

1 USED TO SENSE AND CONTROL TEMPERATURE AS PART OF A MANUFACTURING PROC-
2 ESS.

3 3. "OUT-OF-SERVICE MERCURY THERMOSTAT" MEANS A MERCURY THERMOSTAT THAT
4 IS REMOVED, REPLACED OR OTHERWISE TAKEN OUT OF SERVICE.

5 4. "QUALIFIED CONTRACTOR" MEANS A PERSON ENGAGED IN THE BUSINESS OF
6 INSTALLATION, SERVICE OR REMOVAL OF HEATING, VENTILATION, AND AIR-CONDI-
7 TIONING COMPONENTS WHO EMPLOYS SEVEN OR MORE SERVICE TECHNICIANS OR
8 INSTALLERS.

9 5. "QUALIFIED LOCAL GOVERNMENT AUTHORITIES" MEANS ANY MUNICIPAL CORPO-
10 RATION OR PLANNING UNIT AS DEFINED IN SECTION 27-0107 OF THIS ARTICLE,
11 OR COUNTY DEPARTMENTS OF HEALTH.

12 6. "THERMOSTAT MANUFACTURER" MEANS A PERSON WHO OWNS OR OWNED A NAME
13 BRAND OF ONE OR MORE MERCURY THERMOSTATS SOLD IN THE STATE.

14 7. "THERMOSTAT RETAILER" MEANS A PERSON WHO SELLS THERMOSTATS OF ANY
15 KIND PRIMARILY TO HOMEOWNERS OR OTHER NONPROFESSIONALS THROUGH ANY SALE
16 OR DISTRIBUTION MECHANISM INCLUDING SALES USING THE INTERNET OR CATA-
17 LOGS.

18 8. "THERMOSTAT WHOLESALER" MEANS A PERSON WHO IS ENGAGED IN THE
19 DISTRIBUTION AND WHOLESALE SELLING OF HEATING, VENTILATION OR AIR-CONDI-
20 TIONING COMPONENTS, INCLUDING THERMOSTATS, TO CONTRACTORS, AND WHOSE
21 TOTAL WHOLESALE SALES ACCOUNT FOR EIGHTY PERCENT OR MORE OF ITS TOTAL
22 SALES. A THERMOSTAT MANUFACTURER IS NOT, BY VIRTUE OF MANUFACTURING, A
23 THERMOSTAT WHOLESALER.

24 S 27-2903. MERCURY-CONTAINING THERMOSTAT COLLECTION.

25 1. EACH THERMOSTAT MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY,
26 WITH OTHER THERMOSTAT MANUFACTURERS, ESTABLISH AND MAINTAIN A PROGRAM
27 FOR THE COLLECTION, TRANSPORTATION, RECYCLING, DISPOSAL AND PROPER
28 MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS IN ACCORDANCE WITH THE
29 PROVISIONS OF THIS SECTION.

30 2. EACH THERMOSTAT MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY
31 WITH OTHER THERMOSTAT MANUFACTURERS THROUGH A COLLECTION PROGRAM, DO THE
32 FOLLOWING:

33 (A) ON AND AFTER JULY FIRST, TWO THOUSAND FOURTEEN, COMPILE A LIST OF
34 THERMOSTAT WHOLESALERS IN THE STATE AND OFFER EACH THERMOSTAT WHOLESALER
35 CONTAINERS FOR THE COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS.

36 (B) ON AND AFTER JULY FIRST, TWO THOUSAND FOURTEEN, MAKE COLLECTION
37 CONTAINERS AVAILABLE TO ALL QUALIFIED CONTRACTORS, THERMOSTAT WHOLE-
38 SALERS, THERMOSTAT RETAILERS, AND QUALIFIED LOCAL GOVERNMENT AUTHORITIES
39 THAT REQUEST A CONTAINER. EACH THERMOSTAT MANUFACTURER SHALL WITH EACH
40 CONTAINER INCLUDE INFORMATION REGARDING THE PROPER MANAGEMENT OF
41 OUT-OF-SERVICE MERCURY THERMOSTATS.

