

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6261

To provide for the protection of public health and the environment from mercury contamination associated with the shipment of elemental mercury or with mercury-bearing solid waste, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. GUTKNECHT (for himself, Ms. BALDWIN, Mr. BURTON of Indiana, and Ms. WATSON) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for the protection of public health and the environment from mercury contamination associated with the shipment of elemental mercury or with mercury-bearing solid waste, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Mercury Reclamation  
5       Act of 2006”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) Mercury is a naturally occurring element  
2 that is found in air, water and soil. It is a bio-  
3 accumulative toxin that is easily absorbed through  
4 skin and respiratory and gastrointestinal tissues.

5           (2) Communities across the country have been  
6 victims of accidental and intentional releases of ele-  
7 mental mercury in schools and other public and pri-  
8 vate buildings, exposing citizens to harmful mercury  
9 vapors and costing millions of dollars in property  
10 damage and remediation costs.

11           (3) Mercury deposition is a significant public  
12 health threat in many States throughout the United  
13 States.

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

19           (5) Current Federal hazardous waste regula-  
20 tions allow land disposal of certain highly contami-  
21 nated mercury wastes without treatment to remove  
22 the mercury, despite Environmental Protection  
23 Agency-sponsored studies concluding that such dis-  
24 posal practices are not sufficiently protective of  
25 human health and the environment.

1           (6) According to the Government Accountability  
2 Office, in 2003 over 26,000,000 pounds of mercury  
3 wastes disposed of in landfills were not required to  
4 meet treatment standards promulgated by the Envi-  
5 ronmental Protection Agency for the safe mercury  
6 disposal.

7           (7) According to the Government Accountability  
8 Office, the Environmental Protection Agency does  
9 not know how millions of pounds of mercury wastes  
10 are treated prior to land disposal and cannot be cer-  
11 tain that businesses are properly managing their  
12 mercury contaminated wastes.

13           (8) The Government Accountability Office de-  
14 termined that many states and landfill operators are  
15 misidentifying highly contaminated mercury wastes  
16 as “debris”, which allows these wastes to be  
17 landfilled without testing or mercury reclamation as  
18 the law envisioned.

19           (9) Current Federal laws and regulations do  
20 not provide the information necessary for regulators  
21 or the public to accurately track mercury-containing  
22 items from generation to disposal.

23           (10) Mercury is released to the environment  
24 when mercury-containing products are discarded in  
25 landfills and broken in the waste stream, polluting

1       our water and threatening the health of workers and  
2       others exposed to mercury vapors from these re-  
3       leases.

4           (11) While mercury-containing wastes must be  
5       properly managed and recycled whenever possible,  
6       the energy conservation benefits of using mercury-  
7       based compact fluorescent lighting are highly signifi-  
8       cant.

9           (12) Use of fluorescent lamps creates a net en-  
10      vironmental benefit, reducing mercury emissions by  
11      lowering energy demands on power plants burning  
12      fossil fuels to generate electricity.

13          (13) Less than twenty-five percent of mercury-  
14      containing lamps disposed of each year are recycled,  
15      leading to the release of mercury from over one-half  
16      billion lamps broken in solid waste without any mer-  
17      cury recovery.

18          (14) A study by a major retailer finds that  
19      changing 100 million light bulbs to compact fluores-  
20      cent lights would: save \$3 billion in energy costs,  
21      keep 45 billion pounds of greenhouse gases from  
22      reaching the atmosphere, and would eliminate the  
23      need for 1.3 coal-fired power plants.

24          (15) The Federal government should develop  
25      specific programs to increase the collection and recy-

1       cling of mercury-containing lighting devices, particu-  
2       larly from consumers and small businesses. By stim-  
3       ulating the nation’s ability to collect and recycle  
4       mercury-containing lighting devices, the Federal gov-  
5       ernment will achieve the dual goals of energy con-  
6       servation and environmental protection.

7               (16) Current Federal laws and regulations  
8       allow many discarded mercury items to escape regu-  
9       lation due to inadequate mercury testing methods  
10      and loopholes allowing significant amounts of waste  
11      to be improperly disposed of as solid waste without  
12      mercury recovery and other environmental protec-  
13      tions.

14              (17) Improved tracking of mercury-containing  
15      wastes is critical to ensure that mercury is reclaimed  
16      from mercury wastes whenever feasible.

17 **SEC. 3. MERCURY WASTE PACKAGING, TRACKING AND**  
18 **STORAGE.**

19       (a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—  
20      Subtitle D of the Solid Waste Disposal Act is amended  
21      by adding the following new section at the end thereof:  
22      **“SEC. 4011. MERCURY WASTE PACKAGING, TRACKING AND**  
23      **STORAGE.**

24              “(a) REGULATIONS.—The Administrator, in coopera-  
25      tion with the Secretary of Transportation, shall review the

1 storage, transportation, tracking and packaging require-  
2 ments of their respective departments and agencies as  
3 they pertain to mercury-bearing solid waste, as defined in  
4 section 1004(27) of this Act, including those wastes which  
5 qualify as hazardous wastes under this Act, and shall pro-  
6 mulgate, within 18-month of enactment of the Mercury  
7 Reclamation Act of 2006, regulations to protect public  
8 health and the environment governing the tracking, stor-  
9 age, packaging, record keeping, and reporting on the ship-  
10 ments of mercury-bearing waste. Such regulations shall  
11 address any deficiencies in the current regulations of the  
12 Administrator and of the Secretary of Transportation gov-  
13 erning the transportation, storage, and packaging of mer-  
14 cury-bearing wastes and intact, defective or broken mer-  
15 cury-containing products.

