

State of Rhode Island and Providence Plantations

Department of Environmental Management

Office of Waste Management



Rules and Regulations Governing the Administration and Enforcement of the Rhode Island Mercury Education and Reduction Act

Effective May 2004

Amended December 2005

Amended July 2007

Authority: These rules and regulations are promulgated pursuant to the Mercury Education and Reduction Act, R.I. General Law Chapter 23-24.9 (1956) and the Department of Environmental Management, R.I. General Laws Chapter 42-17.1 (1956), in accordance with R.I. General Laws Chapter 42-35, Administrative Procedures of the R. I. General Laws of 1956, as amended.

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1. Purpose

In accordance with the Mercury Education and Reduction Act (as amended in 2003 and 2005, and 2006) [R.I. General Laws Chapter 23-24.9](#) (1956), the purpose of these regulations is to improve public and ecosystem health by achieving significant reductions in environmental mercury by encouraging the establishment of effective waste reduction, recycling, management and education programs.

2. Authority

These rules and regulations are promulgated pursuant to the authority contained in the Mercury Education and Reduction Act, [R.I. General Law Chapter 23-24.9 \(1956\)](#) and the Department of Environmental Management, [R.I. General Laws Chapter 42-17.1\(1956\)](#), in accordance with [RI General Law Chapter § 42-35](#), Administrative Procedures of the R. I. General Laws of 1956, as amended.

3. Application

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

4. Definitions

For the purposes of these regulations, the following terms shall have the following meanings:

- 4.1 “***Amalgam separator***” 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.
- 4.2 “***Authorized senior management official***” means a corporate official or the individual responsible for the overall operation of a facility (*or designated authorized agent of the facility*) or an operational unit of a facility, such as a plant manager, superintendent, manager of environmental programs, or person of equivalent responsibility.
- 4.3 “***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.

- 4.4 "**Component**" means a mercury-added product that is incorporated into another product to form a fabricated mercury-added product, including, but not limited to, electrical switches and lamps.
- 4.5 "**Component manufacturer**" means any person who produces a mercury-added product that is incorporated into another product, including but not limited to electrical switches, relays, and lamps.
- 4.6 "**Department**" means the Rhode Island Department of Environmental Management.
- 4.7 "**Director**" means the Director of the Rhode Island Department of Environmental Management or his or her designee.
- 4.8 "**Elemental mercury**" means a heavy, silvery-white metal that is liquid at room temperature and is represented by the chemical symbol "Hg" with an atomic number of 80 and an atomic mass of 200.59.
- 4.9 "**End-of-life motor vehicle**" means any vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or a scrap recycling facility for the purpose of recycling.
- 4.10 "**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.
- 4.11 "**Fluorescent lamp**" means a low-pressure mercury electric-discharge lamp in which a fluorescing coating (phosphor) transforms some of the ultraviolet energy generated by the discharge into light.
- 4.12 "**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.
- 4.13 "**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.
- 4.14 "**Interstate Mercury Education and Reduction Clearinghouse or IMERC**" means the program established under the auspices of the Northeast Waste Management Officials' Association (NEWMOA) to facilitate tasks and serve as a single point of contact for the manufacturers, distributors, or importers of mercury-added products to facilitate compliance with state requirements for these products.

- 4.15 “**Laboratory chemical standards**” means a material or substance whose chemical properties are sufficiently homogeneous and that are intended for use in the calibration of analytical instruments or validating measurement techniques *related to the assignment of mercury values*. (emphasis added)
- 4.16 “**Manufacturer**” means manufacturer as defined in [R.I. General Laws Chapter 23-24.9](#), namely 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.
- 4.17 “**Mercury-added button cell battery**” means a button cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery.
- 4.18 “**Mercury-added component**” or “**Mercury switch**” means (for the purpose of Section 12 of these regulations) a mercury-added convenience light switch assembly or mercury containing capsule from a convenience light switch from an end-of-life motor vehicle.
- 4.19 “**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.
- 4.20 “**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.
- 4.21 “**Mercury compound**” means a substance composed of elemental mercury and one or more other chemical elements in fixed proportions.
- 4.22 “**Mercury fever thermometer**” means a mercury-added product that is used for measuring body temperature.
- 4.23 “**Motor vehicle**” means every vehicle which is self-propelled or propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except vehicles moved exclusively by human power, an EPAMD, electric motorized bicycles and motorized wheelchairs (as defined in the RI Motor Vehicle Code [R.I. General Laws § 31-1-3](#)).

- 4.24 “**Offer for sale or use**” means any presentation for acceptance or rejection made by any means, including those that are electronically conveyed.
- 4.25 “**Person**” means any individual, group of individuals, firm, joint stock company, association, partnership, private or municipal corporation, government or quasi-governmental corporation, state, commission, political subdivision of the state, any interstate body, or the federal government or any agency or subdivision thereof.
- 4.26 “**Prescription**” means a verbal or written order for drugs, medicines and devices by a licensed practitioner, to be compounded or dispensed by licensed pharmacists in a duly registered pharmacy, and to be kept on file for a period of four (4) years. Prescriptions may also apply to the finished products dispensed by the licensed pharmacists in the registered pharmacy, on order of a licensed practitioner.
- 4.27 “**Product category**” means a group of mercury-added products that have the same purpose for having the mercury in each unit, the same consumer or commercial use, and an amount of mercury per unit for all products that fall within the category.
- 4.28 “**Provider of elemental mercury**” means any person that offers elemental mercury for sale or use or otherwise distributes elemental mercury.
- 4.29 “**Recipient of elemental mercury**” means any person who purchases or otherwise receives elemental mercury.
- 4.30 “**School**” means any public or private kindergarten, elementary, secondary, or secondary vocation-technical school or Head Start facility or other institution for the teaching of children in Rhode Island.
- 4.31 “**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 scrap for sale for remelting purposes.
- 4.32 “**Vehicle recycler**” means an individual or entity required to be licensed under the provisions of [R.I. General Laws § 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.

