
ENVIRONMENTAL Fact Sheet



29 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • www.des.nh.gov

WMD-HW-21

2011

Overview of New Hampshire's Mercury-Added Products Legislation

Background

Mercury is highly toxic to humans and wildlife. It accumulates in the tissues of fish and other organisms inhabiting mercury-contaminated waters. Humans are exposed to mercury primarily by eating mercury-contaminated fish. Mercury exposure is particularly significant for the developing neurological systems of young children and can cause lowered intelligence, impaired hearing, and poor coordination. Mercury also adversely affects wildlife. Eagles, osprey, common loons, river otters, and other fish-eating animals may suffer premature death, weight loss, difficulties reproducing, and other problems as a result of eating mercury-contaminated fish.

Most of the mercury released to the atmosphere comes from the burning of mercury-containing garbage and the burning of coal, oil and natural gas to provide energy. Mercury may also become airborne or released in wastewater when mercury-containing products are improperly handled. By reducing the amount of mercury that is used and improving the management and disposal practices for mercury-containing products, less mercury will be released to the environment.

To further efforts to eliminate mercury-containing products from the solid waste stream, New Hampshire has enacted several laws, which are codified under RSA 149-M:51-58, Mercury Reduction: These statutory limitations:

- Prohibit the use of mercury and most mercury-added products in schools.
- Limit the use of elemental mercury.
- Require proper handling of elemental mercury.
- Require manufacturers to notify the state about the mercury-added products they produce.
- Restrict the sale and distribution of mercury fever thermometers.
- Prohibits the sale and distribution of mercury-added novelty items.
- Prohibit the sale and distribution of several categories of mercury-added products.
- Prohibit the disposal of mercury-added products in solid waste.
- Mandates the recycling of mercury-added thermostats.

This fact sheet briefly discusses each of these requirements.

DEFINITIONS

Manufacturer: Any person, firm, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a product containing mercury or an importer or domestic distributor of a product containing mercury produced in a foreign country. In the case of a multi-component product containing mercury, 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.

Mercury-Added Product: A product or a product with a component that contains mercury or a mercury compound intentionally added to provide a specific characteristic, appearance, or quality or to perform a specific function or for any other reason.

Mercury-Added Novelty Item: A mercury-added product intended mainly for personal or household enjoyment or adornment, including, but not limited to: items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues, candles, jewelry, holiday decorations, and items of apparel, including footwear.

Mercury Fever Thermometer: A mercury-added product used for measuring body temperature.

Mercury relay: a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays, and mercury contact relays.

Mercury switch: a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. “Mercury switch” shall not include a mercury-added thermostat.

Mercury-added thermostat: means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment.

USE OF MERCURY IN SCHOOLS

Effective January 1, 2001

Public and private schools in New Hampshire may not use elemental mercury, mercury compounds, or mercury-added instructional equipment and materials in primary or secondary classrooms. Only measuring devices containing mercury for which there is no adequate substitute can be used in school laboratories. DES believes there are adequate substitutes for most, if not all, mercury-added instructional equipment and measuring devices used in schools.

Although not required by this law, DES encourages schools to remove and recycle their mercury and mercury-added products. For information on proper disposal and recycling, contact your local transfer station or DES's Household Hazardous Waste Coordinator at (603) 271-2042.

USE OF ELEMENTAL MERCURY

Effective January 1, 2001

Anyone selling or distributing elemental mercury in New Hampshire must have an official representative for the receiving organization sign a statement certifying that they:

1. Will use the mercury only for medical, dental, research or manufacturing purposes.
2. Understand that mercury is toxic and will store and use it appropriately so that no person is exposed to the mercury.
3. Will not place or allow anyone under their control to place the mercury or cause the mercury to be placed in solid waste for disposal or in a wastewater disposal system.

The distributor or seller must also give the recipient a material safety data sheet with the elemental mercury shipment.

MERCURY-ADDED NOVELTY ITEMS

Effective January 1, 2002

No toy, game, card, ornament, or other novelty item with added mercury, including those with **non-removable** mercury-containing button batteries, may be sold or distributed for promotional purposes in New Hampshire. Novelty items that contain a removable button battery as the only source of added mercury in the product can still be sold. Manufacturers that produce and sell mercury-added novelties must notify retailers about the provisions of this section and how to properly dispose of the remaining inventory.