42 (C) ESTABLISH A SYSTEM TO COLLECT, TRANSPORT, RECYCLE, DISPOSE AND
43 PROPERLY MANAGE OUT-OF-SERVICE MERCURY THERMOSTATS FROM ALL COLLECTION
44 SITES.

45 (D) NOT INCLUDE ANY FEES OR OTHER CHARGES TO CONSUMERS OR PERSONS
46 PARTICIPATING IN THE PROGRAM. EACH THERMOSTAT WHOLESALER, QUALIFIED
47 CONTRACTOR, QUALIFIED LOCAL GOVERNMENT AUTHORITY, OR THERMOSTAT RETAILER
48 THAT IS PROVIDED WITH ONE OR MORE COLLECTION CONTAINERS MAY BE CHARGED A
49 FEE NOT TO EXCEED TWENTY-SIX DOLLARS TO REPLACE ANY COLLECTION CONTAINER
50 THAT IS MISPLACED, STOLEN OR OTHERWISE LOST.

51 (E) BEGINNING JULY FIRST, TWO THOUSAND FOURTEEN, CONDUCT EDUCATION AND
52 OUTREACH EFFORTS, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

53 (I) ESTABLISH AND MAINTAIN A PUBLIC WEBSITE FOR THE DISSEMINATION OF
54 EDUCATIONAL MATERIALS TO PROMOTE THE COLLECTION OF OUT-OF-SERVICE MERCU-
55 RY THERMOSTATS. THIS WEBSITE SHALL INCLUDE TEMPLATES OF THE EDUCATIONAL
56 MATERIALS ON THE INTERNET WEBSITE IN A FORM AND FORMAT THAT CAN BE EASI-

1 LY DOWNLOADED AND PRINTED. THE LINK TO THIS WEBSITE SHALL BE PROVIDED TO
2 THE DEPARTMENT;

3 (II) CONTACT THERMOSTAT WHOLESALERS AT LEAST ONCE A YEAR TO ENCOURAGE
4 THEIR SUPPORT AND PARTICIPATION IN EDUCATING CUSTOMERS ON THE IMPORTANCE
5 OF STATUTORY REQUIREMENTS FOR THE COLLECTION AND PROPER MANAGEMENT OF
6 OUT-OF-SERVICE MERCURY THERMOSTATS;

7 (III) CREATE AND MAINTAIN A WEB-BASED PROGRAM THAT ALLOWS CONTRACTORS
8 AND CONSUMERS TO IDENTIFY COLLECTION SITES FOR OUT-OF-SERVICE MERCURY
9 THERMOSTATS IN THE STATE AND PROVIDE A LIST OF COLLECTION SITES TO THE
10 DEPARTMENT; AND

11 (IV) DEVELOP INFORMATIONAL ARTICLES, PRESS RELEASES, AND NEWS STORIES
12 PERTAINING TO THE IMPORTANCE OF AND OPPORTUNITIES FOR COLLECTING AND
13 RECYCLING OUT-OF-SERVICE MERCURY THERMOSTATS AND DISTRIBUTE THOSE MATE-
14 RIALS TO TRADE PUBLICATIONS, LOCAL MEDIA, AND STAKEHOLDER GROUPS.

15 (F) ON OR BEFORE JULY FIRST, TWO THOUSAND FOURTEEN, DEVELOP AND UPDATE
16 AS NECESSARY EDUCATIONAL AND OTHER OUTREACH MATERIALS FOR DISTRIBUTION
17 TO CONTRACTORS, CONTRACTOR ASSOCIATIONS AND CONSUMERS. THESE MATERIALS
18 SHALL BE MADE AVAILABLE FOR USE BY PARTICIPATING THERMOSTAT WHOLESALERS,
19 THERMOSTAT RETAILERS, CONTRACTORS, AND QUALIFIED GOVERNMENT AUTHORITIES.
20 THE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