5. Notification

Notification Requirements In Accordance with [by R.I. General Laws § 23-24.9-5](#): Reporting by Manufacturers or Industry/Trade Groups.

5.1 Initial Notification

- 5.1.1 The notification for a mercury-added product(s) required [by R.I. General Laws § 23-24.9-5](#), shall include, at a minimum, the following information for the manufacturer of the product(s):
 - 5.1.1.1 The manufacturer's full legal name and mailing address;
 - 5.1.1.2 The name, address, and telephone number of a contact person for the manufacturer;
 - 5.1.1.3 If the manufacturer corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or manufacturer's web address, as applicable; and
- 5.1.2 If the notification, including information required under 5.1.1, for a mercury-added product(s) is submitted by a manufacturer's designated industry or trade group, the notification shall include the following information:
 - 5.1.2.1 The company or organization's full legal name and mailing address;
 - 5.1.2.2 The name, address, and telephone number of a contact person for the company or organization; and
 - 5.1.2.3 If the company or organization corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or organization's web address, as applicable.
- 5.1.3 The notification for a mercury-added product(s), shall include the following information on the mercury-added product(s):
 - 5.1.3.1 A description of the product or product category;
 - 5.1.3.2 The amount of mercury in each unit of the product, reported in milligrams (mg) or parts-per-million (ppm) either as an exact number, as an average per unit with an upper and lower limit, or as falling within one (1) of the ranges specified in Section 5.1.4 of these regulations;

- 5.1.3.3 The purpose of mercury in each unit of the product;
- 5.1.3.4 If the mercury-added product or product category contains one (1) or more mercury-added components in the product, the information required under Section 5.1.3.1 through 5.1.3.3 above shall be provided for each mercury-added component contained in the product; and
- 5.1.3.5 If the mercury-added product or product category contains one (1) or more mercury-added components in the product, the notification shall indicate how many units of each component are contained in each unit of the product.
- 5.1.4 The manufacturer shall use the following ranges when reporting mercury content of mercury-added products by range and for classifying products according to the mercury content in each unit of the mercury-added product:
 - 5.1.4.1 Greater than 0 but less than or equal to 5 milligrams (mg);
 - 5.1.4.2 Greater than 5 mg but less than or equal to 10 mg;
 - 5.1.4.3 Greater than 10 mg but less than or equal to 50 mg;
 - 5.1.4.4 Greater than 50 mg but less than or equal to 100 mg;
 - 5.1.4.5 Greater than 100 mg but less than or equal to 1000 mg; or
 - 5.1.4.6 Greater than 1000 mg.
- 5.1.5 If a manufacturer of a mercury-added formulated product elects to use the specified ranges in Section 5.1.4, they shall report the milligrams of mercury per one (1) liter of the mercury-added formulated product.
- 5.1.6 The notification shall provide the name and title of the authorized senior management official signing the notification on behalf of the manufacturer.
- 5.1.7 An authorized senior management official shall:
 - 5.1.7.1 Sign and date the notification form; and
 - 5.1.7.2 Certify by the individual's signature that the information submitted on the form(s) is true and accurate to the best of their knowledge and belief, subject to a penalty for making false statements.
- 5.1.8 The notification information required under Section 5.1 shall be submitted on a form obtained from the Interstate Mercury Education and Reduction Clearinghouse (IMERC).
- 5.1.9 The notification shall be submitted to the Interstate Mercury Education and Reduction Clearinghouse (IMERC). If information is submitted to the

Department, in accordance with these regulations, it is assumed to be a public record unless exempt under [R.I. General Laws § 38-2-2](#) (R.I. Access to Public Records Act).

- 5.1.10 The manufacturer of a product containing a mercury-added button cell battery(ies) shall comply with all the requirements of Section 5.1.1 through Section 5.1.9 above, even if the battery is the only mercury or mercury-added component in their product.

5.2 Updated Notification

- 5.2.1 The manufacturer, or the manufacturer's designated industry or trade group, shall update and revise the information in the notification whenever there is a significant change in the information or when requested by the Director.
- 5.2.2 A significant change that triggers the requirement to provide an updated notification shall be deemed to have occurred whenever:
 - 5.2.2.1 Any of the following contact information has changed for the manufacturer or the manufacturer's industry or trade group: (i) company or organization name, (ii) name of the company's or organization's contact person, and (iii) mailing address or phone number for the contact person;
 - 5.2.2.2 The mercury has been eliminated from the product or product category;
 - 5.2.2.3 The manufacturer stops manufacturing the mercury-added product or product category;
 - 5.2.2.4 The mercury-added product or product category is no longer sold in Rhode Island; or
 - 5.2.2.5 It has been 3 years since the previous notification was approved.
- 5.2.3 The updated notification shall include the following:
 - 5.2.3.1 All the information required by [R.I. General Laws § 23-24.9-5](#); and
 - 5.2.3.2 The reason for the update.
- 5.2.4 An authorized senior management official shall:
 - 5.2.4.1 Sign and date the updated notification form; and
 - 5.2.4.2 Certify by the individual's signature that the information submitted on the form(s) is true and accurate to the best of their knowledge and belief, subject to a penalty for making false statements.

- 5.2.5 The updated notification shall be submitted on a form obtained from the Interstate Mercury Education and Reduction Clearinghouse (IMERC).
- 5.2.6 The updated notification shall be submitted to the Interstate Mercury Education and Reduction Clearinghouse (IMERC). If information is submitted to the Department, in accordance with these regulations, it is assumed to be a public record unless exempt under [R.I. General Laws § 38-2-2](#) (R.I. Access to Public Records Act).

5.3 Reporting by Product Category

- 5.3.1 Two or more mercury-added products may be reported as a product category under the following conditions:
 - 5.3.1.1 All products included in the product category have the same purpose for having mercury in the product and have the same mercury-added components; and
 - 5.3.1.2 For products with mercury-added or with one mercury-added component, all the products included in the product category contain a total amount of mercury per unit, on average, that falls within one of the ranges defined in Section 5.1.4; or
 - 5.3.1.3 For products with multiple mercury-added components, all like components of the products included in the product category contain a total amount of mercury per unit, on average, that falls within one of the ranges defined in Section 5.1.4.

