

**REVISED DISCUSSION DOCUMENT:  
MERCURY EDUCATION AND REDUCTION MODEL ACT**

**Prepared by the Northeast Waste Management Officials' Association**

**Introduction**

In June 1998 the Conference of the New England Governors and Eastern Canadian Premiers endorsed a Regional Mercury Action Plan that included a recommendation to

- C “reduce/eliminate the use of mercury in medical and consumer products to the extent feasible;
- C identify and implement source reduction programs and develop model legislation;
- C draft model legislation implementing coordinated labeling and manufacturer take-back programs to help consumers identify products containing mercury and how to properly dispose of them;
- C eliminate the use of mercury in school science programs through initiation of programs and/or legislation; and
- C adopt measures to curtail the sale of elemental mercury.”

As part of the regional effort to implement these recommendations, the Northeast Waste Management Officials' Association (NEWMOA) has drafted a discussion document in the form of model legislation (see below).

The intent of this document is to help address the Mercury Action Plan goal of the “virtual elimination of the discharge of anthropogenic mercury into the environment.” Therefore, NEWMOA intentionally designed this draft model legislation as a comprehensive package of provisions.

As a synthesis of numerous complementary approaches, the model provides a comprehensive framework to help states in the region develop more consistent approaches to managing mercury containing wastes. Such a regional approach has been proven successful in other areas, particularly the states' experience with toxics in packaging legislation passed in the early 1990s. By sharing their experiences and expertise the states can avoid duplication of efforts and research, thereby saving time and money. Product manufacturers can also benefit from having more consistent requirements throughout the region.

The draft model includes provisions and concepts that reflect current efforts to reduce mercury in waste streams. The designers do not view the model as a set of provisions that must all be enacted together or at the same time. The model is designed to present a flexible set of concepts from which the states can choose those that meet their jurisdictional priorities. However, it is important that states implement their efforts as consistently as possible across the region.

NEWMOA developed this discussion document and policy concepts for consideration by the states in the Northeast. These concepts may also be useful as models for other jurisdictions and for efforts at the national level.

Most of the elements in the model have already been included in legislation adopted or proposed in one or more states. The following provides a guide to the states that have proposed or passed sections of the draft bill:

- Section 4      **Interstate Clearinghouse:** Same as Section 7
- Section 5      **Notification:** Modeled after proposed legislation in Vermont
- Section 6      **Restrictions on Sale of Certain Mercury-added Products:** Modeled after legislation enacted in Minnesota
- Section 7      **Phase-out and Exemptions:** Modeled after the Toxics in Packaging legislation that has been enacted by 18 states, including almost all of the Northeast states, and several foreign countries.
- Section 8      **Labeling of Mercury-added Products:** Modeled after legislation enacted in Vermont, with modifications based on proposals from Vermont DEC. Mercury labeling legislation has been enacted by Minnesota, and Connecticut was authorized to develop labeling regulations. Similar legislation has been proposed in Massachusetts and Maine.
- Section 9      **Disposal Ban:** Modeled after legislation enacted in Minnesota.
- Section 10     **Collection of the Existing Inventory of All Banned or Phased-Out Mercury-added Products:** Modeled after legislation proposed in Massachusetts.
- Section 12     **Disclosure for Mercury Containing Formulated Products That Are Used in Health Care Facilities:** Modeled after legislation proposed in Massachusetts and drafted in consultation with health care facilities and the Massachusetts Water Resources Authority.
- Section 13     **Limitations on the Use of Elemental Mercury:** Modeled after legislation enacted in Minnesota.

### **Stakeholder Meetings and Review**

NEWMOA organized a stakeholder meeting in January 1999 in Connecticut to elicit ideas and suggestions from representatives of various stakeholder groups, including manufacturers, trade associations, environmental organizations, local and state government agencies, solid waste management firms, community groups, and others for the model legislation. From January to October 1999, a workgroup of state environmental agency representatives facilitated by NEWMOA took the ideas discussed at this stakeholder meeting and drafted the “Discussion Document: Draft Model Act to Reduce Mercury Containing Waste.” This Discussion Document was released to stakeholders and on the Internet ([www.newmoa.org](http://www.newmoa.org)) in November 1999.

