

CHAPTER 23-24.9

RI Mercury Reduction and Education Act*

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§ 23-24.9-1 Short title. – This chapter shall be known as the "Mercury Reduction and Education Act."

§ 23-24.9-2 Findings. – The general assembly has found and hereby declares that:

- (1) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment;
- (2) Mercury deposition has proven to be a significant problem in the northeastern United States;
- (3) Consumption of mercury-contaminated freshwater fish poses a significant public health threat to the residents of Rhode Island;

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(4) In order to address these real threats to public health and the environment, the state has been and should continue to actively cooperate with other states in the region to help minimize harm resulting from mercury in food, soil, air and water; and

(5) The intent of this chapter is to achieve significant reductions in environmental mercury by encouraging the establishment of effective waste reduction, recycling, management and education programs.

§ 23-24.9-2.1 Oversight and systems planning. – (a) The general assembly further finds:

(1) That reduction and elimination of health and environmental threats from mercury is a highly complex undertaking requiring cooperation among policy makers, public health and environmental officials and advocates, private businesses from diverse industries and sectors, consumers, and the general public within Rhode Island and depending on actions in other states and at the federal level;

(2) That systems planning is critical to the smooth, effective, and efficient implementation of programs to reduce and eliminate health and environmental threats from mercury in Rhode Island;

(3) That the implementation of the provisions of this chapter between July 2001 and July 2003 has been incomplete and partial and has given rise to unintended consequences; and

(4) That additional time is required to study how to make the provisions of this chapter more efficient and effective and to provide for needed systems planning.

(b) There is hereby created a fourteen (14) member commission on oversight and planning for mercury hazard reduction and elimination with the following membership: nine (9) members to be appointed by the governor; four (4) representatives of private business; one of whom shall be an engineer with expertise in manufacturing processes and pollution prevention; one of whom shall be an expert on the effects of mercury on public health and/or the environment; one of whom shall be a representative of consumer interests, and two (2) of whom shall be representatives of advocacy organizations, and five (5) of whom shall be ex officio, voting members: the director of the department of environmental management, the director of the department of health, the executive of the Rhode Island economic development corporation, the executive director of the Rhode Island resource recovery corporation, and the executive director of the Rhode Island League of Cities and Towns. The ex-officio members may designate an alternate in writing who shall have voting privileges. The members of the commission shall not receive compensation services. From the membership of the commission, the Governor shall designate a chairperson.

(2) The purposes of the commission shall be to study the system for reducing and eliminating mercury hazards in Rhode Island, including, but not limited to:

(A) Identifying current and projected sources of mercury hazards;

(B) Evaluating programs and efforts to reduce the sources in a cost-effective and efficient manner that does not place Rhode Island at a disadvantage with other states;

(C) Building on effective efforts in other states and achieving a consistency with other states in terms of approach and timing of implementation; and

(D) Determining the availability and effectiveness to consumers and the public of programs, facilities for disposal and recycling mercury-added products, and education about mercury-added products and mercury hazards. On or before March 1, 2004, and on or before September 1, 2004, the commission shall present to the governor, the speaker of the house of representatives, and the

president of the senate an interim progress report informing them of the scope and progress of the commission's work, to date. The commission shall report its findings and recommendations to the governor, the speaker of the house, and the president of the senate by January 1, 2005, which recommendation shall include such proposals as the commission deems necessary or appropriate for amendments to this chapter.

(3) The commission shall meet at the call of the chair, and shall have the power to adopt bylaws for its organization and appoint such officers and committees as it deems appropriate.

(4) All departments and agencies of the state shall furnish such advice and information, documentary or otherwise, and such support and assistance as the commission deems necessary or desirable. The director of administration shall arrange meeting space for and organizational support to the commission.

(5) The commission shall terminate effective July 1, 2005.

(c) In order to provide time for the commission to complete its work, for planning and implementing such changes to programs as may be proposed, and for enacting such changes as may be desirable, that effective dates for implementing the provisions of this chapter pertaining to phase-outs and exemptions (§ 23-24.9-7), labeling (§ 23-24.9-8), disposal bans (§ 23-24.9-9), collection of mercury-added products (§ 23-24.9-10), disclosure (§ 23-24.9-11), and violations (§ 23-24.9-16) shall be July 1, 2005, unless a later date is provided for in the section, and no actions to enforce said provisions may be undertaken until July 1, 2005, or after, provided, however that voluntary use of the provisions shall be facilitated and allowed.