5.4 Reporting Total Mercury in All Mercury-Added Products

- 5.4.1 A manufacturer of a mercury-added product(s), or the manufacturer's designated industry or trade group, shall submit a notification providing information on the total amount of mercury in all products required by [R.I. General Laws § 23-24.9-5](#).
- 5.4.2 The information on the total amount of mercury in all mercury-added products sold in the United States for a calendar year shall be reported by product or product category.
- 5.4.3 If the information on the total amount of mercury contained in all mercury-added products sold in the United States over the last calendar year is to be submitted by an industry or trade group, the manufacturer shall provide the following information in a separate notification:

- 5.4.3.1 The name and address of the designated industry or trade group;
 - 5.4.3.2 The name, address, and telephone number for a contact person for the industry or trade group; and
 - 5.4.3.3 A statement that the information will be provided by an industry or trade group.
- 5.4.4 The notification of the total amount of mercury in all mercury-added products shall include the following information:
- 5.4.4.1 The manufacturer's or industry or trade group's name and address;
 - 5.4.4.2 The name, address, and telephone number of a contact person for the manufacturer or industry or trade group;
 - 5.4.4.3 If the manufacturer or industry or trade group corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or manufacturer's web address, as applicable;
 - 5.4.4.4 If the information on the total amount of mercury contained in all mercury-added products sold in the United States over the last calendar year is submitted by an industry or trade group, the industry or trade group shall specify the manufacturers for whom it is reporting; and
 - 5.4.4.5 The total amount of mercury in all mercury-added products sold in the United States for the previous calendar year.
- 5.4.5 Information on the total amount of mercury contained in all mercury-added products sold in the United States shall be submitted to the Department by April 1st for the previous calendar year.
- 5.4.6 The manufacturer or industry or trade group shall submit information on the total amount of mercury in all mercury-added products sold in the United States for a calendar year every 3 years thereafter.

6. Restrictions on Mercury-Added Novelties

- 6.1 **Mercury-Added Novelties:** After January 1, 2003, no mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in Rhode Island. This ban on sale, use or distribution does not apply to a novelty incorporating one or more mercury-added button cell batteries as its only mercury-added component.

6.2 A mercury-added product which meets the definition of a mercury-added novelty in Section 4 and meets one or more of the following criteria (6.2.1 through 6.2.3) is a mercury-added novelty and subject to the January 1, 2003 deadline:

6.2.1 Mass produced and distributed for promotional or advertisement purposes;

6.2.2 Easily or regularly discarded into the waste-stream;

6.2.3 Reasonably understood to be a non-essential product.

Not all criteria (Section 6.2.1 through 6.2.3) need to be met for a mercury-added product to be a mercury-added novelty for the purposes of these regulations.

6.3 Product Specific Novelty Determination: Manufacturers may request that the Department evaluate a specific mercury-added product to determine if it is a mercury-added novelty under these regulations. In evaluating these products, the Department shall consider the criteria in Section 6.2 and may take into consideration whether an alternative non-mercury-added product, similar in function, size and price, exists. The Department is authorized to request any additional written information it deems necessary to make an appropriate determination. All fees required pursuant to Section 13 of these regulations for product specific novelty determinations shall be paid to the Department at the time that the determination is requested.

6.4 Manufacturers that produce and sell mercury-added novelties shall notify retailers about the provisions of this product ban (Section 6, Restrictions on Mercury-Added Novelties). The notification by manufacturers to retailers of mercury-added novelty items, shall include the following information:

6.4.1 A statement that pursuant to [R.I. General Laws § 23-24.9-6](#), no mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in Rhode Island after January 1, 2003;

6.4.2 The specific product(s) from the manufacturer covered under the notification; and

6.4.3 Information on how to properly dispose of the remaining inventory, including at a minimum that any remaining stock of mercury-added novelties must be recycled or disposed as hazardous waste in accordance with regulations promulgated pursuant to [R.I. General Laws § 23-19.1](#) (The Rhode Island Hazardous Waste Management Act).

6.5 The restrictions on the sale and distribution of mercury-added novelty items shall not apply to novelty items containing a mercury-added button cell battery if the battery is the only mercury or mercury-added component in the item.

7. Limitations on the Use of Elemental Mercury

- 7.1 After January 1, 2003, a provider of elemental mercury in Rhode Island, including intermediate distributors and distillers, shall distribute elemental mercury to end-users in Rhode Island only for the allowable uses, specifically for medical, dental, or research purposes.
- 7.2 The provider of the elemental mercury shall provide the recipient of the elemental mercury with the Material Safety Data Sheet (MSDS) for elemental mercury, as defined in 42 U.S.C. Section 11049 with each delivery of elemental mercury.
- 7.3 The purchaser or recipient of elemental mercury shall sign a statement (Appendix A), which includes, in accordance with [R.I. General Laws § 23-24.9-12](#), the following information:
 - 7.3.1 Name and address of the provider of elemental mercury;
 - 7.3.2 Name, address, and telephone number, of a contact person for the provider of elemental mercury;
 - 7.3.3 If the provider corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or provider's web address, as applicable;
 - 7.3.4 Name and address of the recipient of elemental mercury;
 - 7.3.5 Name, address, and telephone number of a contact person for the recipient of elemental mercury;
 - 7.3.6 If the recipient corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or recipient's web address, as applicable;
 - 7.3.7 Amount of mercury provided to the recipient in that delivery;
 - 7.3.8 Date of the transfer;
 - 7.3.9 A statement indicating that the recipient of the elemental mercury understands and agrees to the following restrictions specified in [R.I. General Laws § 23-24.9-12](#):