21 (I) SIGNAGE, SUCH AS POSTERS AND CLING SIGNAGE, THAT CAN BE PROMINENT-
22 LY DISPLAYED TO PROMOTE THE COLLECTION OF OUT-OF-SERVICE MERCURY THERMO-
23 STATS TO CONTRACTORS AND CONSUMERS; AND

24 (II) WRITTEN MATERIALS OR TEMPLATES OF MATERIALS FOR REPRODUCTION BY
25 THERMOSTAT WHOLESALERS AND THERMOSTAT RETAILERS TO BE PROVIDED TO
26 CUSTOMERS AT THE TIME OF PURCHASE OR DELIVERY OF A THERMOSTAT. THE MATE-
27 RIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON THE IMPOR-
28 TANCE OF PROPERLY MANAGING OUT-OF-SERVICE MERCURY THERMOSTATS AND OPPOR-
29 TUNITIES FOR THE COLLECTION OF THESE THERMOSTATS.

30 (G) PROVIDE AN OPPORTUNITY FOR THE DEPARTMENT TO REVIEW AND OFFER
31 FEEDBACK AND SUGGESTIONS ON THE COLLECTION PROGRAM.

32 3. THE COLLECTION PROGRAMS ESTABLISHED BY THERMOSTAT MANUFACTURERS
33 UNDER THIS SECTION SHALL BE DESIGNED TO ACHIEVE COLLECTIVELY THE FOLLOW-
34 ING STATEWIDE GOALS:

35 (A) FOR CALENDAR YEAR TWO THOUSAND FIFTEEN, THE COLLECTION OF NO LESS
36 THAN FIFTEEN THOUSAND FIVE HUNDRED OUT-OF-SERVICE MERCURY THERMOSTATS;

37 (B) FOR CALENDAR YEARS TWO THOUSAND SIXTEEN THROUGH TWO THOUSAND TWEN-
38 TY-THREE, THE COLLECTION GOALS SHALL BE ESTABLISHED BY THE DEPARTMENT.
39 THE DEPARTMENT SHALL ESTABLISH COLLECTION GOALS NO LATER THAN OCTOBER
40 FIRST, TWO THOUSAND FIFTEEN. THE COLLECTION GOALS ESTABLISHED BY THE
41 DEPARTMENT SHALL ACHIEVE THE MAXIMUM FEASIBLE NUMBER OF OUT-OF-SERVICE
42 MERCURY THERMOSTATS IN THE STATE. IN DEVELOPING THE COLLECTION GOALS,
43 THE DEPARTMENT SHALL TAKE INTO ACCOUNT, AT A MINIMUM, (I) THE EFFECTIVE-
44 NESS OF COLLECTION PROGRAMS FOR OUT-OF-SERVICE MERCURY THERMOSTATS IN
45 THE STATE AND OTHER STATES, INCLUDING EDUCATION AND OUTREACH EFFORTS,
46 (II) COLLECTION REQUIREMENTS IN OTHER STATES, INCLUDING THOSE STATES
47 WITH THE HIGHEST COLLECTION GOALS, (III) ANY REPORTS OR STUDIES ON THE
48 NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS THAT ARE AVAILABLE FOR
49 COLLECTION IN THIS STATE, OTHER STATES, AND NATIONALLY, AND (IV) OTHER
50 RELEVANT FACTORS. PRIOR TO ESTABLISHING THE COLLECTION GOALS, THE
51 DEPARTMENT SHALL CONSULT WITH STAKEHOLDER GROUPS THAT INCLUDE, AT A
52 MINIMUM, REPRESENTATIVES OF THERMOSTAT MANUFACTURERS, ENVIRONMENTAL
53 GROUPS, MUNICIPAL RECYCLERS, THERMOSTAT WHOLESALERS, QUALIFIED CONTRAC-
54 TORS, AND THERMOSTAT RETAILERS.

55 (C) THERMOSTAT MANUFACTURERS SHALL IMPLEMENT ANY COLLECTION PROGRAM
56 REVISIONS APPROVED BY THE DEPARTMENT WITHIN NINETY DAYS.