NEWMOA held two Public Meetings in December 1999 in Massachusetts and New Hampshire to hear comments and suggestions from stakeholders, including manufacturers, trade associations, environmental organizations, local and state government agencies, solid waste management firms, community groups, and others on the draft Discussion Document. In January 2000 NEWMOA posted a summary of the verbal comments from these meetings on the Internet ([www.newmoa.org](http://www.newmoa.org)). NEWMOA also received over 300 pages of written comments on the Discussion Document from December 1999 through January 2000.

NEWMOA's Mercury Workgroup reviewed the written and verbal comments and made revisions to the Discussion Document from January through April 2000. At the same time the Mercury Workgroup prepared a Response to Comments paper and a summary of the revisions.

## **Section 1. An Act Concerning Mercury Education and Reduction**

### **Section 2. The legislature finds and declares that:**

- a. Mercury is a persistent and toxic pollutant that bioaccumulates in the environment.
- b. According to recent studies, mercury deposition is a significant problem in the Northeast.
- c. Consumption of mercury-contaminated freshwater fish poses a significant public health threat.
- d. Because of this threat, all of the Northeastern states have issued freshwater fish advisories, warning certain individuals against consuming fish from affected water bodies.
- e. Studies have documented that exposure to the elevated levels of mercury in the environment has resulted in serious harm to fish-consuming wildlife.
- f. Combustion of municipal and other solid waste is a major source of mercury in the Northeast.
- g. At least one recent study has raised concern about potential emissions of mercury during the transportation and storage of solid waste.
- h. Removal of mercury containing products from the waste stream prior to combustion is an effective way to reduce mercury at solid waste management facilities.
- i. The Governors of the New England States and the Premiers of the Eastern Canadian Provinces have endorsed a regional goal of “the virtual elimination of the discharge of anthropogenic mercury into the environment.”
- j. Manufacturers of certain mercury-added products, such as thermostats, have established successful “take back” programs for properly managing the products at the end of their useful life.
- k. A visible label on the product and/or its packaging increases effective consumer education, encourages informed purchasing, and bolsters participation in programs designed to separate, collect, and properly manage or recycle mercury-added products.
- l. Accidental mercury spills, breakages, and releases have occurred at schools throughout the Northeast. These incidences have proven costly to clean-up and have exposed students, teachers, and/or administrators to mercury emissions.
- m. Health care facilities, educational and research institutions, and businesses have also experienced significant employee exposures and incurred significant costs due to accidental mercury releases.

- n. State procurement of environmentally responsible products can improve the markets for those products, including low or non-mercury-added products and energy efficient products.
- o. The intent of this Act is to achieve significant reductions in environmental mercury by encouraging the establishment of effective state and local waste reduction, recycling, and management programs while continuing to spur economic development.

### **Section 3. Definitions**

**“Health care 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.

**“Formulated mercury-added product” means:** a chemical product, including but not limited to laboratory chemicals, cleaning products, cosmetics, pharmaceuticals, and coating materials, that are sold as a consistent mixture of chemicals.

**“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.

**“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.

**“Mercury fever thermometer” means:** a mercury-added product that is used for measuring body temperature.

**“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 practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel (including footwear), or similar products.

**“Manufacturer” means:** any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture which 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.

#### **Section 4. Interstate Clearinghouse**

The [responsible administrative agency] is authorized to participate in the establishment and implementation of a regional, multi-state clearinghouse to assist in carrying out the requirements of this Act 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, applications for alternative labeling/notification systems, education and outreach activities, and any other related functions. The clearinghouse may also maintain a list of all products containing mercury, including mercury-added products; a file on all exemptions granted by the states; a file of all the manufacturers reports on the effectiveness of their collection systems; and a file of the certificates of analysis for certain products containing mercury used by health care facilities as defined in Section 12 of this Act.