§ 23-24.9-3 Definitions. – For the purpose of this chapter:

(1) "Component" means a mercury-added product which is incorporated into another product to form a fabricated mercury-added product, including, but not limited to, electrical switches and lamps.

(2) "Department" means the department of environmental management.

(3) "Director" means the director of the department of environmental management or any subordinate or subordinates to whom the director has delegated the powers and duties vested in him or her by this chapter.

(4) "Fabricated mercury-added product" means a product that consists of a combination of individual components that combine to make a single unit, including, but not limited to, mercury-added measuring devices, lamps and switches to which mercury or a mercury compound is intentionally added in order to provide a specific characteristic, appearance, or quality, or to perform a specific function or for any other reason.

(5) "Formulated mercury-added product" means a product that includes, but is not limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals and coating materials that are sold as a consistent mixture of chemicals to which mercury or a mercury compound is intentionally added in order to provide a specific characteristic, appearance, or quality, or to perform a specific function or for any other reason.

(6) "Healthcare facility" means any hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office or health maintenance organization.

(7) "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, combination or joint venture that produces a mercury-added product or an importer or domestic distributor of a mercury-added product produced in a foreign country. In

the case of a multi-component mercury-added product, the manufacturer is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the manufacturer is the importer or domestic distributor.

(8) "Mercury-added button cell battery" means a button cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery.

(9) "Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel (including footwear), or similar products.

(10) "Mercury-added product" means a product, commodity, chemical or a product with a component that contains mercury or a mercury compound intentionally added to the product, commodity, chemical or component in order to provide a specific characteristic, appearance, or quality, or to perform a specific function or for any other reason. These products include formulated mercury-added products and fabricated mercury-added products.

(11) "Mercury fever thermometer" means a mercury-added product that is used for measuring body temperature

§ 23-24.9-4 Interstate clearinghouse. – The department is authorized to participate in the establishment and implementation of a regional, multi-state clearinghouse to assist in carrying out the requirements of this chapter and to help coordinate reviews of the manufacturers' notifications regarding mercury-added products, applications for phase-out exemptions, the collection system plans, the disclosures of mercury content for products defined in § 23-24.9-3, applications for alternative labeling/notification systems, education and outreach activities, and any other related functions. The clearinghouse may also maintain a list of all mercury added products; a file on all exemptions granted by the state; a file of all the manufacturers' reports on the effectiveness of their collection systems; and a file of the certificates of analysis for mercury-added products used by healthcare facilities as defined in § 23-24.9-11.

§ 23-24.9-5 Notification. -- (a) No later than January 1, 2002, no mercury-added product shall be offered for final sale or use or distributed for promotional purposes in Rhode Island without prior notification in writing by the manufacturer of the product, or its industry trade group, to the director in accordance with the requirements of this section. Such notification shall at a minimum include: (1) a brief description of the product to be offered for sale, use, or distribution; (2) the amount of and purpose for mercury in each unit of the product; (3) the total amount of mercury contained in all products manufactured by the manufacturer; and (4) the name and address of the manufacturer, and the name, address and phone number of a contact.

(b) Any mercury-added product for which federal law governs notice in a manner that preempts state authority shall be exempt from the requirements of this section.

(c) With the approval of the director, the manufacturer may supply the information required in subsection (a) of this section for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification whenever there is significant change in the information or when requested by the director. The director may define and adopt specific requirements for the content and submission of the required notification.

(d) A fabricated mercury-added product manufacturer is not required to provide mercury content information on its mercury-added component if the component manufacturer has provided the information to the department and if the fabricated mercury-added product manufacturer notifies the department of the specific components used in the fabricated mercury-added product.

§ 23-24.9-6 Restrictions on the sale of certain mercury-added products.

(a) No later than January 1, 2003, no mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in Rhode Island. Manufacturers that produce and sell mercury-added novelties must notify retailers about the provisions of this product ban and how to dispose of the remaining inventory properly. The requirements of this section shall apply to all mercury-added novelties irrespective of whether or not the product is exempt from the phase-out requirements of § 23-24.9-11.

