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310 CMR 76.00: DISPOSAL PROHIBITION OF MERCURY-ADDED PRODUCTS IN SOLID WASTE

Section

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76.01: Purpose and Authority

(1) The purpose of 310 CMR 76.00 is to protect public health, safety, welfare and the environment by implementing the Mercury Management Act (St. 2006, c. 190). 310 CMR 76.00 prohibits the disposal of mercury-added products in any manner other than by recycling, disposing as hazardous waste in accordance with M.G.L. c. 21C and 310 CMR 30.000, or using an alternative method approved by the Department.

(2) 310 CMR 76.00 is promulgated pursuant to the authority of M.G.L. c. 21C, §§ 4 and 6, M.G.L. c. 21H, §§ 6I, 6L and 6N.

76.02: Definitions

The definitions found in 310 CMR 76.02 apply to, and are limited to, 310 CMR 76.00.

End of Life Mercury-added Product means any mercury-added product that is no longer being used for its intended purpose and meets the definition of solid waste or hazardous waste.

Hazardous Waste means Hazardous Waste, as defined in 310 CMR 30.010.

Mercury-added Component means a component that contains mercury.

Mercury-added Formulated Product means a chemical product to which mercury has been added, intentionally or unintentionally, including, but not limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals and coating materials that are sold as consistent mixtures of chemicals.

Mercury-added Product means a product to which the manufacturer intentionally introduces mercury, including, but not limited to, electric lamps, thermostats, automotive devices, electric switches, medical or scientific instruments, electric relays or other electrical devices, but not including products made with coal ash or other products that are incorporated into equipment used to manufacture semiconductor devices, elemental mercury in pre-capsulated form that is sold, distributed or provided to a dental practitioner for use in compliance with the department's regulations concerning amalgam wastewater and recycling for dental facilities, or mercury-added formulated products. Mercury-added Product includes mercury-added components that are incorporated into larger products.

Person means any natural or corporate person, whether public or private, including corporations, societies, associations and partnerships and bodies politic and corporate, public agencies, authorities, departments, offices and political subdivisions of the Commonwealth.

Reclaimed or Reclamation means processing to recover a usable product, but does not include burning (*e.g.*, for energy recovery) or use constituting disposal.

Scrap Recycling Facility means a facility, location, device or unit where machinery and equipment are used 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.

Solid Waste means Solid Waste as defined in 310 CMR 16.02 and 310 CMR 19.006.

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Solid Waste Collector means any person who collects solid waste from residential, business, commercial, industrial or other establishments.

76.03: Applicability

- (1) 310 CMR 76.00 applies, on or after May 1, 2008, to any person who generates (including the original consumer), collects or processes a mercury-added product for disposal and to any solid waste collector in Massachusetts.
- (2) Compliance with 310 CMR 76.00 does not release any person from the need to comply with other applicable federal, state and local requirements.