MERCURY FEVER THERMOMETERS

Effective July 1, 2001

Consumers must have a doctor's prescription to obtain a mercury fever thermometer. Digital fever thermometers with **non-removable** button batteries also require a prescription. (Digital fever thermometers with removable button batteries can continue to be sold over-the-counter.) In addition, manufacturers of mercury fever thermometers must supply clear instructions with each thermometer on the careful handling of the thermometer to avoid breakage and the proper cleanup techniques to follow should a breakage occur. See on cleaning up household spills of elemental mercury by visiting www.des.nh.gov and searching on "cleaning up a mercury spill."

OTHER MERCURY-ADDED PRODUCTS

Effective January 1, 2008

The following mercury-added products are prohibited from sale or distribution as a new manufactured product:

- Barometer
- Esophageal dilator, bougie tube, or gastrointestinal tube
- Flow meter
- Hydrometer
- Hygrometer or psychrometer
- Manometer
- Pyrometer
- Sphygmomanometer
- Thermometer

Effective July 1, 2008

The following mercury-added products are prohibited from sale or distribution as a new manufactured product: mercury switch, relay, or thermostat, either individually or as a product component. This prohibition does not apply if the switch, relay, or thermostat is a replacement as a component in a larger product which was in use prior to July 1, 2008 provided that no compatible non-mercury replacement component exists.

There are some exceptions to the sales prohibition: use of the product is a federal requirement (must be documented) or, if the only mercury-added component in the product is a button cell battery.

Manufacturers or users of a prohibited product can apply to the commissioner of the Department of Environmental Services for an exemption, which will be granted if certain criteria are met (see RSA 149-M:53).

MANUFACTURER NOTIFICATION

Effective July 1, 2001

Manufacturers of mercury-added products must notify the state regarding the type of mercury-added product(s) they produce, the amount of mercury added to each product, the purpose of the mercury, and the total amount of mercury in all products sold in the US. Manufacturers may report this information for a product category rather than for each individual product if the group of products meets the definition of a product category. Mercury-added products may not be sold in New Hampshire unless this notification is filed with DES.

Manufacturers are required to update the information provided in the notification whenever there is a significant change or when requested by DES. Currently, notifications are required every three years. Information on the total amount of mercury in all products sold in the United States for an industry may be provided by a trade association rather than by each manufacturer.

Notifications are processed electronically by the Interstate Mercury Education and Reduction Clearinghouse (IMERC) on behalf of New Hampshire and other member states with similar requirements. IMERC serves as a single point of contact for manufacturers and users of mercury-added products. Information on submission of notifications may be obtained at <http://www.newmoa.org/prevention/mercury/>

The notification requirement does not apply to prescription drugs or any substance sold over the counter without a prescription under the Federal Food, Drug and Cosmetic Act.

DISPOSAL OF MERCURY-ADDED PRODUCTS

Effective January 1, 2008

Bans the disposal of mercury-added products in solid waste landfills, transfer stations, or incinerators, regardless of the amount of (intentionally-added) mercury in the product.

Requirements for owners and operators of solid waste landfills, transfer stations, and incinerators include:

- Posting signs at the facility providing notice of the prohibition against the disposal of mercury-added products.
- Written notification to, or agreements with, the facility's customers, providing notice of the prohibition against the disposal of mercury-added products.
- Implementing a procedure, approved by the department, for periodically monitoring incoming wastes to detect the presence of mercury-added products at the facility and for separating out observed mercury-added products for return to the generator, recycling, or disposal as a hazardous waste.
- Providing customers with information about collection programs or facilities that are permitted to accept mercury-added products for recycling or disposal as a hazardous waste.

COLLECTION & RECYCLING OF MERCURY-ADDED THERMOSTATS

Effective July, 2008

Requires manufacturers of mercury-added thermostats to establish and maintain a DES approved recycling program for out of service mercury-added thermostats. It also requires thermostat wholesalers to serve as collection points for thermostat recycling, prohibits the installation of mercury thermostats, and requires contractors to properly manage thermostats by recycling or disposing of them as hazardous waste.

The full text of New Hampshire's Mercury Products Legislation (RSA 149-M:51-58) can be found at <http://www.gencourt.state.nh.us/rsa/html/X/149-M/149-M-mrg.htm>