(b) No mercury fever thermometer may be distributed, sold or offered for sale in this state on or after January 1, 2002, except by prescription. As used in this section, the term "mercury fever thermometer" includes any device containing mercury in which the mercury is used to measure the internal body temperature of a person. This restriction shall not apply to digital thermometers utilizing mercury-added button cell batteries. The manufacturers of mercury fever thermometers shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescription. Mercury fever thermometers manufacturers must also comply with §§ 23-24.9-5 and 23-24.9-7 – 23-24.9-10.

(c) After January 1, 2003, no school in Rhode Island may use or purchase for use in a primary or secondary classroom, bulk elemental or chemical mercury, or mercury compounds. Manufacturers that produce and sell such materials must notify retailers about the provisions of this ban and how to dispose of the remaining inventory properly. Other mercury-added products that are used by schools are not subject to this prohibition.

(d) *Button cell batteries.* After June 30, 2011 a person may not sell or offer to sell or distribute for promotional purposes a mercury-added cell battery for consumer use or a product for consumer use that contains a mercury-added button cell battery.

§ 23-24.9-7 Phase-out and exemptions. (a) No mercury-added product shall be offered for final sale or use or distributed for promotional purposes in Rhode Island if the mercury content of the product exceeds:

(1) One gram (1000 milligrams) for mercury-added fabricated products or two hundred fifty (250) parts per million (ppm) for mercury-added formulated products, effective January 1, 2006;

(2) One hundred (100) milligrams for mercury-added fabricated products or fifty (50) parts per million (ppm) for mercury-added formulated products, effective July 1, 2007; and

(3) Ten (10) milligrams for mercury-added fabricated products or ten (10) parts per million (ppm) for mercury-added formulated products, effective July 1, 2009.

(b) For a product that contains one or more mercury-added products as a component, this section is applicable to each component part or parts and not to the entire product. For example, if an iron has a mercury switch, the phase-out applies to the switch and not the entire iron.

(c) For a product that contains more than one mercury-added product as a component, the phase-out limits specified in subsection (a) of this section apply to each component and not the sum of the mercury in all of the components. For example, for a car that contains mercury-added

switches and lighting, the phase-out limits would apply to each component separately, and not the combined total of mercury in all of the components.

(d) Fluorescent lamps and high intensity discharge (HID) lamps, including metal halide, high pressure sodium, and mercury vapor types, shall be exempt from the requirements of subsection (a) of this section. As of January 1, 2010, the mercury content of fluorescent bulbs shall either not exceed one hundred (100) milligrams or the manufacturer shall comply with the exemption requirements pursuant to subsection (f) of this section.

(2) Specialized lighting used in the entertainment industry, such as metal halide lights, shall be exempted from the requirements of § 23-24.9-7(a).

(3) Mercury added button cell batteries and products containing mercury added button cell batteries shall be exempted from the phase-out limits specified in subsection 23-24.9-7(a).

(e) A mercury-added product shall be exempt from the limits on total mercury content set forth in subsection (f) of this section if the level of mercury or mercury compounds contained in the product are required in order to comply with federal or state health or safety requirements. In order to claim exemption under this section, the manufacturer must notify the department, in writing, and provide the legal justification for the claim of exemption. In addition, laboratory chemical standards shall be exempted from the requirements of subsection (a) of this section.

(f) Manufacturers of a mercury-added product may apply to the director for an exemption for no more than five (5) years from the limits on total mercury content set forth in subsection (a) of this section for a product or category of products. Applications for exemptions must: (1) document the basis for the requested exemption or renewal of exemption; (2) describe how the manufacturer will ensure that a system exists for the proper collection, transportation and processing of the product(s) at the end of their useful life; and (3) document the readiness of all necessary parties to perform as intended in the planned system.

(g) The director may grant, with modifications or conditions, an exemption for a product or category of products if he or she finds: (i) a system exists for the proper collection, transportation and processing of the mercury-added product, including direct return of a waste product to the manufacturer, an industry or trade group supported collection and recycling system, or other similar private or public sector efforts; and (ii) he or she finds the following criteria are met:

(1) Use of the product is beneficial to the environment or protective of public health or protective of public safety; and/or

(2) There is no technically feasible alternative to the use of mercury in the product; and

(3) There is no comparable non-mercury-added product available at reasonable cost.

Prior to issuing an exemption, the director shall consult with neighboring states and provinces and regional organizations to promote consistency. The state shall avoid, to the extent feasible, inconsistencies in the implementation of this section. Upon reapplication by the manufacturer and findings by the director of continued eligibility under the criteria of this subsection and of compliance by the manufacturer with the conditions of the director's original approval, an exemption may be renewed one or more times and each renewal may be for a period of no longer than five (5) years.