#### **Section 5. Notification**

- a. After six months from the effective date of this Act no mercury-added product shall be offered for final sale or use or distributed for promotional purposes in [jurisdiction] without prior notification in writing by the manufacturer of the product to the [responsible administrative agency] in accordance with the requirements of this section. Such notification shall at a minimum include:
  - i A brief description of the product to be offered for sale, use, or distribution,
  - ii The amount of and purpose for mercury in each unit of the product,
  - iii The total amount of mercury contained in all products manufactured by the manufacturer,
  - iv 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 [responsible administrative agency], the manufacturer may supply the information required above 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 [responsible administrative

agency]. The [responsible administrative agency] may define and adopt specific requirements in accordance with [state administrative and public participation requirements] for the content and submission of the required notification.

- d. Public disclosure of confidential business information submitted to the [responsible administrative agency] pursuant to this section shall be governed by the requirements of the [state's freedom of information act]. Notwithstanding the requirements of the [state's freedom of information act] the state may provide the interstate clearinghouse with copies of such information and the [responsible administrative agency] and the interstate clearinghouse may compile or publish analyses or summaries of such information provided that the analyses or summaries do not identify any manufacturer or reveal any confidential information.

## **Section 6. Restrictions on the Sale of Certain Mercury-added Products**

- a. No later than one year after the adoption of this Act no mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in [jurisdiction]. 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 section 7.
- b. Six months after adoption of this Act, a person may not sell or supply mercury fever thermometers to consumers and patients, except by prescription. The manufacturers of mercury fever thermometers must, in addition to providing notice of mercury content and instructions on proper disposal, supply clear instructions on the careful handling of the thermometer to avoid breakage and on proper cleanup should a breakage occur. Mercury fever thermometer manufacturers must also comply with Section 5, 7, 8, 9, and 10 of this Act.
- c. Within one year of the adoption of this Act, no school in [jurisdiction] 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. No later than one year after the adoption of this Act no mercury dairy manometers shall be offered for final sale or use or distributed for promotional purposes in [jurisdiction]. Manufacturers that produce and sell mercury dairy manometers must notify retailers about the provisions of this product ban and how to dispose of the remaining inventory properly. The

[responsible administrative agency] in consultation with the [jurisdiction's agriculture agency] shall examine the feasibility of implementing a collection and replacement program for dairy manometers.

## **Section 7. Phase-out and Exemptions**

- a. No mercury-added product shall be offered for final sale or use or distributed for promotional purposes in [jurisdiction] if the mercury content of the product exceeds:
  - (1) 1 gram (1000 milligrams) for mercury-added fabricated products or 250 parts per million (ppm) for mercury-added formulated products, effective two years from the date of this Act;
  - (2) 100 milligrams for mercury-added fabricated products or 50 parts per million (ppm) for mercury-added formulated products, effective four years from the date of this Act; and
  - (3) 10 milligrams for mercury-added fabricated products or 10 parts per million (ppm) for mercury-added formulated products, effective six years from the date of this Act.
- 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 products as a component, the phase out limits specified in subsection "a" apply to each component and not the sum of the mercury in all of the components. For example, a car can contain 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 shall be exempt from the requirements of subsection "a." Eight years from the effective date of this Act the mercury content of fluorescent bulbs must either not exceed 10 milligrams or the manufacturer must comply with the exemption requirements pursuant to subsection (f).
- e. A mercury-added product shall be exempt from the limits on total mercury content set forth in subsection "a" 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, in writing, the [responsible administrative agency] and provide the legal justification for the claim of exemption.

- f. (1) Manufacturers of a mercury-added product may apply to the [responsible administrative agency] for an exemption for no more than two years from the limits on total mercury content set forth in subsection “a” for a product or category of products.
- (2) 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.
- (3) The [responsible administrative agency] may grant with modifications or conditions an exemption for a product or category of products if: (a) it finds that a system exists for the proper collection, transportation, and processing of the mercury-added product. Such a system may include direct return of a waste product to the manufacturer or an industry or trade group supported collection and recycling system, or other similar private and public sector efforts; and (b) it finds each of the following criteria are met:
- i use of the product is beneficial to the environment or protective of public health or protective of public safety, and
  - ii there is no technically feasible alternative to use of mercury in the product; and
  - iii there is no comparable non-mercury-added product available at reasonable cost.