- 7.3.9.1 The recipient of the elemental mercury shall use the mercury only for medical, dental amalgam dispose-caps, or research purposes;
- 7.3.9.2 The recipient of the elemental mercury understands that mercury is toxic and shall store and use it appropriately so that no person is exposed to the mercury; and
- 7.3.9.3 The recipient of the elemental mercury shall not place or allow anyone under the purchaser's control to place the mercury or cause the mercury to be placed in solid waste or red bag regulated medical waste for disposal or in a wastewater treatment and disposal system except in accordance with all applicable federal, state and local requirements.
- 7.3.10 The intended allowable use of the mercury by the recipient, namely whether it is to be used for medical, dental, research purposes, or for further distribution for these intended uses; and
- 7.3.11 Name and title of the authorized senior management official for the recipient of the elemental mercury signing the certification statement.
- 7.4 The information required pursuant to Section 7.3 shall be submitted to the Department on the form included in Appendix A of these regulations.
- 7.5 An authorized senior management official for the recipient of the elemental mercury shall:
 - 7.5.1 Sign and date the completed certification statement form; and
 - 7.5.2 Certify by the individual's signature that the information submitted on the form is true and accurate to the best of the individual's knowledge and belief, subject to a penalty for making false statements.
- 7.6 The recipient of elemental mercury shall complete and sign a separate certification statement for each delivery of elemental mercury.
- 7.7 The provider of the elemental mercury shall forward each completed certification statement to the Department.
- 7.8 The provider shall forward completed certification statements to the Department at least monthly, unless no elemental mercury was offered for sale or use during the previous month.

8. Labeling of Mercury-Added Products

- 8.1 **General Labeling Requirements.** Except as provided for in Section 8.2 regarding motor vehicle components, after January 1, 2006, a manufacturer or retailer shall not sell a mercury-added product in Rhode Island unless the manufacturer complies with one of the following:

- 8.1.1 Labels the product in accordance with the standards set forth in Sections 8.3 and 8.4; or
 - 8.1.2 Conforms to the terms of an approved alternative compliance plan under Section 8.5; or
 - 8.1.3 Documents to the Department under Section 8.6 that the product is labeled in compliance with labeling requirements enacted by another state.
- 8.2 **Labeling of Motor Vehicle Components.** Beginning January 1, 2006, each new motor vehicle sold on or after that date must have a label listing the mercury-added products that may be components in the vehicle. The label must be affixed in a visible location on the doorpost of the driver's compartment (and not on the door itself) unless a different location is proposed by the manufacturer and approved by the Department under Section 8.5 or used by another state in accordance with Section 8.6. The label wording and font size also must be approved by the Department or another state. In approving an alternative compliance plan for motor vehicles under Section 8.5, the Department may not require a label to be affixed to individual mercury-added components unless proposed by the manufacturer.
- 8.3 **Labeling Standards.** Prior to sale of a mercury-added product, the manufacturer of the product shall affix or cause to be affixed a label that conforms to the requirements of this Section.
- 8.3.1 **Labeling Content.** Clearly informs the purchaser and consumer, using words or symbols, that the product contains mercury and may not be disposed of or placed in a waste stream destined for disposal until the mercury is removed and reused, recycled or otherwise managed to ensure that mercury does not become part of solid waste or wastewater. The following wording is acceptable:

Contains Mercury. Don't Put in Trash. Recycle or Manage as Hazardous Waste.

or

Contains Mercury, Dispose of Properly



8.3.2 Label Placement

- 8.3.2.1 Labels shall be placed on the mercury-added component, any larger product that contains the component, and the package.
- 8.3.2.2 The label must be located on a surface of the product. If the product has physical characteristics (such as extreme hot or cold temperatures, the product surface is too small or attachment of a label directly on the surface interferes with the specific function of the product), then a manufacturer can submit an alternative labeling request
- 8.3.2.3 For products that incorporate mercury-added components, both the incorporated component and the larger product must be labeled. The label on the larger product must identify and describe each mercury-added component. The label should also identify where in the larger fabricated product each component is found.
- 8.3.2.4 The label must be affixed to the product such that the label is clearly visible and legible. A label printed using 10 point font or larger is presumed to be legible.
- 8.3.2.5 Labels affixed to products must be printed, mounted, molded, engraved or otherwise affixed using materials that are sufficiently durable to remain legible under the conditions of product's intended use and the useful life of the product.

8.3.3 Product Package Labeling

- 8.3.3.1 Labels are required on mercury-added product packaging, except when the product either has no package or is not packaged in a conventional type of packaging (where a label cannot be affixed such as shrink wrap, crated or loaded on pallets).
- 8.3.3.2 Labels are not required on a "clam shell" type package where the product label can easily be viewed through the clear packaging.
- 8.3.3.3 If component replacement parts are sold as an individual item to end use consumers, the replacement part package must be labeled.
- 8.3.3.4 If a manufacturer purchases a product from another manufacturer and repackages the product to identify the product with their own company name, the manufacturer repackaging the product is responsible for re-labeling the package.
- 8.3.3.5 Where the purchaser or recipient is unable to view the labels on the product or product packaging at the time of purchase or receipt, such as in catalog sales transactions that occur over the internet or telephone, the manufacturer or retailer shall, prior to sale or

distribution, clearly inform the purchaser or recipient that the product contains mercury.

8.4 **Mercury-Added Component Parts.** Except as otherwise provided in Section 8.2 (motor vehicles components), mercury-added products that are components of larger products offered for sale in Rhode Island must be labeled in accordance with the requirements of Section 8. If the component is enclosed in the larger product such that the label on the component cannot be seen, then the product containing the component also must be labeled in accordance with the requirements of this Section and the label must identify the component in sufficient detail so that it may be readily located for removal. If the component is incorporated in the larger product such that the label on the component is fully visible, then labeling of the larger product is not required.

8.5. **Alternative Labeling Compliance Plan.** A manufacturer may apply to the Department for approval to carry out an alternative compliance plan in lieu of compliance with the requirements of Sections 8.2, 8.3 and 8.4. All fees required for alternative labeling compliance plans pursuant to Section 13 of these regulations shall be submitted to the Department at the time of application.