§ 23-24.9-8 Labeling required for certain products. – (a) *Mercury-added products.* (1)

Effective January 1, 2006, a manufacturer may not sell at retail in this state or to a retailer in this state, and a retailer may not knowingly sell, a mercury-added product unless the item is labeled pursuant to this subsection. The label must clearly inform the purchaser or consumer that

mercury is present in the item and that the item may not be disposed of or placed in waste stream destined for disposal until the mercury is removed or reused, recycled or otherwise managed to ensure that it does not become part of solid waste or wastewater. Manufacturers shall affix to mercury-added products labels that conform to the requirements of this subsection.

(2) The department shall adopt rules to establish standards for affixing labels to the product and product package. The rules shall be consistent with labeling programs in other states and provide for approval of alternative compliance plans by the department. The manufacturer of a mercury-added product is in compliance with the requirements of this subsection if the manufacturer is in compliance with the labeling requirements of another state. This subsection does not apply to mercury-added button cell batteries and products whose only mercury component is a mercury button cell battery or a mercury added lamp.

(b) Mercury-added lamps: large use applications. (1) A person who sells mercury-added lamps to the owner or manager of an industrial, commercial or office building or to any person who replaces or removes from service outdoor lamps that contain mercury shall clearly inform the purchaser in writing on the invoice for the lamps or in a separate document that the lamps contain mercury, a hazardous substance that is regulated by federal and state law, and that they may not be placed in solid waste destined for disposal. Retail establishments that incidentally sell mercury-added lamps to the specified purchasers are exempt from the requirements of this subsection.

(2) A person who contracts with the owner or manager of an industrial, commercial or office building or with a person responsible for outdoor lighting to remove from service mercury-added lamps shall clearly inform in writing the person for whom the work is being done that the lamps being removed from service contain mercury and what the contractor's arrangements are for the management of the mercury in the removed lamps.

§ 23-24.9-9 Disposal ban. – (a) Except as otherwise provided for in this chapter, after July 1, 2006, no person shall dispose of mercury-added products in a manner other than by recycling or disposal as hazardous waste. Mercury from mercury-added products may not be discharged to water, wastewater treatment, and wastewater disposal systems except when it is done in compliance with local, state, and federal applicable requirements.

(b) If a formulated mercury-added product is a cosmetic or pharmaceutical product subject to the regulatory requirements relating to mercury of the federal food and drug administration, then the product is exempt from the requirements of this section.

(c) This section shall not apply to: (1) anyone who disposes of a mercury-added button cell battery; or (2) mercury-added components as contained in motor vehicles except as provided in subdivision 23-24.9-10(b)(2) and in accordance with such regulations as may be adopted by the department in order to achieve the purposes of subdivision 23-24.9-10(b)(2); and (3) households disposing of lamps and products containing lamps.

(d) The restrictions on the disposal of mercury-added components in motor vehicles shall be as set forth in subsection (a) of this section effective January 1, 2006, and shall be implemented as provided for in subdivision (c)(2) of this section and subdivision 23-24.9-10(b)(2).

(e) The restrictions on amalgam waste recycling and disposal shall be implemented as provided for in § 23-24.9-9.3.

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§ 23-24.9-9.1 Legislative findings. – (a) The general assembly further finds:

(1) In 1998, the Conference of New England Governors and Eastern Canadian Premiers (NEG/ECP) established a landmark goal to "virtually eliminate" mercury emissions in the region.

(2) The Governors' Mercury Task Force has set a goal of having seventy-five percent (75%) of dentists in the region install dental amalgam separators by the end of 2007 and ninety-five percent (95%) of dentists have them in place by the end of 2010.

(3) The Rhode Island Dental Association, the professional association representing the majority of the State's dentists has been pro-active in adopting best management practices in handling disposal of dental amalgam.

(4) On Earth Day 2003 the United States Environmental Protection Agency awarded to the Rhode Island Dental Association the New England Region Environmental Merit Award for its mercury reduction efforts.

(5) In 2004 the Rhode Island Dental Association in cooperation with the Narragansett Bay Commission began a pilot program to adopt dental office best management practices.

(6) In 2004 the Narragansett Bay Commission awarded to the Rhode Island Dental Association its Environmental Merit Award for Pollution Prevention.