16       “(b) TRACKING.—The regulations under this section  
17 shall ensure the ability of regulators and the public to  
18 track the generation, treatment, and disposal of mercury  
19 wastes and require accountability for both waste genera-  
20 tors and treatment, storage, and disposal facilities to prop-  
21 erly identify and document mercury wastes and comply  
22 with the proper treatment and disposal requirements for  
23 such wastes.

24       “(1) The regulations promulgated under this  
25 paragraph shall include, but not be limited to, pro-

1 mulgation of regulations necessary to ensure the  
2 ability of regulators and the public to track the gen-  
3 eration, treatment and disposal of devices which con-  
4 tain mercury integral to their function and ensure  
5 that such devices are properly treated prior to dis-  
6 posal.

7 “(2) In the case of mercury-bearing waste sub-  
8 ject to section 3004(m), tracking requirements shall  
9 include a statement of whether the shipment is in-  
10 tended to be treated to reclaim the mercury, and a  
11 statement of justification in the event the mercury  
12 contained in the waste is not being reclaimed.

13 “(3) Tracking standards established pursuant  
14 to this section for widely generated wastes, as deter-  
15 mined by the Administrator, shall be implemented in  
16 a manner that improves the ability of regulators and  
17 the public to track the generation, treatment and  
18 disposal of such wastes while avoiding placing undue  
19 burdens on the collection and transportation of such  
20 wastes that would discourage the proper collection  
21 and treatment of such wastes.

22 “(c) PACKAGING STANDARDS.—Based upon the re-  
23 view of the current packaging standards for mercury-bear-  
24 ing waste shipments of the Department of Transportation  
25 and the Environmental Protection Agency, the Adminis-

1 trator shall promulgate such additional standards as may  
2 be necessary to protect public health and the environment.  
3 Such regulations shall be structured so as to prevent the  
4 release of mercury and mercury vapor during the trans-  
5 portation and storage of mercury bearing wastes

6 “(d) HOUSEHOLDS.—The tracking and packaging  
7 standards under this section shall not apply to wastes gen-  
8 erated by households, as defined by the Administrator  
9 under this Act, until such wastes are received by a treat-  
10 ment, storage or disposal facility.

11 “(e) ENFORCEMENT.—The provisions of subsections  
12 (a), (b), and (c) of section 3008 shall apply to violations  
13 of subsection (a) of this section in the same manner and  
14 to the same extent as such provisions apply to violations  
15 of subtitle C.”.

16 (b) TABLE OF CONTENTS.—The table of contents for  
17 such subtitle D is amended by adding the following new  
18 item at the end thereof:

“Sec. 4012. Mercury waste packaging, tracking and storage.”.

19 **SEC. 4. DEVICES CONTAINING MERCURY.**

20 (a) IN GENERAL.—The Solid Waste Disposal Act (42  
21 U.S.C. 6941 and following) is amended by adding the fol-  
22 lowing new section at the end of subtitle D:

23 **“SEC. 4012. MERCURY DEVICE RECYCLING.**

24 “(a) IN GENERAL.—Effective 60 days following en-  
25 actment of this section, each person who generates any

1 solid waste which consists of a device that contains mer-  
2 cury integral to its function, including but not limited to  
3 mercury added lighting, shall

4 “(1) take such steps as may be necessary to in-  
5 sure that such solid waste is treated as necessary to  
6 reclaim the mercury, or

7 “(2) transfer such solid waste to another person  
8 who has accepted responsibility for such reclamation.

9 The Administrator shall promulgate such regulations as  
10 may be necessary to carry out this subsection.

11 “(b) HOUSEHOLD AND SMALL GENERATOR EXEMP-  
12 TION.—

13 “(1) The requirements of subsection (a) shall  
14 not apply to any of the following categories of solid  
15 waste:

16 “(A) Solid waste from households, as de-  
17 fined by the Administrator under this Act.

18 “(B) Solid waste generated by a person  
19 who generates during a calendar month not  
20 more than 15 items to which subsection (a)  
21 would otherwise apply so long as the mercury  
22 contained in the items generated in a calendar  
23 month does not exceed one half ounce of mer-  
24 cury.

1           “(2) The Administrator shall develop a vol-  
2           untary compliance program to maximize the collec-  
3           tion of mercury containing items that qualify for the  
4           exemption under paragraph (1) of this subsection,  
5           particularly those programs involving the take back  
6           of spent mercury lamps at the point-of-sale.

7           “(3) Nothing in this subsection shall affect the  
8           authority of any State or local government to pro-  
9           vide for the reclamation of solid waste containing  
10          mercury.

