENTS.—An emission  
12 standard or other requirement promulgated under  
13 this subsection does not diminish or replace any re-  
14 quirement of a more stringent emission limitation or  
15 other applicable requirement established under this  
16 Act or a standard issued under State law.

17           “(6) PUBLIC REPORTING OF DATA PERTAINING  
18 TO EMISSIONS OF MERCURY.—

19           “(A) IN GENERAL.—The Administrator  
20 shall annually make available to the public,  
21 through 1 or more published reports and 1 or  
22 more forms of electronic media, facility-specific  
23 mercury emission data for each mercury cell  
24 chlor-alkali plant.

1           “(B) SOURCE OF DATA.—The emission  
2           data shall be taken from the monitoring and  
3           analysis reports submitted under paragraph  
4           (3)(C).”.

5 **SEC. 7. MERCURY EMISSION STANDARDS FOR PORTLAND**  
6           **CEMENT PLANTS.**

7           Section 112 of the Clean Air Act (as amended by sec-  
8           tion 6) is amended by inserting after subsection (v) the  
9           following:

10          “(w) MERCURY EMISSION STANDARDS FOR PORT-  
11          LAND CEMENT PLANTS.—

12                 “(1) IN GENERAL.—

13                         “(A) REGULATIONS.—Not later than 180  
14                         days after the date of enactment of this sub-  
15                         paragraph, the Administrator shall promulgate  
16                         regulations—

17                                 “(i) to establish standards for the  
18                                 control of direct dust emission of mercury  
19                                 and mercury compounds (collectively re-  
20                                 ferred to in this subsection as ‘mercury’)  
21                                 from crushers, mills, dryers, kilns (exclud-  
22                                 ing emission from such burning of haz-  
23                                 ardous waste-containing fuel in a cement  
24                                 kiln as is regulated under section 3004(q)  
25                                 of the Solid Waste Disposal Act (42 U.S.C.

1           6924(q)), and clinker coolers at existing  
2           and new Portland cement plants; and

3           “(ii) to establish standards for the  
4           control of fugitive dust emission of mer-  
5           cury from storage, transport, charging,  
6           and discharging operations at existing and  
7           new Portland cement plants.

8           “(B) PERMIT REQUIREMENT.—Not later  
9           than 2 years after the date of enactment of this  
10          subparagraph, each Portland cement plant shall  
11          have an enforceable permit issued under title V  
12          that complies with this subsection.

13          “(C) PROCEDURES AND SCHEDULES FOR  
14          COMPLIANCE WITH STANDARDS.—Each Port-  
15          land cement plant shall achieve compliance with  
16          the mercury emission standards established  
17          under subparagraph (A) in accordance with the  
18          procedures and schedules established under  
19          subsection (i).

20          “(2) STANDARDS AND METHODS.—

21          “(A) MINIMUM REQUIRED EMISSION RE-  
22          DUCTION.—The emission standards established  
23          under paragraph (1)(A) shall require that each  
24          Portland cement plant reduce its annual pound-  
25          age of direct and fugitive mercury emitted

1 below its mercury emission baseline, as deter-  
2 mined by the Administrator, by not less than  
3 95 percent.

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

10 “(i) reduce the volume of, or eliminate  
11 emissions of, mercury through a process  
12 change, substitution of material, or other  
13 method;

14 “(ii) enclose systems, processes, or  
15 storage to eliminate mercury emissions;

16 “(iii) collect, capture, or treat mer-  
17 cury emissions when released from a proc-  
18 ess, stack, storage, or fugitive emission  
19 point;

20 “(iv) consist of design, equipment,  
21 manufacturing process, work practice, or  
22 operational standards (including require-  
23 ments for operator training or certifi-  
24 cation) in accordance with subsection (h);  
25 or

1                   “(v) consist of a combination of the  
2                   measures described in clauses (i) through  
3                   (iv).

4                   “(3) PERMIT REQUIREMENTS AND CONDI-  
5                   TIONS.—

6                   “(A) IN GENERAL.—Each permit issued in  
7                   accordance with paragraph (1)(B) shall in-  
8                   clude—

9                   “(i) enforceable mercury emission  
10                  standards;

11                  “(ii) a schedule of compliance;

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

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

21                  “(B) MONITORING AND ANALYSIS.—

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

1                   “(I) monitoring and analysis for  
2                   mercury; and

3                   “(II) determining compliance  
4                   with this subsection.