(7) By the end of 2005, all Rhode Island dental offices within the Narragansett Bay Commission's jurisdiction had adopted Best Management Practices to prevent wastewater pollution.

(8) The department of environmental management is concerned about the contribution of mercury to the environment from amalgam waste disposed of into all wastewater discharges, including septic systems.

(9) Beginning in 2005, the Rhode Island Dental Association, working with the wastewater treatment facility operators in the Pawtuxet River basin have begun to adopt a uniform set of Best Management Practices to include all dental offices within the jurisdiction of those facilities.

§ 23-24.9-9.2 Best management practices. – Rhode Island dental offices and vocational dental education programs shall use and instruct on the use of best management practices to minimize the presence of elemental mercury, unused amalgam, and waste amalgam in their wastewater discharge and in their solid waste. The department shall develop best management practices that include a requirement for an amalgam removal efficiency of at least ninety-nine percent (99%). The department shall define the required best management practices by January 1, 2007. DEM shall consult with the Narragansett Bay Commission, the Rhode Island Dental Association and other interested parties during the development of the best management practices. Dental offices shall comply with the best management practices.

§ 23-24.9-9.3 Amalgam separators. – No later than July 1, 2008, a dental office that, in the course of treating its patients, places or removes dental amalgam must install an amalgam separator system in the wastewater discharge line. For the purposes of this section, "an amalgam separator system" means a device that removes dental amalgam from the waste stream prior to discharge into either the local public wastewater system or a private septic system located at the dental facility and that has been certified as conforming to the standards of ISO 11143, Dental Equipment – Amalgam Separators. A dental office must demonstrate proper installation, operation, maintenance, and amalgam waste recycling or disposal in accordance with the

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manufacturer's recommendations by maintaining and submitting as necessary annual records on waste shipment and maintenance of the system and any other reporting required in this section. Records of the previous three (3) years shall be maintained at all times. Methods or technologies other than amalgam separators that achieve equivalent or greater dental amalgam discharge reductions and that are approved by the agency shall be deemed to comply with the requirements of this subsection.

§ 23-24.9-9.4 Exemptions. – The following categories of dental offices are exempt from the requirement to install an amalgam separator; provided, that they do not place or remove amalgam:

- (a) Orthodontists;
- (b) Periodontists;
- (c) Endodontists;
- (d) Oral and maxillofacial surgeons; and
- (e) A dental office that is scheduled to no longer be used as a dental office after January 1, 2008.

§ 23-24.9-10 Collection of mercury-added products. – (a) After January 1, 2006, no mercury-added product shall be offered for final sale or use or distribution for promotional purposes in Rhode Island unless the manufacturer, either on its own or in concert with other persons, has implemented a system, after review and approval of the director, for the convenient and accessible collection of such products when the consumer is finished with them. Where a mercury-added product is a component of another product, the collection system must provide for removal and collection of the mercury-added component or collection of both the mercury-added component and the product containing it. Mercury-added components in motor vehicles shall be collected and recycled as provided for in subdivision (b)(2) of this section.

(b) This section shall not apply to the collection of mercury-added button cell batteries or mercury-added lamps or products where the only mercury contained in the product comes from a mercury-added button cell battery or a mercury-added lamp; and

(2) Mercury-added components in motor vehicles at end-of-life shall be collected and recycled as provided in this subsection. Significant, willful failure to comply with rules and/or regulations to implement the provisions of this section shall constitute, as may be determined by the department, a violation of the ban established in § 23-24.9-9. No scrap recycling facility or other person that receives a flattened, crushed or baled end-of-life vehicle shall be deemed to be in violation of subdivision 23-24.9-10(b)(2) and rules and regulations pursuant thereto or § 23-24.9-9 if a mercury switch is found in the vehicle after its acquisition.

For the purposes of subdivision 23-24.9-10(b)(2) the following terms shall have the following meanings: (i) "Capture rate" means the annual removal, collection, and recovery of mercury switches, as a percentage of the total number of mercury switches available for removal from end-of-life vehicles as determined by the Department of Environmental Management. Capture rate shall not include mercury switches that are inaccessible due to significant damage to the motor vehicle in the area where the mercury switch is located; (ii) "Mercury added component" or "Mercury switch" means a mercury-added convenience light switch assembly or capsule from an end-of-life motor vehicle; (iii) "Scrap recycling facility" means a fixed location where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic

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scrap for sale for remelting purposes; and (iv) "Vehicle recycler" means an individual or entity licensed under the provisions of § 42-14.2-3 that engages in the business of acquiring, dismantling, parts recycling from, or destroying six (6) or more end-of-life vehicles in a calendar year.