Prior to issuing an exemption the [responsible administrative agency] 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 re-application by the manufacturer and findings by the [responsible administrative agency] of continued eligibility under the criteria of this subsection and of compliance by the manufacturer with the conditions of its original approval, an exemption may be renewed one or more times and each renewal may be for a period of no longer than two years.

## **Section 8. Labeling of Mercury-Added Products**

- a. No mercury-added product manufactured after two years from the effective date of this Act shall be offered for final sale or use or distributed for promotional purposes in [jurisdiction] unless both the product and its packaging are labeled in accordance with this section, any adopted rules, or the terms of any approved alternative labeling or notification granted under subsection “h.” A retailer may not be found in violation of this subsection if the retailer lacked knowledge that the product contained mercury.

- b. Where a mercury-added product is a component of another product, the product containing the component and the component must both be labeled. The label on a product containing a mercury-added component shall identify the component with sufficient detail so that it may be readily located for removal.
- c. All labels must be clearly visible prior to sale and must inform the purchaser, using words or symbols, that mercury is present in the product and that the product should 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 the mercury in the product does not become mixed with other solid waste or wastewater.
- d. Labels affixed to the product shall be constructed of materials that are sufficiently durable to remain legible for the useful life of the product.
- e. After two years from the effective date of this Act, any person offering a mercury-added product for final sale or use or promotional purposes to an address in [jurisdiction] shall clearly advise the purchaser or recipient at the point of sale that the product contains mercury. This requirement applies to all transactions where the purchaser or recipient is unable to view the labels on the package or the product prior to purchase or receipt, including but not limited to catalogue, telephone, and Internet sales.
- f. Responsibility for product and package labels required under this section shall be on the manufacturer, and not on the wholesaler or retailer unless the wholesaler or retailer agrees with the manufacturer to accept responsibility in conjunction with implementation of an alternative to the labeling requirements of this section approved under subsection “h.” In the case of a multi-component product the responsible manufacturer is the last manufacturer to produce or assemble the product or, if the multi-component product is produced in a foreign country, the responsible manufacturer is the importer or domestic distributor.
- g. Labeling for Specific Products
  - i Labeling of [large] appliances (commonly called white goods) sold in a store where the appliance is on display shall meet all requirements of this section except that no package labeling is required.
  - ii Labeling of fever thermometers and button cell batteries shall meet all requirements of this section except that no product labeling is required.
  - iii Labeling of motor vehicles shall meet all requirements of this section except that the mercury-added components are not required to be labeled. A doorpost label shall list the mercury-added components that may be present in the vehicle.
- h. Alternative Methods of Public Notification

- i A manufacturer may apply to the [responsible administrative agency] for an alternative to the requirements of this section where: strict compliance with the requirements is not feasible; or the proposed alternative would be at least as effective in providing pre-sale notification of mercury content and in providing instructions on proper disposal; or federal law governs labeling in a manner that preempts state authority.
- ii Applications for an alternative to the requirements of this section must: (1) document the justification for the requested alternative; (2) describe how the alternative ensures that purchasers or recipients of mercury-added products are made aware of mercury content prior to purchase or receipt; (3) 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; (4) document the readiness of all necessary parties to implement the proposed alternative; and (5) describe the performance measures to be utilized by the manufacturer to demonstrate that the alternative is providing effective pre-sale notification and pre-disposal notification.
- iii The [responsible administrative agency] may, grant, deny, modify, or condition a request for an alternative to the requirements of this section and approval of an alternative. Such waiver shall be for a period of no more than two years and may, upon continued eligibility under the criteria of this section and compliance with the conditions of its prior approval, be renewed at two-year intervals. Prior to approving an alternative, the [responsible administrative agency] shall consult with neighboring states, provinces and regional organizations to insure that its labeling requirements are consistent with those of other governments in the region.