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

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

14                  “(C) INSPECTION, ENTRY, MONITORING,  
15                  CERTIFICATION, AND REPORTING.—

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

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

1           “(iii) SIGNATURE.—Each report re-  
2           quired under clause (i) shall be signed by  
3           a responsible official of the Portland ce-  
4           ment 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 Portland cement plants, the Adminis-  
11                  trator shall establish a program of long-term re-  
12                  search to develop and disseminate information  
13                  on methods and techniques such as separating,  
14                  solidifying, recycling, and encapsulating mer-  
15                  cury-containing waste so that mercury does not  
16                  volatilize, migrate to ground water or surface  
17                  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 any re-  
21                  quirement of a more stringent emission limitation or  
22                  other applicable requirement established under this  
23                  Act or a standard issued under State law.

24                  “(6) PUBLIC REPORTING OF DATA PERTAINING  
25                  TO EMISSIONS OF MERCURY.—

1           “(A) IN GENERAL.—The Administrator  
2 shall annually make available to the public,  
3 through 1 or more published reports and 1 or  
4 more forms of electronic media, facility-specific  
5 mercury emission data for each Portland ce-  
6 ment plant.

7           “(B) SOURCE OF DATA.—The emission  
8 data shall be taken from the monitoring and  
9 analysis reports submitted under paragraph  
10 (3)(C).”.

11 **SEC. 8. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**  
12 **SION STANDARDS FOR MEDICAL WASTE IN-**  
13 **CINERATORS.**

14       (a) IN GENERAL.—Not later than December 31,  
15 2002, the Administrator of the Environmental Protection  
16 Agency shall submit to Congress a report on the extent  
17 to which the annual poundage of mercury and mercury  
18 compounds emitted by each medical waste incinerator in  
19 the United States has been reduced below the baseline for  
20 the medical waste incinerator determined under subsection  
21 (b).

22       (b) BASELINE.—

23           (1) USE OF ACTUAL DATA.—As a baseline for  
24 measuring emission reductions, the report shall use  
25 the mercury and mercury compound emission data

1 that were submitted or developed during the process  
2 of permitting of the medical waste incinerator under  
3 the Clean Air Act (42 U.S.C. 7401 et seq.).

4 (2) LACK OF ACTUAL DATA.—If the data de-  
5 scribed in paragraph (1) are not available, the Ad-  
6 ministrator shall develop an estimate of baseline  
7 mercury emissions based on other sources of data  
8 and the best professional judgment of the Adminis-  
9 trator.

10 **SEC. 9. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**  
11 **SION STANDARDS FOR HAZARDOUS WASTE**  
12 **COMBUSTORS.**

13 (a) IN GENERAL.—Not later than December 31,  
14 2003, the Administrator of the Environmental Protection  
15 Agency shall submit to Congress a report on the extent  
16 to which the annual poundage of mercury and mercury  
17 compounds emitted by each hazardous waste combustor  
18 in the United States has been reduced below the baseline  
19 for the hazardous waste combustor determined under sub-  
20 section (b).

21 (b) BASELINE.—

22 (1) USE OF ACTUAL DATA.—As a baseline for  
23 measuring emission reductions, the report shall use  
24 the mercury and mercury compound emission data  
25 that were submitted or developed during the process

1 of permitting of the hazardous waste combustor  
2 under the Clean Air Act (42 U.S.C. 7401 et seq.).

3 (2) LACK OF ACTUAL DATA.—If the data de-  
4 scribed in paragraph (1) are not available, the Ad-  
5 ministrator shall develop an estimate of baseline  
6 mercury emissions based on other sources of data  
7 and the best professional judgment of the Adminis-  
8 trator.

9 **SEC. 10. REPORT ON USE OF MERCURY AND MERCURY**  
10 **COMPOUNDS BY DEPARTMENT OF DEFENSE.**

11 (a) IN GENERAL.—Not later than December 31,  
12 2002, the Secretary of Defense shall submit to Congress  
13 a report on the use of mercury and mercury compounds  
14 by the Department of Defense.