8.5.1 **Application.** An application for approval of an alternative compliance plan must be in writing and must:

- 8.5.1.1 Identify each requirement of these regulations (e.g. font size; placement of the label directly on the product) for which alternative compliance is proposed;
- 8.5.1.2 Describe the proposed alternative and explain the justification for it;
- 8.5.1.3 Describe how the alternative ensures that purchasers or recipients of mercury-added products are made aware of mercury content prior to purchase or receipt;
- 8.5.1.4 Describe how a person discarding the product will be made aware of the need for proper handling to ensure that it does not become part of solid waste or wastewater;
- 8.5.1.5 Document the readiness of all necessary parties to implement the proposed alternative; and
- 8.5.1.6 Describe the performance measures to be used by the manufacturer to demonstrate that the alternative is providing effective pre-sale and pre-disposal notification.

8.5.2 **Application Review.** The Departments review of a proposed alternative compliance plan shall consider the feasibility of compliance with the requirements of Sections 8.2, 8.3 and 8.4 and whether the proposed alternative would be at least as effective as the regulations in providing pre-sale notification of mercury content and instructions on proper management

as well as other factors. Based on its review, the Department may approve, conditionally approve or reject an application for alternative compliance.

- 8.5.3 **Duration.** An alternative labeling compliance plan may be approved for a period of no more than three (3) years and may be renewed upon request, provided that, the applicant demonstrates continued eligibility under the criteria of this Section and is in full compliance with the conditions attached to its prior approval. Requests for renewal must be submitted to the Department in writing at least 90 days prior to expiration. The request must indicate any changes in the product or packaging covered by the plan or any changes in the conditions cited by the manufacturer in support of its original request to carry out an alternative compliance plan.
- 8.6 **Consistency With Other States.** The manufacturer of a mercury-added product may comply with the labeling requirement of Rhode Island law by labeling all units of the product sold in Rhode Island in compliance with corresponding labeling requirements adopted by another state. A manufacturer may comply in this manner by providing the Department with the following documents:
- 8.6.1 A copy of the label as it will appear on products and product packaging sold in Rhode Island;
- 8.6.2 A copy of the letter approving the use of the label in another state; and
- 8.6.3 A copy of the application or labeling plan approved by that state.

Submittal of these documents to the Department by the manufacturer constitutes compliance with this Section unless, within 45 days of receipt by the Department, the Department notifies the manufacturer that the label or labeling alternative violates Rhode Island law and explains in writing the nature of the violation.

- 8.7 **Mercury-Added Lamps, Large Use Applications.** A person who sells mercury-added lamps in bulk for use in industrial, commercial or office buildings must inform the purchaser (e.g., by written notice on the sales invoice or in a separate document) that the lamps contain mercury, a federally regulated hazardous substance, and must be managed as hazardous/universal waste.
- 8.8 In accordance with [R.I. General Laws §23-24.9-8](#), Section 8 does not apply to mercury-added button cell batteries and products whose only mercury component is a mercury button cell battery or mercury-added lamp, although the individual lamps are subject to the labeling requirement of Section 8.

9. Phase-Outs and Exemptions

- 9.1 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:

- 9.1.1 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;
 - 9.1.2 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
 - 9.1.3 Ten (10) milligrams for mercury-added fabricated products or ten (10) parts per million (ppm) for mercury-added formulated products, effective July 1, 2009.
- 9.2 For a product that contains one (1) or more mercury-added products as a component, Section 9 is applicable to each component part or parts and not to the entire product.
- 9.3 For a product that contains more than one (1) mercury-added product as a component, the phase-out limits specified in Section 9.1.1 through 9.1.3 apply to each component and not the sum of the mercury in all of the components.
- 9.4 **Exemptions – Certain Lamps.** 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 Section 9.1. As of January 1, 2010, the mercury content of fluorescent bulbs shall either not exceed ten (10) milligrams or the manufacturer shall comply with the exemption requirements pursuant to Section 9.6 below.
- 9.5 **Exemptions – Federal and State Health and Safety Requirements.** A mercury-added product shall be exempt from the limits on total mercury content set forth in Section 9.1 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 this exemption, the manufacturer shall 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 Section 9.1.
- 9.6 **Application for Exemptions.** Manufacturers of a mercury-added product or category of products may apply to the Director for an exemption from the limits on total mercury content set forth in Section 9.1. If approved, the time period associated with each manufacturer's exemption shall not exceed five (5) years. All fees required for phase-out exemption requests shall be submitted to the Department at the time of the request pursuant to Section 13. The manufacturer, or an organization/company acting directly on behalf of the manufacturer, shall complete and sign a form as provided by the Department that provides the following information, including attachments:
- 9.6.1 The full legal name and address of the manufacturer. If a company or organization other than the manufacturer is applying for the exemption, the

completed form shall include the company or organization's full legal name and mailing address.

- 9.6.2 The name, address and telephone number of a contact person for the manufacturer. If a company or organization other than the manufacturer is applying for the exemption, the completed form shall include the name, address and telephone number of a contact person for the company or organization.
- 9.6.3 If the manufacturer corresponds via email or otherwise has a presence on the Internet, the contact person's email address and/or manufacturers web address, as applicable. If a company or organization other than the manufacturer is applying for the exemption, the completed form shall include the contact person's email address and/or organizations web address, as applicable.
- 9.6.4 A copy of the latest approval letter issued by the IMERC upon completion of the notification requirements set forth in Section 5 of these regulations.
- 9.6.5 An explanation of the specific reason(s) for the requested exemption.
- 9.6.6 An explanation of how the manufacturer, either on its own or in conjunction with other parties, plans to collect, transport and process the product at the end of its useful life.
- 9.6.7 Documentation of the readiness of all other parties to perform as intended in the planned collection system.
- 9.6.8 An explanation of why the product is not detrimental to the environment or is protective of public health and safety.
- 9.6.9 An explanation about why there is no technically feasible alternative to the use of mercury in the product.
- 9.6.10 An explanation about whether or not a comparable non-mercury-added product exists and is available at reasonable cost.
- 9.6.11 If applicable, provide documentation that the product or product category has been exempted from phase-out provisions for mercury-added products required in other states in the United States participating in the Interstate Mercury Education and Reduction Clearinghouse (IMERC).
- 9.6.12 A signed, dated and notarized statement certifying that the information on the form is true and accurate to the best of the individual's knowledge and belief, subject to all penalties available under RI law for making false statements to the government.
- 9.6.13 All requests for exemptions shall be made in writing on the form as provided by and submitted to the Department.