1 4. IF THE COLLECTION PROGRAMS DO NOT COLLECTIVELY ACHIEVE THE
2 COLLECTION GOALS PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION FOR
3 CALENDAR YEAR TWO THOUSAND FIFTEEN OR ANY YEAR THEREAFTER THE DEPART-
4 MENT, AFTER CONDUCTING STAKEHOLDER CONSULTATIONS, MAY REQUIRE MODIFICA-
5 TIONS TO ONE OR MORE COLLECTION PROGRAMS THAT THE DEPARTMENT DETERMINES
6 ARE NECESSARY TO ACHIEVE THE COLLECTION GOALS. MODIFICATIONS REQUIRED BY
7 THE DEPARTMENT MAY INCLUDE IMPROVEMENTS TO OUTREACH AND EDUCATION
8 CONDUCTED UNDER THE COLLECTION PROGRAM, EXPANSION OF THE NUMBER AND
9 LOCATION OF COLLECTION SITES ESTABLISHED UNDER THE PROGRAM, MODIFICATION
10 OF THE ROLES OF PARTICIPANTS, AND A FIVE DOLLAR FINANCIAL INCENTIVE IN
11 THE FORM OF EITHER CASH OR COUPON OFFERED BY THE MANUFACTURER TO
12 CONTRACTORS AND CONSUMERS FOR EACH OUT-OF-SERVICE MERCURY THERMOSTAT
13 RETURNED TO A COLLECTION SITE.

14 5. NO LATER THAN APRIL FIRST, TWO THOUSAND FIFTEEN, AND NO LATER THAN
15 APRIL FIRST OF EACH YEAR THEREAFTER, EACH THERMOSTAT MANUFACTURER SHALL,
16 INDIVIDUALLY OR COLLECTIVELY WITH OTHER THERMOSTAT MANUFACTURERS, SUBMIT
17 AN ANNUAL REPORT ON ITS COLLECTION PROGRAM TO THE DEPARTMENT COVERING
18 THE ONE-YEAR PERIOD ENDING DECEMBER THIRTY-FIRST OF THE PREVIOUS YEAR.
19 EACH REPORT SHALL BE POSTED ON THE MANUFACTURER'S OR PROGRAM OPERATOR'S
20 RESPECTIVE INTERNET WEBSITE. THE ANNUAL REPORT SHALL INCLUDE THE FOLLOW-
21 ING:

22 (A) THE NUMBER OF OUT-OF-SERVICE MERCURY THERMOSTATS COLLECTED AND
23 MANAGED UNDER THIS SECTION DURING THE PREVIOUS CALENDAR YEAR;

24 (B) THE ESTIMATED TOTAL AMOUNT OF MERCURY CONTAINED IN THE OUT-OF-SER-
25 VICE MERCURY THERMOSTATS COLLECTED UNDER THIS SECTION DURING THE PREVI-
26 OUS CALENDAR YEAR;

27 (C) A LIST OF ALL THERMOSTAT WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL
28 GOVERNMENT AUTHORITIES, AND THERMOSTAT RETAILERS PARTICIPATING IN THE
29 PROGRAM AS MERCURY THERMOSTAT COLLECTION SITES AND THE NUMBER OF
30 OUT-OF-SERVICE MERCURY THERMOSTATS RETURNED BY EACH;

31 (D) AN ACCOUNTING OF THE PROGRAM'S ADMINISTRATIVE COSTS;

32 (E) A DESCRIPTION OF OUTREACH STRATEGIES EMPLOYED UNDER PARAGRAPH (E)
33 OF SUBDIVISION TWO OF THIS SECTION;

34 (F) EXAMPLES OF OUTREACH AND EDUCATIONAL MATERIALS USED UNDER PARA-
35 GRAPH (E) OF SUBDIVISION TWO OF THIS SECTION;

36 (G) THE INTERNET WEBSITE ADDRESS OF ADDRESSES WHERE THE ANNUAL REPORT
37 MAY BE VIEWED ONLINE;