11          “(c) STATE PROGRAMS.—Any State may notify the  
12          Administrator that the State has adopted a program pro-  
13          viding for the reclamation of mercury from solid waste re-  
14          ferred to in subsection (a). Upon receipt and acceptance  
15          of such notification, compliance with the requirements of  
16          the State program, as long as it remains in full force and  
17          effect, shall constitute compliance with the requirement of  
18          subsection (a).

19          “(d) ENFORCEMENT.—The provisions of subsections  
20          (a), (b), and (c) of section 3008 shall apply to violations  
21          of subsection (a) of this section in the same manner and  
22          to the same extent as such provisions apply to violations  
23          of subtitle C.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 for such subtitle D is amended by adding the following  
3 new item at the end thereof:

“Sec. 4012. Mercury device recycling.”.

4 (c) REEVALUATION OF SMALL GENERATOR EXEMP-  
5 TION.—Consistent with section 3001(d)(4) of the Solid  
6 Waste Disposal Act regarding small quantity generators,  
7 the Administrator of the Environmental Protection Agen-  
8 cy shall assess and re-evaluate whether the current 100  
9 kg/month exemption for small quantity generators gen-  
10 erally, is protective of public health and the environment  
11 as it pertains to generators of mercury-containing wastes.

12 **SEC. 5. REQUIRING MERCURY RECLAMATION FROM HAZ-**  
13 **ARDOUS MERCURY WASTES.**

14 Section 3004(m) of the Solid Waste Disposal Act (42  
15 U.S.C. 6924(m)) is amended by adding at the end the fol-  
16 lowing new paragraph:

17 “(3) Effective 30 days after the date of enact-  
18 ment of this paragraph, the treatment standards ap-  
19 plicable to all hazardous waste containing mercury  
20 in concentrations equal to or exceeding 260 mg/kg  
21 shall require the recovery of mercury from such  
22 waste prior to land disposal using a technology ap-  
23 proved by the Administrator for such wastes under  
24 regulations issued pursuant to this subtitle. The Ad-

1 administrator may, consistent with the protection of  
2 human health and the environment—

3 “(A) limit the organic content of such  
4 waste that may be subjected to mercury recovery  
5 technologies;

6 “(B) limit the use of mercury recovery  
7 technologies for radioactive wastes;

8 “(C) issue, by regulation, variances and ex-  
9 ceptions to the required use of mercury recovery  
10 technologies, based on feasibility of mercury re-  
11 covery; and

12 “(D) revise such treatment standards to  
13 incorporate the capabilities of the most ad-  
14 vanced available mercury recovery tech-  
15 nologies.”.

16 **SEC. 6. FUNDING FOR MERCURY PROGRAMS.**

17 Section 2007 of the Solid Waste Disposal Act (42  
18 U.S.C. 6941 and following) is amended by adding the fol-  
19 lowing new subsection at the end thereof:

20 “(g) **FUNDING FOR MERCURY PROGRAMS.**—There is  
21 authorized to be appropriated to the Administrator to  
22 award contracts, grants and other funding assistance  
23 needed to perform the following tasks (including coordina-  
24 tion with the mercury product manufacturing industry,  
25 the mercury recycling industry, non-profit organizations,

1 and the States) not more than \$50,000,000 for each fiscal  
2 year after the enactment of the Mercury Reclamation Act  
3 of 2006:

4           “(1) Preparing an inventory of the legitimate  
5 uses of mercury in commercial, industrial, consumer,  
6 and medical applications, and the uses of mercury  
7 exported from the United States.

8           “(2) Promoting the recovery of mercury from  
9 waste materials.

10           “(3) Enforcement of Federal regulations for the  
11 management of mercury wastes under section 4012  
12 and making grants to States for carrying out State  
13 regulatory programs under section 4012.

14           “(4) Promoting the establishment of mercury  
15 lamp take back programs at the point-of-sale to as-  
16 sist consumers and small businesses in the reclama-  
17 tion of spent mercury lamps and devices.”.

18 **SEC. 7. ANNUAL REPORT.**

19           Not later than 1 year after the date of enactment  
20 of this Act, and annually thereafter, the Administrator  
21 shall transmit to the Congress a report on the progress  
22 made under this Act. Such report shall include at min-  
23 imum each of the following:

1           (1) A progress summary of any regulatory ac-  
2           tions taken in response to the review under section  
3           4011(a) of the Solid Waste Disposal Act.

4           (2) A progress summary of mercury device re-  
5           cycling efforts relating to this Act, including a quan-  
6           titative analysis of the amount of mercury recycled.

7           (3) A description of grants and amounts award-  
8           ed under section 2007(g) of the Solid Waste Dis-  
9           posal Act and of the criteria used for awarding those  
10          grants.

11          (4) A detailed financial reporting of total ad-  
12          ministration costs of carrying out this Act.

13          (5) A joint summary, by the Administrator and  
14          appropriate State officials, that describes the coordi-  
15          nation and communication progress and problems  
16          between the Federal and State Governments in car-  
17          rying out this Act.

18          (6) Recommendations for greater efficiency or  
19          improvement of administration of this Act.

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