- 9.6.14 Exemption requests submitted to the Department pursuant to Section 9.1.1 shall be submitted immediately following the effective date of these regulations.
 - 9.6.15 The Department will only ensure a decision on an exemption request for Section 9.1.2 and Section 9.1.3 by the effective date of the phase-out for those requests submitted at least 120 days prior to the effective date of the phase-out.
 - 9.6.16 The Director may request additional information from the manufacturer or company/organization acting on behalf of the manufacturer if necessary to determine whether the product shall be granted an exemption.
- 9.7 The Director may grant, with modifications or conditions, an application for an exemption under Section 9.6 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:
- 9.7.1 Use of the product is not detrimental to the environment, or is protective of public health or protective of public safety; and/or
 - 9.7.2 There is no technically feasible alternative to the use of mercury in the product; and
 - 9.7.3 There is no comparable non-mercury-added product available at reasonable cost.
- 9.8 Prior to issuing any exemption, the Director shall consult with other states and provinces and regional organizations to promote consistency. The Department shall attempt to avoid inconsistencies in the implementation of Section 9. Upon reapplication by the manufacturer and findings by the Director of continued eligibility under Section 9.7 and of compliance by the manufacturer with the conditions of the Director's original approval, an exemption may be renewed one (1) or more times and each renewal may be for a period of no longer than five (5) years.

10. Disposal Ban

- 10.1 Except as otherwise provided in these regulations, after July 1, 2006, no person shall dispose of mercury-added products in a manner other than by recycling or disposal as hazardous waste, Universal Waste, or household hazardous waste (if applicable). 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.

- 10.2 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 (FDA), then the product is exempt from the requirements of Section 10.
- 10.3 Section 10 shall not apply to:
 - 10.3.1 The disposal of a mercury-added button cell battery by any person;
 - 10.3.2 The disposal of components in motor vehicles except as provided for in Section 12 of these regulations.
 - 10.3.3 The disposal of lamps and products containing lamps generated from a household.
- 10.4 In accordance with [R.I. General Laws § 23-24.9-9](#), the restrictions on amalgam waste recycling shall be implemented as provided for in [R.I. General Law § 23-24.9-9.3](#) and Section 15 of these regulations.

11. Collection of Mercury Added Products

11.1 Collection Requirement.

- 11.1.1 On and after January 1, 2006, no person shall offer any mercury-added product for sale or distribute any such product for promotional purposes unless the manufacturer either on its own or in concert with other persons, has implemented a system, after review and approval by the Department, for the convenient and accessible collection of such products when the consumer is finished with them. The collection plans shall be submitted to the Interstate Mercury Education and Reduction Clearinghouse (IMERC), who will forward a recommendation regarding approval/denial to the Department. The Department shall forward its decision of approval/denial to the applicant in writing.
- 11.1.2 If a mercury-added product is a component of another product, the collection system shall 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 Section 12 of these rules.

11.2 The Collection System.

11.2.1 The collection system plan shall include:

11.2.1.1 An education program to inform consumers of mercury-added products about the purpose of the collection program and how to participate in it;

11.2.1.2 A plan which specifically addresses the following issues:

11.2.1.2.1 Location of the mercury-added product and how to remove it;

11.2.1.2.2 The manner in which the items will be collected and stored;

11.2.1.2.3 The frequency and method of disposal/recycling for the items collected;

11.2.1.2.4 The recordkeeping protocol that will be used to assure compliance with this plan;

11.2.1.3 A plan for implementing and financing the collection system;

11.2.1.4 Documentation of the willingness of all parties to the system to implement the proposed collection system;

11.2.1.5 A best estimated, targeted capture rate for the applicable mercury-added product(s) or component(s);

11.2.1.6 A description of the performance measures to be utilized and reported by the manufacturer to demonstrate that the collection system is meeting capture rate targets;

11.2.1.7 A description of additional or alternative actions that will be implemented to improve the collection system and its operation in the event that the program targets are not met; and

11.2.1.8 Other special conditions or information related to the affected mercury-added product.

11.3 Not later than July 1, 2007 and biennially thereafter, the manufacturer or entity that submitted the plan on behalf of the manufacturer shall submit a report to the Department and the Interstate Mercury Education and Reduction Clearinghouse (IMERC) on the effectiveness of the collection system. The report shall include an estimate of the amount of mercury that was collected, the capture rate for the mercury-added products or components, the results of the other performance measures included in the manufacturer's collection system plan, and such other

information as the Department may request. The Department may make such reports available to the public.

- 11.4 The applicant shall identify, in writing, any known impediment that impacts the effectiveness of the collection system and what corrective measures may be appropriate. Unless otherwise provided by DEM, the corrective measures shall be implemented.
- 11.5 The following are exempt from the provisions of Section 11:
 - 11.5.1 Mercury-added button cell batteries;
 - 11.5.2 Mercury-added lamps; and
 - 11.5.3 Products where the only mercury contained in the product comes from a mercury-added button cell battery or a mercury-added lamp.
- 11.6 Mercury-added components in motor vehicles at end-of-life shall be collected and recycled as provided for in Section 12 of these rules.
- 11.7 **Alternative Statewide Collection System.** Manufacturers of mercury-added products may satisfy their obligations by entering into a written agreement with the Rhode Island Resource Recovery Corporation and/or the Department to support and enhance the statewide program for collection and disposal of household hazardous wastes to accommodate the collection of mercury-added products when the household customer is finished with them. Such an agreement may support and enhance the existing program operated by Rhode Island Resource Recovery Corporation by improving advertisement, infrastructure, education and funding, and other activities as appropriate and agreed to, or may establish an alternative program. A two party agreement between a manufacturer and Rhode Island Resource Recovery Corporation must be submitted for review and approval to the Department pursuant to Rule 11.1.1 and must demonstrate that it will satisfy the requirements of Rules 11.2, 11.3 and 11.4. This provision is not applicable to motor vehicle manufacturers subject to the provisions of Section 12 of these regulations.