38 (H) A DESCRIPTION OF HOW THE OUT-OF-SERVICE MERCURY THERMOSTATS WERE
39 MANAGED;

40 (I) ANY MODIFICATIONS THAT THE THERMOSTAT MANUFACTURER IS PLANNING TO
41 MAKE IN ITS COLLECTION PROGRAM; AND

42 (J) THE IDENTIFICATION OF A COLLECTION PROGRAM CONTACT AND THE BUSI-
43 NESS PHONE NUMBER, MAILING ADDRESS, AND E-MAIL ADDRESS FOR THE CONTACT.

44 6. ALL CONTRACTORS, THERMOSTAT WHOLESALERS, THERMOSTAT MANUFACTURERS,
45 AND THERMOSTAT RETAILERS PARTICIPATING IN THE PROGRAM SHALL HANDLE AND
46 MANAGE THE OUT-OF-SERVICE MERCURY THERMOSTATS IN A MANNER THAT IS
47 CONSISTENT WITH THE REQUIREMENTS FOR THE DISPOSAL OF HAZARDOUS WASTE.

48 7. ON AND AFTER JULY FIRST, TWO THOUSAND FOURTEEN, NO THERMOSTAT
49 WHOLESALE SHALL SELL, OFFER TO SELL, DISTRIBUTE, OR OFFER TO DISTRIBUTE
50 THERMOSTATS UNLESS THE WHOLESALE PARTICIPATES AS A COLLECTION SITE FOR
51 OUT-OF-SERVICE MERCURY THERMOSTATS OR REQUESTS AND RECEIVES A WAIVER
52 FROM THE DEPARTMENT FOLLOWING A DEMONSTRATION THAT SUCH PARTICIPATION
53 WOULD POSE AN UNDUE BURDEN.

54 S 27-2905. THERMOSTAT WHOLESALE AND RETAILER REQUIREMENTS.

55 NO THERMOSTAT WHOLESALE OR THERMOSTAT RETAILER SHALL SELL, OFFER FOR
56 SALE OR DISTRIBUTE ANY THERMOSTAT FOR FINAL SALE UNLESS THE MANUFACTURER

1 OF SUCH THERMOSTAT IS LISTED ON THE DEPARTMENT'S WEBSITE, IN ACCORDANCE
2 WITH THE PROVISIONS OF THIS TITLE.

3 S 27-2907. DEPARTMENT RESPONSIBILITIES.

4 1. NO LATER THAN JUNE FIRST, TWO THOUSAND FIFTEEN, THE DEPARTMENT
5 SHALL MAINTAIN ON ITS WEBSITE INFORMATION REGARDING THE COLLECTION AND
6 PROPER MANAGEMENT OF OUT-OF-SERVICE MERCURY THERMOSTATS IN THE STATE.
7 THE INFORMATION SHALL INCLUDE THE FOLLOWING:

8 (A) A DESCRIPTION OF THE COLLECTION PROGRAMS ESTABLISHED UNDER THIS
9 SECTION;

10 (B) A REPORT ON THE PROGRESS TOWARDS ACHIEVING THE STATEWIDE
11 COLLECTION GOALS SET FORTH IN THIS TITLE; AND

12 (C) A LIST OF ALL THERMOSTAT WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL
13 GOVERNMENT AUTHORITIES, AND THERMOSTAT RETAILERS PARTICIPATING IN THE
14 PROGRAM AS COLLECTION SITES.