15 (b) CONTENTS.—In the report, the Secretary of De-  
16 fense shall describe—

17 (1) measures that the Department of Defense is  
18 carrying out to reduce the use and emissions of mer-  
19 cury and mercury compounds by the Department;

20 (2) measures that the Department of Defense is  
21 carrying out to stabilize or recycle discarded mer-  
22 cury or discarded mercury-containing products; and

23 (3) measures that the Department of Defense is  
24 carrying out to stabilize and retire its stockpiled  
25 mercury.

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

2 (a) **STUDY AND REPORT.**—Not later than December  
3 31, 2002, the Administrator of the Environmental Protec-  
4 tion Agency, in cooperation with appropriate representa-  
5 tives of Canada and Mexico, shall study and submit to  
6 Congress a report on the sources and extent of mercury  
7 emissions in North America.

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

10 (1) internal and external scientific peer review;

11 and

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

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

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

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

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

1 transboundary atmospheric and surface water mer-  
2 cury pollution in North America.

3 **SEC. 12. MERCURY RESEARCH.**

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

6 “(1) MERCURY RESEARCH.—

7 “(1) ESTABLISHMENT OF PROGRAMS.—The Ad-  
8 ministrator shall establish—

9 “(A) a program to characterize and quan-  
10 tify the potential mercury-related health effects  
11 on high-risk populations (such as pregnant  
12 women and their fetuses, women of childbearing  
13 age, children, and individuals who subsist pri-  
14 marily on fish); and

15 “(B) a mercury public awareness and pre-  
16 vention program targeted at populations most  
17 at risk from exposure to mercury.

18 “(2) STUDY OF IMPLEMENTATION OF MEAS-  
19 URES TO CONTROL MERCURY EMISSIONS.—

20 “(A) ESTABLISHMENT OF ADVISORY COM-  
21 MITTEE.—Not later than 3 years after the date  
22 of enactment of this subsection, the Secretary  
23 of Health and Human Services and the Admin-  
24 istrator shall establish an advisory committee to  
25 evaluate and prepare a report on the progress

1 made by the Federal Government, State and  
2 local governments, industry, and other regu-  
3 lated entities to implement and comply with the  
4 mercury-related amendments to the Clean Air  
5 Act (42 U.S.C. 7401 et seq.) made by the Om-  
6 nibus Mercury Emissions Reduction Act of  
7 1999.

8 “(B) MEMBERSHIP.—

9 “(i) IN GENERAL.—The advisory com-  
10 mittee shall consist of at least 15 mem-  
11 bers, of whom at least 1 member shall rep-  
12 resent each of the following:

13 “(I) The Department of Health  
14 and Human Services.

15 “(II) The Agency for Toxic Sub-  
16 stances and Disease Registry.

17 “(III) The Food and Drug Ad-  
18 ministration.

19 “(IV) The Environmental Protec-  
20 tion Agency.

21 “(V) The National Academy of  
22 Sciences.

23 “(VI) Native American popu-  
24 lations.

1 “(VII) State and local govern-  
2 ments.

3 “(VIII) Industry.

4 “(IX) Environmental organiza-  
5 tions.

6 “(X) Public health organizations.

7 “(ii) APPOINTMENT.—The Secretary  
8 of Health and Human Services and the  
9 Administrator shall each appoint not fewer  
10 than 7 members of the advisory committee.

11 “(C) DUTIES.—The advisory committee  
12 shall—

13 “(i) evaluate the adequacy and com-  
14 pleteness of data collected and dissemi-  
15 nated by the Environmental Protection  
16 Agency and each State that reports on and  
17 measures mercury contamination in the en-  
18 vironment;

19 “(ii) make recommendations to the  
20 Secretary of Health and Human Services  
21 and the Administrator concerning—

22 “(I) changes necessary to im-  
23 prove the quality and ensure consist-  
24 ency from State to State of Federal  
25 and State data collection, reporting,

1 and characterization of baseline envi-  
2 ronmental conditions; and

3 “(II) methods for improving pub-  
4 lic education, particularly among high-  
5 risk populations (such as pregnant  
6 women and their fetuses, women of  
7 childbearing age, children, and indi-  
8 viduals who subsist primarily on fish),  
9 concerning the pathways and effects  
10 of mercury contamination and con-  
11 sumption; and

12 “(iii) not later than 4 years after the  
13 date of enactment of this subsection, com-  
14 pile and make available to the public,  
15 through 1 or more published reports and 1  
16 or more forms of electronic media, the find-  
17 ings, recommendations, and supporting  
18 data, including State-specific data, of the  
19 advisory committee under this subpara-  
20 graph.