12. Motor Vehicles – Removal of Mercury-Added Convenience Light Switches

- 12.1 Mercury switches in motor vehicles shall be collected and recycled by manufacturers of motor vehicles as provided for in this section at the end of the life of each vehicle.
- 12.2 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 in accordance with [R.I. General Laws § 23-24.9-10](#).

- 12.2.1 **For Calendar Year 2006.** The Department has determined that 19,300 mercury switches are available for collection and recycling in Rhode Island. Manufacturers of motor vehicles sold in Rhode Island that contain mercury switches shall, individually or collectively, be required to achieve a capture rate of not less than fifty percent (50%) of this total. This results in the required collection of 9,650 mercury switches for calendar year 2006. All manufacturers required to submit collection plans to the Department pursuant to Section 12.3 shall use this target in the formulation of their collection plan for calendar year 2006.
- 12.2.2 **For Calendar Year 2007 Through Calendar Year 2017.** The Department has determined that 19,300 mercury switches are available each year for collection and recycling in Rhode Island. Manufacturers of motor vehicles sold in Rhode Island that contain mercury switches shall, individually or collectively, be required to achieve a capture rate of not less than seventy percent (70%) of this total. This results in the required collection of 13,510 mercury switches for calendar year 2007 and each calendar year thereafter through calendar year 2017. All manufacturers required to submit collection plans to the Department pursuant to Section 12.3 shall use this target in the formulation of their collection plans for calendar year 2007 through calendar year 2017. The Department shall biennially, beginning in 2009, review reported capture rates to determine if an adjustment is necessary.
- 12.3 **Collection Program Requirements.** On or before August 30, 2007, manufacturers of motor vehicles subject to these collection program requirements shall submit to the Department a plan setting forth a proposed collection program. The proposed collection plan shall be subject to the review and approval of the Department, which may require adjustments or modifications to the plan. The plan must demonstrate that the collection program meets the following requirements:
 - 12.3.1 Meets the capture rates specified in Section 12.2.2.
 - 12.3.2 Presents a system for managing mercury switches that complies with requirements set forth in the Department's Rules and Regulations for Hazardous Waste Management, including the Universal Waste Rule (Section 13 of the Rules and Regulations for Hazardous Waste Management) if applicable.
 - 12.3.3 Provides information, training and local technical assistance, including options for direct on-site assistance if requested, to facilitate removal and recycling of mercury switches in accordance with the Universal Waste Rule.
 - 12.3.4 Provides information to the general public concerning services to remove mercury switches in motor vehicles.

12.3.5 Provides a clear system for payment of a minimum five-dollar (\$5.00) fee to vehicle recyclers or scrap recycling facilities in accordance with [R.I. General Laws § 23-24.9-10](#).

12.3.5.1 In accordance with [R.I. General Laws § 23-24.9-10](#), manufacturers of motor vehicles sold in Rhode Island that contained mercury switches shall pay for the total cost of removal, replacement, collection and recovery system for mercury switches to the vehicle recycler or scrap recycling facility that removed the switch. The total cost shall include a minimum of five-dollars (\$5.00), payable on delivery of the switch to the party providing the mercury switch, 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.

12.3.5.2 Payment of the five-dollar (\$5.00) fee for each mercury switch shall be made to vehicle recyclers or scrap recycling facilities no later than sixty (60) days after the vehicle recycler or scrap recycling facility relinquishes the switch(s) to the manufacturer as part of the collection program in Section 12.2.

12.3.5.3 Payment of the five-dollar (\$5.00) fee for each mercury switch is only required for switches removed from vehicles dismantled and recycled in Rhode Island. Vehicle recyclers and scrap recycling facilities are required to abide by the certification requirements as established in Section 12.7.

The proposed collection program plan shall be subject to the review and approval of the Department, which shall: i) approve; ii) deny; iii) approve with conditions; or iv) require re-submittal of the plan.

12.4 Within thirty (30) days of the Department's approval of the plan, manufacturers of motor vehicles subject to the collection program requirement shall implement the collection plan, including payment of the five-dollar (\$5.00) fee for each mercury switch, as approved by the Department.

12.5 By January 30th of each calendar year through calendar year 2017, manufacturers of motor vehicles subject to the collection program requirement shall provide annual implementation reports to the Department, which reports shall include the number of mercury switches collected and the amount of mercury collected and recycled through the collection program in the previous calendar year. The report shall further include, but not be limited to: a detailed description and documentation of the total amount paid to vehicle recyclers and scrap recycling facilities in accordance with [R.I. General Laws § 23-24.9-10](#) and these regulations.

12.6 By February 15th of each year through 2017, each vehicle recycler, as defined in Section 4, shall report to the Department on: 1) the total number of vehicles dismantled or destroyed during the previous calendar year; and 2) the total

number of mercury switches returned to vehicle manufacturers for recycling during the previous calendar year. This information shall be submitted to the Department on a form as prescribed by the Department.

- 12.7 Vehicle recyclers and scrap recycling facilities shall maintain log sheets showing the number of mercury switches provided in bulk to vehicle manufacturers for recycling in accordance with the manufacturer's collection program. Vehicle recyclers and scrap recycling facilities shall be required to certify on said log sheets that the switches are only from motor vehicles dismantled in the State of Rhode Island. This information shall be maintained on log sheets as prescribed by the Department.
- 12.8 Significant, willful failure to comply with these regulations to implement the provisions of Section 12 shall constitute, as may be determined by the Department, a violation of these rules.
- 12.9 No motor vehicle containing a mercury switch may be intentionally crushed or flattened without first removing the mercury switch(s).
- 12.10 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 these regulations if a mercury switch is found in the vehicle after its acquisition.
- 12.11 Persons may petition the Department to establish a fee greater than five-dollars (\$5.00) per mercury switch if they can demonstrate that a different fee is necessary for the removal and recycling of mercury switches from end-of-life motor vehicles.