## **Section 9. Disposal Ban and Proper Management of Mercury Scrap Metal Facilities**

- a. After two years from the effective date of this Act no person shall dispose of mercury-added products in a manner other than by recycling or disposal as hazardous waste. Mercury 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. Mercury-added products may be disposed of in a properly-approved by [the responsible administrative agency] hazardous waste disposal or recycling facility.
- c. At a minimum, owners and operators of solid waste management facilities are required to implement the following mechanisms:
  - i posting of signs at the facility providing notice of the prohibition of the disposal and incineration of mercury-added products;

- ii written notification to or contractual agreements with the facility's customers on a frequency determined by [the responsible administrative agency], providing notice of the prohibition on the disposal and incineration of mercury-added products; and
  - iii implementation of a procedure approved by the appropriate state agency for periodically monitoring incoming wastes to detect the presence of mercury-added products at the facility.
- d. A person may not crush a motor vehicle or shred an appliance unless the person has first made a good faith effort to remove all of the component mercury-added products.
- e. 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.

## **Section 10. Collection of Mercury-Added Products**

- a. Within one year of the adoption of this Act, no mercury-added product shall be offered for final sale or use or distribution for promotional purposes in [jurisdiction] unless the manufacturer either on its own or in concert with other persons has submitted a plan for a convenient and accessible collection system for such products when the consumer is finished with them and such a plan has received approval of the [responsible administrative agency]. 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.
- b. The collection system plan shall include the following elements:
  - i a public education program to inform the public about the purpose of the collection program and how to participate in it;
  - ii a targeted capture rate for the mercury-added products or components;
  - iii a plan for implementing and financing the collection system;
  - iv documentation of the willingness of all necessary parties to implement the proposed collection system;
  - v 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 and other measures of program effectiveness as required by the [responsible administrative agency]; and

- vi 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.
- c. In developing a collection system plan, manufacturers are encouraged to utilize or expand on existing collection and recycling infrastructure where feasible and cost-effective. In the event that the manufacturer has elected not to utilize existing local collection and recycling infrastructure, the manufacturer shall include in its collection system plan the reasons for its decision to establish a separate collection system.
- d. Within a year of the state approval of the collection system plan, the manufacturer or entity that submitted the plan on behalf of the manufacturer shall ensure that a convenient and accessible recovery system for the users of those products is in full operation.
- e. Two years following the implementation of the collection system plan required under this section and biennially thereafter, the manufacturer or entity that submitted the plan on behalf of the manufacturer shall be required to submit a report 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 manufacturers collection system plan, and such other information as the [responsible administrative agency] may require. Such reports shall be made available to the public by the [responsible administrative agency].
- f. The cost for the collection system must be borne by the manufacturer or manufacturers of mercury-added products. Manufacturers may include the cost of the collection system in the price of the product and may not assess a separate fee for the use of the collection system.
- g. The [responsible administrative agency] shall review the regulatory framework governing handling of waste from mercury-added products and may revise, if necessary, its rules as appropriate to facilitate collection.
- h. Mercury-added formulated products intended to be totally consumed in use, such as reagents, cosmetics, pharmaceuticals, and other laboratory chemicals, shall be exempt from the requirements of this section.

## **Section 11. Universal Waste Rule**

The [responsible administrative agency] shall [adopt or modify] its rules governing universal hazardous waste as appropriate to promote the recycling, recovery, and proper management of elemental mercury and mercury-added products on a statewide and regional basis.

## **Section 12. Disclosure for Mercury-Containing Formulated Products That Are Used in Health Care Facilities**

- a. Within one year of the effective date of this Act, the manufacturers of formulated products that contain mercury or a mercury compound from any source or cause, whether intended or unintended, and are offered for sale or use to a health care facility in [jurisdiction] must provide both the [responsible administrative agency] and the recipient health care facility a Certificate of Analysis documenting the mercury content of the product, down to a 1 part per billion level. Such formulated products include, but are not limited to: acids; alkalies; bleach (sodium hypochlorite); materials used for cleaning, in maintenance, or for disinfection; pharmaceutical products; stains; reagents; preservatives; fixatives; buffers; and dyes.
- b. The Certificate of Analysis (COA) 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 COA.
- c. Upon receipt of the COA, the [responsible administrative agency] may review the data, in consultation with the manufacturer and take appropriate action.

## **Section 13. Limitations on the Use of Elemental Mercury**

Within one year of adoption of this Act, no person may sell or provide elemental mercury to another person in [jurisdiction] without providing a Material Safety Data Sheet, as defined in the United States Code, Title 42, Section 11049, and requiring the purchaser or recipient to sign a statement that the purchaser:

- i will use the mercury only for medical, dental amalgam dispose-caps, research, or manufacturing purposes;
- ii 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
- iii 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.