(A) Manufacturers of motor vehicles sold in Rhode Island that contain mercury switches shall, individually or collectively, establish and implement a collection program for mercury switches to achieve a capture rate of not less than fifty percent (50%) for calendar year 2006, and not less than seventy percent (70%) for calendar year 2007 and each calendar year thereafter through calendar year 2017.

(B) The department shall develop, issue, administer and enforce regulation compelling the manufacturers of motor vehicles sold in Rhode Island that contain mercury switches to undertake a collection program as set forth in this subparagraph, 23-24.9-10(b)(2)(B). The department shall determine that the capture rate in each year of the program and shall assess whether any failure to achieve the capture rate was the result of a force-majeure. The department shall report publicly on or before March 31, each year its findings with regard to the capture rate during the prior year. The manufacturer or manufacturers shall pay the total cost of the removal, replacement, collection and recovery system for mercury switches, under this subparagraph, 23-24.9-10(b)(2)(B), to the vehicle recycler or scrap recycling facility that removed the switch. The total cost shall include, but not be limited to a minimum of five dollars (\$5.00) for each mercury switch removed by a vehicle recycler or by a scrap recycling facility, as partial compensation for the labor and other costs incurred in the removal of the mercury switch.

(3) The provisions of subdivision 23-24.9-10(b)(2) shall satisfy collection programs and disposal requirements for mercury switches for all motor vehicles sold in the state.

§ 23-24.9-10.1 Resource recovery corporation option. – The department and the Rhode Island Resource Recovery Corporation shall establish a statewide network for the collection of mercury-added products when the household consumer is finished with them. Manufacturers, except motor vehicle manufacturers subject to the provisions of subdivision 23-24.9(10)(b)(2) of mercury-added products may satisfy their obligations, as set forth in subsection 23-24.9-10(a), by entering into a written agreement with those agencies to support the statewide program including, but not limited to, advertisement, education and/or funding through a system established in regulation.

§ 23-24.9-11 Disclosure for mercury-added formulated products – Healthcare facilities. –

(a) By July 1, 2005, the manufacturers of formulated mercury-added products offered for sale or use to a health care facility in Rhode Island must provide both the director and the recipient healthcare facility a certificate of analysis documenting the mercury content of the product, down to a one part per billion level. Such formulated mercury-added products include, but are not limited to: acids; alkalis; bleach (sodium hypochlorite); materials used for cleaning, in maintenance, or for disinfection; stains; reagents; preservatives; fixatives; buffers; and dyes.

(b) The certificate of analysis must report the result of an analysis performed for mercury on the specific batch or lot of that product offered for sale. The batch or lot number of the product shall be clearly identified on the product and on the certificate of analysis.

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§ 23-24.9-12 Limitations on the use of elemental mercury. – After January 1, 2003, no person may sell or provide elemental mercury to another person in Rhode Island, except for manufacturing or recycling or disposal purposes, without providing a material safety data sheet, as defined in the United States Code, title 42, section 11049 [42 U.S.C. § 1109], and requiring the purchaser or recipient to sign a statement that the purchaser: (1) will use the mercury only for medical, dental amalgam dispose-caps, research, or manufacturing purposes; (2) understands that mercury is toxic and that the purchaser will store and use it appropriately so that no person is exposed to the mercury; and (3) will not place or allow anyone under the purchaser's control to place or cause to be placed the mercury in solid waste for disposal or in a wastewater treatment and disposal system.

§ 23-24.9-13 Existing inventories. – Those mercury-added products with a code or date of manufacture indicating they were manufactured prior to July 13, 2001 are exempt from § 23-24.9-6 – 23-24.9-8 and §§ 23-24.9-10 and 23-24.9-11. If the mercury-added product has a date of manufacture or the manufacturer can provide documentation that the product in question was manufactured prior to July 13, 2001, it is exempt from the above listed sections. Situations that are beyond the control of the manufacturer, such as old stock being held by retailers, should be addressed on a case-by-case basis.