13. Fees for Submittal of Phase-out Exemptions, Alternative Labeling Compliance Plans, Product Specific Novelty Determinations

- 13.1 Pursuant to the authority granted in [R.I. General Law § 42-17.1-2\(z\)](#) for the regulation of mercury-added products, the following fees shall be assessed for the approval of plans, specifications and exemption requests:
 - 13.1.1 **Phase-out Exemption Request(s)** – A fee of \$200.00 shall be assessed for each exemption request submitted to the Department in accordance with Section 9.6. The fee shall accompany the exemption request and the Department's review of the request shall not begin until the fee has been received.
 - 13.1.2 **Alternative Labeling Compliance Plan Request(s)** – A fee of \$100.00 shall be assessed for each alternative compliance plan request submitted to the Department in accordance with Section 8.5. The fee shall accompany the alternative compliance plan request and the Department's review of the request shall not begin until the fee has been received.

- 13.1.3 **Product Specific Novelty Determination Request(s)** – A fee of \$100.00 shall be assessed for each product specific determination request submitted to the Department in accordance with Section 6.3. The fee shall accompany the product specific novelty determination request and the Department’s review of the request shall not begin until the fee has been received.

14. Application to Products Regulated by Food and Drug Administration

Nothing in these regulations shall apply to prescription drugs regulated by the Food and Drug Administration (FDA) 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.

15. Dental Amalgam Separators

- 15.1 No later than July 1, 2008, a dental office or facility that, in the course of treating its patients, places or removes dental amalgam must install an amalgam separator, as defined in Section 4, in the wastewater discharge line.
- 15.2 A dental office or facility must demonstrate proper installation, operation, maintenance, and amalgam waste recycling or disposal in accordance with the 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 at the point of generation.
- 15.2.1 Rhode Island dental offices, facilities and vocational dental educational programs shall use, instruct, and comply with best management practices (BMPs) as maintained by the Department to minimize the presence of elemental mercury, used amalgam and waste amalgam in their wastewater discharge and in their solid waste. Such BMPs shall include a requirement for an amalgam removal efficiency of at least ninety-nine percent (99%).
- 15.3 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.
- 15.4 The following categories of dental offices or facilities are exempt from the requirement to install an amalgam separator; provided, that they do not replace or remove amalgam:
- 15.4.1 Orthodontists;

- 15.4.2 Periodontists;
- 15.4.3 Endodontists;
- 15.4.4 Oral and maxillofacial surgeons; and
- 15.4.5 A dental office that is scheduled to no longer be used as a dental office after January 1, 2008.

16. Disclosure Provision

Information provided to the Department, in accordance with these regulations, is assumed to be a public record unless exempt under [R.I. General Laws § 38-2-2](#) (R.I. Access to Public Records Act).

17. Enforcement/Penalties

The Director shall assess all penalties for violation of these regulations in accordance with the provisions of [R.I. General Laws §23-24.9-16](#) (The Mercury Education and Reduction Act), [R.I. General Laws Chapter 42-17.1](#) (The Department of Environmental Management), [R.I. General Laws Chapter 42-17.6](#) (Administrative Penalties for Environmental Violations) and the "Rules and Regulations for Assessment of Administrative Penalties".

Effective July 1, 2005, a violation of any of the provisions of [R.I. General Laws § 23-24.9](#) 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.

18. Appeals

Any person affected by a decision of the Director pursuant to these regulations may, in accordance with Administrative Rules of Practice and Procedure for the Department of Environmental Management, file a claim for an adjudicatory hearing to review the decision. The party contesting a Department decision bears the burden of proof that their application(s) or action(s) comply with all requirements of the rules and regulations herein. All requests for a hearing regarding a decision of the Director must be in writing and filed with the clerk of the Department's Administrative Adjudication Division (AAD) within thirty (30) days of receipt of the Director's decision. All requests for a hearing regarding an enforcement action issued by the Department must be in writing and filed with the clerk of the Department's Administrative Adjudication Division (AAD) within twenty (20) days of receipt of the enforcement action.

19. Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

20. Effective Date

The foregoing Rules and Regulations Governing the Administration and Enforcement of the Mercury Education and Reduction Act, after due notice, are hereby adopted and filed with the Secretary of State this ____ day of _____, 2007 to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 23-24.9, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

Date

W. Michael Sullivan
Director, RI Department of Environmental Management

Notice Given on: April 17, 2007
Public Hearing held: May 18, 2007
Filing Date: July 12, 2007
Effective Date: August 1, 2007



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-831-5508

Appendix A- Certification Statement for the Sale or Distribution of Elemental Mercury

I. APPLICANT'S FULL LEGAL NAME AND ADDRESS, ADDRESS, AND CONTACT INFORMATION (PRINT):

Name/Organization: _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

E-mail Address: _____

II. PRODUCT MANUFACTURERS NAME, ADDRESS, AND CONTACT INFORMATION (IF DIFFERENT FROM ABOVE)

Name _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

E-mail Address: _____

III. AMOUNT OF MERCURY TRANSFERRED (POUNDS): _____

DATE TRANSFERRED: _____

IV. USE OF ELEMENTAL MERCURY (CHECK ALL THAT APPLY):

Medical

Dental Amalgam

Research

Other _____

V. CERTIFICATION: AS THE RECIPIENT OF ELEMENTAL MERCURY, I CERTIFY THAT:

- (1) The elemental mercury is to be used only for medical, dental amalgam dispose-caps, or research purposes;
- (2) I understand that mercury is toxic and must be stored and used appropriately so that no person is exposed to the mercury; and
- (3) I will not place or allow anyone else under my or my organization's control to place the mercury or cause the mercury to be placed in solid waste for disposal or in a wastewater disposal system.

Signature (of an Authorized Senior Management Official for Recipient)

Date

Print or Type Name and Title of the Authorized Senior Management Official

APPENDIX A :A copy of this document must be sent to above noted address.
ATTN: OTCA/Mercury Transfer Certification
Recipient should receive a Material Data Safety Sheet (MSDS) with delivery.