## **Section 14. Existing Inventories**

Those mercury-added products with a code or date of manufacture indicating they were manufactured prior to the effective date of this Act are exempt from Sections 6, 7, 8, 10, and 12. 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 the effective date, 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.

## **Section 15. Public Education and Outreach**

- a. The [responsible administrative agency] shall implement a comprehensive 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. The [responsible administrative agency] shall cooperate with manufacturers of mercury-added products and other affected businesses in the development and implementation of public education and technical assistance programs.
- b. The [responsible administrative agency] 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.
- c. The [responsible administrative agency] may develop an awards program to recognize the accomplishments of manufacturers, municipalities, solid waste management facilities, solid waste recycling facilities, household hazardous waste collection facilities, citizens, or others who go beyond the minimum requirements in this legislation and excel at reducing or eliminating mercury in air emissions, solid waste, and wastewater discharges.
- d. To facilitate compliance with the disposal ban, the [responsible administrative agency] shall prepare and publish best management practice guidelines for dental offices and laboratories.

## **Section 16. State Procurement Preferences for Low or Non-mercury-added Products**

- a. Notwithstanding other policies and guidelines for the procurement of equipment, supplies, and other products, the [state procurement administrator] shall, within 1 year of the effective date of this section, revise its policies, rules and procedures to implement the purposes of this Act.
- b. The [state procurement administrator] shall give priority and preference to the purchase of equipment, supplies, and other products that contain no mercury-added compounds or components, unless there is no economically feasible non-mercury-added alternative that

performs a similar function. In circumstances where a non-mercury-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.

- i The [state procurement administrator] is authorized to give a price preference of up to \_\_\_\_ percent for products that contain no mercury or less mercury.
  - ii This priority and preference shall apply to all state purchases, as well as any purchases made by others with state funds;
  - iii With respect to lighting, energy efficient lamps for lighting purposes shall be purchased in preference to other less efficient lighting options. To the maximum extent possible, purchases shall be restricted to lights that contain the lowest total mercury content per lumen hour available. Spent bulbs shall be recycled to the maximum extent feasible.
  - iv The procurement agent shall specify non-mercury or reduced mercury-added products, as applicable, in procurement bid documents.
- c. State dental insurance contracts negotiated after the effective date of this Act shall provide equal coverage for non-mercury fillings and mercury amalgam fillings at no additional expense to the state employee.

### **Section 17. Enforcement**

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 \_\_\_\_ dollars. In the case of a second and any further violation, the liability shall be for a civil penalty not to exceed \_\_\_\_\_ dollars for each violation.

[Each state may add additional enforcement provisions.]

### **Section 18. Public Notification and Review**

[Each state to add its own Public Notification and Review Provisions.]

### **Section 19. State Review**

The [responsible administrative agency] shall, in consultation, with the Conference of the New England Governors/Eastern Canadian Premiers Environment Committee, review the effectiveness of this Act no later than 4 years after its adoption and may provide a report based upon that review to the Governor

and the legislature. The report shall review the effectiveness of the programs required under the Act and may contain recommendations for improving them. As part of this review, the state [responsible administrative agency] shall evaluate the effectiveness of the collection systems established under this Act and determine whether additional state authority or targeted capture rates are needed to improve those systems. In addition through this review process, the [responsible administrative agency] shall evaluate the need for additional incentives for manufacturers of mercury-added products that are below 10 milligrams to reduce the amount of mercury in those products.

## **Section 20. Severability Clause**

[Each state to add its own severability clause.]

## **Section 21. Effective Date**

This Act shall become effective immediately upon adoption.

## **Section 22. Administrative Fees and Regulations**

The [responsible administrative agency] may impose fees sufficient to cover the costs of administering the provisions of this Act. The [responsible administrative agency] may adopt regulations to implement the provisions of this Act consistent with the policies and purposes of this Act.

## **Section 23. Appropriations**

[Each state to add its own appropriations provisions.]