§ 23-24.9-14 Public education and outreach. – (a) The director shall coordinate the development of a public education, outreach, and assistance program for households, hazardous waste generators, local and regional solid waste management agencies, small businesses, health care facilities, scrap metal facilities, dismantlers, institutions, schools, and other interested groups in concert with other relevant state agencies. This public education, outreach, and assistance program should focus on the hazards of mercury; the requirements and obligations of individuals, manufacturers, and agencies under this law; and voluntary efforts that individuals, institutions, and businesses can undertake to help further reduce mercury in the environment. (b) The director shall cooperate with the neighboring states and provinces and regional organizations in the northeastern U.S. and Canada on developing outreach, assistance, and education programs, where appropriate.

§ 23-24.9-15 State procurement preferences for low or nonmercury-added products. – (a) Notwithstanding other policies and guidelines for the procurement of equipment, supplies, and other products, the Rhode Island department of administration shall by January 1, 2003, revise its policies, rules and procedures to implement the purposes of this chapter. (b) The Rhode Island department of administration shall give priority and preference to the purchase of equipment, supplies, and other products that do not contain mercury-added compounds or components, unless there is no economically feasible nonmercury-added alternative that performs a similar function. In circumstances where a nonmercury-added product is not available, preference shall be given to the purchase of products that contain the least amount of mercury-added to the product necessary for the required performance. (c) State dental insurance contracts negotiated after January 1, 2003, shall provide coverage for non-mercury fillings at no additional expense to the state employee.

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§ 23-24.9-16 Violations. – Effective July 1, 2005, a violation of any of the provisions of this law or any rule or regulation promulgated pursuant thereto shall be punishable, in the case of a first violation, by a civil penalty not to exceed one thousand dollars (\$1,000). In the case of a second and any further violations, the liability shall be for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.

§ 23-24.9-17 State review. – The department shall, in consultation with the conference of New England Governors/Eastern Canadian Premiers Environment Committee and/or an interstate mercury clearinghouse should one be developed, coordinate a review of the effectiveness of this chapter no later than January 1, 2006, and shall provide a report based upon that review to the governor and general assembly. The report shall review the effectiveness of the programs as established under the chapter and contain recommendations for improving them. As part of this review, the department shall evaluate the effectiveness of the collection systems established under this chapter and determine whether additional state authority or targeted capture rates are needed to improve those systems. In addition to this review process, the department shall evaluate the need for additional incentives for manufacturers of mercury-added products that are below ten (10) milligrams to reduce the amount of mercury in those products.

§ 23-24.9-18 Application to products regulated by Food and Drug Administration (FDA). – Nothing in this chapter shall apply to prescription drugs regulated by the Food and Drug Administration under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et. seq., to biological products regulated by the Food and Drug Administration under the Public Health Service Act, 42 U.S.C. § 262 et. seq., or to any substance that may be lawfully sold over the counter without a prescription under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et. seq.

§ 23-24.9-19 Mercury advisory working group. – The department of environmental management shall be authorized to coordinate the development of a mercury reduction and education advisory working group to advise the department with regard to the development of regulations and programs for the implementation of the provisions of this chapter and with regard to public education pertaining to the continued elimination of mercury-added products in the State of Rhode Island. This advisory working group may include, but not be limited to, designees from the following: the general assembly, department of environmental management, department of health, the attorney general's office, state and/or national organizations interested in mercury reduction and education, consumer and children's advocacy groups, local chambers of commerce, and those industries that manufacture consumer products which contain mercury.

§ 23-24.9-20 Regulations. – The department shall promulgate rules and regulations as may be necessary to implement and carry out the provisions of this chapter.

§ 23-24.9-20.1 Effective dates for implementation. – Notwithstanding the effective date of January 1, 2006, set forth in subsections 23-24.9-7(a)(1), 23-24.9-8(a), and 23-24.9-10(a), the initial deadline for complying with the requirements of these subsections shall be January 1, 2006, or ninety (90) days after the effective date of regulations adopted by the department in order to effectuate the purposes of the subsections, whichever date is the later.

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§ 23-24.9-21 Severability and construction. – The provisions of this chapter shall be severable, and if any court declares any phrase, clause, sentence, or provision of this chapter to be invalid, or its applicability of any government, agency, person, or circumstance is declared invalid, the remainder of the chapter and its relevant applicability shall not be affected. The provisions of this chapter shall be liberally construed to give effect to the purposes thereof.

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