76.04: Disposal Requirements

- (1) No person, household, school, healthcare facility, state or municipal government or business (including solid waste landfills, municipal waste combustors, and solid waste handling facilities) shall knowingly dispose of a mercury-added product in any manner other than by recycling, disposing as hazardous waste or using an alternate method approved by the Department.
- (2) Alternative methods of disposal for mercury-added products and mercury-added components.
 - (a) Alternative methods of disposal for categories or types of mercury-added products and mercury-added components.
 1. The department in its sole discretion may approve alternative methods of disposal for categories or types of mercury-added products and components. Such approvals may be made in response to requests in writing that describe:
 - a. why an alternative to mercury reclamation or disposal as hazardous waste is necessary;
 - b. the alternative method proposed;
 - c. the environmental impacts of the proposed method; and
 - d. a description of the measures that will be implemented to minimize exposure of people and the environment to mercury.
 2. In approving an alternative method of disposal, the department will consider the following:
 - a. the ability to reclaim the mercury from the product or component in a cost efficient manner;
 - b. the ability to safely contain and transport the product or component; and
 - c. the existence of a manufacturer's plan for collecting the product or component, in accordance with 310 CMR 75.04, and reclaiming its mercury content or otherwise preventing the mercury from entering the waste stream.
 3. List of Approved Alternative Methods of Disposal for Categories of Mercury-added Products and Mercury-added Components. Accidentally broken mercury lamps that are excluded from the hazardous waste regulations pursuant to 310 CMR 30.104(2)(g) [household waste exclusion] may be disposed of as solid waste.
 - (b) Alternative methods of disposal for individual mercury-added products and mercury-added components on a case-by-case basis.
 1. The Department may also issue approvals of alternative methods for disposal of individual mercury-added products or mercury-added components on a case-by-case basis, in response to requests submitted in writing. Any such requests shall include at a minimum:
 - a. why an alternative to recycling or disposal as hazardous waste is necessary;
 - b. the alternative method proposed;
 - c. an implementation schedule;
 - d. the environmental impacts of the proposed method; and
 - e. a description of the measures that will be implemented to minimize exposure of people and the environment to mercury.
 2. The person requesting an alternative method for disposal of individual mercury-added products or mercury-added components shall publish a legal notice in a Massachusetts newspaper of general circulation and the *Massachusetts Environmental Monitor*. The legal notice shall include:

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- a. A summary of the request;
 - b. A statement that comments can be sent to the Mercury Program Manager at the Massachusetts Department of Environmental Protection up to 21 days after the date that the legal notice is published, and instructions for sending comments including the appropriate mailing address; and
 - c. Instructions for obtaining a complete copy of the written request for an alternative method of disposal.
3. Within five days following the publication of the legal notice, the applicant shall send a tear sheet of the legal notice to the Mercury Program Manager at the Massachusetts Department of Environmental Protection.
- (3) A solid waste collector shall refuse to collect the contents of a solid waste container that the solid waste collector knows or reasonably should know contains one or more mercury-added products unless such solid waste is collected for the purpose of being reused, reclaimed or properly disposed of as hazardous waste or otherwise managed to ensure that the mercury does not become mixed with other solid waste or wastewater.
- (4) Mercury from mercury-added products shall not knowingly be discharged into water, wastewater treatment or wastewater disposal systems unless it is done in compliance with applicable federal, state and local requirements.

76.05: Management of End-of-life Mercury-added Products

- (1) End of life mercury-added products that are hazardous waste pursuant to 310 CMR 30.000 shall be handled in accordance with 310 CMR 30.000.
- (a) End of life mercury-added products that are universal wastes pursuant to 310 CMR 30.1000 may be handled in accordance with 310 CMR 30.1000.
 - (b) Mercury-added components that are removed from larger products and that are classified as universal waste may be handled in accordance with 310 CMR 30.1000.
- (2) End of life mercury-added products that are not hazardous waste shall be managed in accordance with an alternative method approved by the Department pursuant to 310 CMR 76.04(2) or in accordance with the following requirements:
- (a) separated from solid waste;
 - (b) handled and stored in a manner that minimizes breakage, prevents an unpermitted discharge of mercury to air, land, water or other natural resources of Massachusetts and results in no public nuisance;
 - (c) transported by either a licensed hazardous waste transporter or by common carrier with a bill of lading; and
 - (d) transferred to a permitted hazardous waste recycling facility, licensed hazardous waste facility, a facility that consolidates shipment of mercury-added products or mercury-added components before being shipped off-site for reclamation, or if shipped out of state, a facility that is authorized to reclaim mercury from mercury-added products.
- (3) No person shall knowingly send a multi-component product that contains mercury to a scrap recycling facility or a facility for further processing or recycling without first removing and managing, or arranging for the removal and appropriate management of the mercury-added product or products prior to crushing, unless such facility agrees, in writing, to be responsible for removing such product or products and recycling them or disposing of them as hazardous waste.

REGULATORY AUTHORITY

310 CMR 76.00: M.G.L. c. 21C, §§ 4 and 6 and c. 21H, §§ 6I and 6L.

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