21 “(D) COMPENSATION.—

22 “(i) IN GENERAL.—A member of the  
23 advisory committee shall receive no com-  
24 pensation by reason of the service of the  
25 member on the advisory committee.

1           “(ii) TRAVEL EXPENSES.—A member  
2           of the advisory committee shall be allowed  
3           travel expenses, including per diem in lieu  
4           of subsistence, at rates authorized for em-  
5           ployees of agencies under subchapter I of  
6           chapter 57 of title 5, United States Code,  
7           while away from the home or regular place  
8           of business of the member in the perform-  
9           ance of services for the advisory com-  
10          mittee.

11          “(E) DURATION OF ADVISORY COM-  
12          MITTEE.—The advisory committee—

13                 “(i) shall terminate not earlier than  
14                 the date on which the Secretary of Health  
15                 and Human Services and the Adminis-  
16                 trator determine that the findings, rec-  
17                 ommendations, and supporting data pre-  
18                 pared by the advisory committee have been  
19                 made available to the public; and

20                 “(ii) may, at the discretion of the Sec-  
21                 retary of Health and Human Services and  
22                 the Administrator, continue in existence  
23                 after that date to further carry out the du-  
24                 ties described in subparagraph (C).

1           “(F) APPLICABILITY OF FEDERAL ADVI-  
2           SORY COMMITTEE ACT.—The Federal Advisory  
3           Committee Act (5 U.S.C. App.) shall not apply  
4           to the advisory committee established under  
5           this paragraph.

6           “(G) FUNDING.—The Secretary of Health  
7           and Human Services and the Administrator  
8           shall each provide 50 percent of the funding  
9           necessary to carry out this paragraph.

10          “(3) REPORT ON MERCURY SEDIMENTATION  
11          TRENDS.—Not later than 1 year after the date of  
12          enactment of this subsection, the Administrator shall  
13          submit to Congress a report that characterizes mer-  
14          cury and mercury-compound sedimentation trends in  
15          Lake Champlain, Chesapeake Bay, the Great Lakes,  
16          the finger lakes region of upstate New York, Tampa  
17          Bay, and other water bodies of concern (as deter-  
18          mined by the Administrator).

19          “(4) EVALUATION OF FISH CONSUMPTION  
20          ADVISORIES.—

21                 “(A) IN GENERAL.—The Administrator  
22                 shall evaluate the adequacy, consistency, com-  
23                 pleteness, and public dissemination of—

24                         “(i) data collected by the Environ-  
25                         mental Protection Agency and each State

1           concerning mercury contamination of fish;  
2           and

3           “(ii) advisories to warn the public  
4           about the consumption of mercury-con-  
5           taminated fish (referred to in this para-  
6           graph as ‘fish consumption advisories’).

7           “(B) IMPROVEMENT OF QUALITY AND  
8           CONSISTENCY.—In conjunction with each State  
9           or unilaterally, the Administrator shall imple-  
10          ment any changes necessary to improve the  
11          quality and ensure consistency from State to  
12          State of Federal and State data collection, re-  
13          porting, characterization of mercury contamina-  
14          tion, and thresholds concerning mercury con-  
15          tamination in fish above which fish consump-  
16          tion advisories will be issued.

17          “(C) REPORTING.—Not later than 2 years  
18          after the date of enactment of this subsection  
19          and every 2 years thereafter, the Administrator  
20          shall prepare and make available to the public,  
21          through 1 or more published reports and 1 or  
22          more forms of electronic media, information  
23          providing detail by State, watershed, water  
24          body, and river reach of mercury levels in fish  
25          and any fish consumption advisories that have

1           been issued during the preceding 2-year period.  
2           Not later than three years after the date of en-  
3           actment, the Administrator shall prepare and  
4           make available to the public information on dif-  
5           ferent methods by which mercury waste can be  
6           stabilized, the state of the science and industry,  
7           and what are the safest means for mercury re-  
8           tirement focusing on those that do not have an  
9           adverse impact on the environment.

10                   “(D) EFFECT ON STATE AUTHORITY.—  
11           Nothing in this paragraph affects any authority  
12           of a State to advise residents of the mercury  
13           content of commercially sold foods and other  
14           products.”.

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