15 2. NO LATER THAN NOVEMBER FIRST, TWO THOUSAND EIGHTEEN, THE DEPARTMENT
16 SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR AND THE LEGISLATURE
17 REGARDING THE EFFECTIVENESS OF THE COLLECTION PROGRAMS ESTABLISHED UNDER
18 THIS SECTION, INFORMATION ON THE NUMBER OF OUT-OF-SERVICE THERMOSTATS
19 COLLECTED, HOW THE OUT-OF-SERVICE THERMOSTATS WERE MANAGED, AND AN ESTI-
20 MATE OF THE NUMBER OF THERMOSTATS THAT ARE AVAILABLE FOR COLLECTION. THE
21 DEPARTMENT SHALL USE THIS INFORMATION TO RECOMMEND WHETHER THE
22 PROVISIONS OF THIS SECTION SHOULD BE EXTENDED, ALONG WITH ANY OTHER
23 STATUTORY CHANGES. IN PREPARING THE REPORT, THE DEPARTMENT SHALL CONSULT
24 WITH MERCURY THERMOSTAT MANUFACTURERS, ENVIRONMENTAL ORGANIZATIONS,
25 MUNICIPAL RECYCLERS, AND OTHER INTEREST GROUPS.

26 S 27-2909. DISPOSAL PROHIBITION.

27 1. NO TRANSPORTER SHALL KNOWINGLY COMMINGLE MERCURY-ADDED THERMOSTATS
28 WITH SOLID WASTE OR RECYCLABLE MATERIALS.

29 2. NO TRANSPORTER SHALL KNOWINGLY DELIVER MERCURY-ADDED THERMOSTATS OR
30 KNOWINGLY CAUSE SUCH MATERIALS TO BE DELIVERED TO:

31 (A) AN INCINERATOR;

32 (B) A LANDFILL;

33 (C) A TRANSFER STATION; OR

34 (D) ANYONE WHO THE TRANSPORTER KNOWS OR SHOULD KNOW WILL EITHER
35 COMMINGLE SUCH MATERIALS WITH OTHER SOLID WASTE OR DELIVER SUCH MATERI-
36 ALS TO AN INCINERATOR OR A LANDFILL FOR DISPOSAL.

37 3. NO OPERATOR OF AN INCINERATOR OR A LANDFILL SHALL KNOWINGLY ACCEPT
38 MERCURY-ADDED THERMOSTATS FOR DISPOSAL.

39 4. NO OPERATOR OF A TRANSFER STATION SHALL KNOWINGLY COMMINGLE MERCU-
40 RY-ADDED THERMOSTATS WITH OTHER SOLID WASTE OR CAUSE SUCH MATERIALS TO
41 BE TRANSFERRED TO AN INCINERATOR OR LANDFILL FOR DISPOSAL.

42 5. EACH LANDFILL AND TRANSFER STATION SHALL POST, IN A CONSPICUOUS
43 LOCATION AT THE FACILITY, A SIGN STATING THAT MERCURY-ADDED THERMOSTATS
44 ARE NOT ACCEPTED AT THE FACILITY.

45 S 3. 1. Any person or contractor who replaces a mercury-containing
46 thermostat from a building shall deliver the mercury-containing thermo-
47 stat to an appropriate collection site.

48 2. Any person or contractor who demolishes a building shall ensure
49 that all mercury-containing thermostats are removed from the building
50 prior to demolition and shall dispose of the mercury-containing thermo-
51 stats at a collection site.

52 3. Any department, authority, instrumentality, or municipal corpo-
53 ration of the state administering a program that involves the removal or
54 replacement of mercury containing thermostats as a result of any statu-
55 tory requirement, shall inform contractors of their statutory obli-
56 gations to deliver the mercury-containing thermostats to a collection

1 site and prohibiting the disposal of such thermostats in a solid-waste
2 facility.
3 4. Any contractor, organization or subcontractor of such organization,
4 who contracts with or receives funding or financing provided in whole or
5 in part by or through any department, agency, instrumentality, or poli-
6 tical subdivision of the state for the installation, service, or removal
7 of heating, ventilation, or air-conditioning components resulting in the
8 removal or handling of out-of-service mercury thermostats, shall ensure
9 the collection, transportation and proper management of out-of-service
10 mercury thermostats in accordance with the provisions of title 29 of
11 article 27 of the environmental conservation law.
12 S 4. This act shall take effect immediately and shall expire and be
13 deemed repealed January 1, 2024.