

455D.16 Mercury — thermostats.

1. As used in this section, unless the context otherwise requires:

a. “*Manufacturer*” means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that owns or owned the brand name of the thermostat.

b. “*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. “*Mercury-added thermostat*” includes thermostats used to sense and control room temperature in residential, commercial, industrial, and other buildings but does not include thermostats used to sense and control temperature as part of a manufacturing process.

c. “*Thermostat retailer*” means a person who sells thermostats of any kind directly to homeowners or other nonprofessionals through any selling or distribution mechanism, including but not limited to sales using the internet or catalogues. A thermostat retailer may also be a thermostat wholesaler if it meets the definition of thermostat wholesaler.

d. “*Thermostat wholesaler*” means a person who is engaged in the distribution and wholesale selling of large quantities of heating, ventilation, and air-conditioning components, including thermostats, to contractors who install heating, ventilation, and air-conditioning components, including thermostats.

2. Beginning July 1, 2009, a person shall not sell, offer for sale, or install a mercury-added thermostat in this state.

3. Beginning April 1, 2009, except as otherwise provided, a person who generates a discarded mercury-added thermostat shall manage the mercury-added thermostat as a hazardous waste or universal hazardous waste, according to all applicable state and federal regulations. A contractor who replaces or removes mercury-added thermostats shall assure that any discarded mercury-added thermostat is subject to proper separation and management as hazardous waste or universal hazardous waste. A contractor who replaces a mercury-added thermostat in a residence shall deliver the mercury-added thermostat to an appropriate collection location for recycling.

4. Each thermostat manufacturer that has offered for final sale, sold at final sale, or distributed mercury-added thermostats in the state shall individually, or in conjunction with other thermostat manufacturers, do all of the following:

a. Not later than October 1, 2008, submit a plan to the department for approval describing a collection program for mercury-added thermostats. The program contained in the plan shall ensure that all the following take place:

(1) That an education and outreach program is developed. The program shall be directed toward thermostat wholesalers, thermostat retailers, contractors, and homeowners and ensure a maximum rate of collection of mercury-added thermostats. There shall not be a cost to thermostat wholesalers or thermostat retailers for education and outreach materials.

(2) That handling and recycling of mercury-added thermostats are accomplished in a manner that is consistent with the provisions of the universal waste rules.

(3) That containers for mercury-added thermostat collection are provided to all thermostat wholesalers. The cost to thermostat wholesalers for such containers shall be limited to an initial, reasonable, one-time fee per container as specified in the plan.

(4) That collection points will be established to serve homeowners. The collection points shall include but are not limited to regional collection centers permitted under 567 IAC 123. Collection points may include but are not limited to thermostat retailers.

(5) That collection systems are provided to all collection points. Collection systems may include individual product mail back or multiple collection containers. The costs of collection shall not be passed on to a collection point. The costs to a collection point shall be limited to an initial, reasonable, one-time fee per container as specified in the plan.

b. Not later than April 1, 2009, implement a mercury-added thermostat collection plan approved by the department.

c. Beginning in 2010, submit an annual report to the department by April 1 of each year that includes, at a minimum, all of the following:

(1) The number of mercury-added thermostats collected and recycled by that manufacturer during the previous calendar year.

(2) The estimated total amount of mercury contained in the thermostat components collected by that manufacturer during the previous calendar year.

(3) A list of all participating thermostat wholesalers and all collection points for homeowners.

(4) An evaluation of the effectiveness of the manufacturer's collection program.

(5) An accounting of the administrative costs incurred in the course of administering the collection and recycling program.

5. a. By April 1, 2009, a thermostat wholesaler shall do both of the following:

(1) Act as a collection site for mercury-added thermostats.

(2) Promote and utilize the collection containers provided by thermostat manufacturers to facilitate a contractor collection program.

b. By April 1, 2009, a thermostat retailer shall participate in an education and outreach program to educate consumers on the collection program for mercury-added thermostats.

6. Beginning April 1, 2009, all of the following sales prohibitions shall apply to thermostat manufacturers, thermostat wholesalers, and thermostat retailers:

a. A thermostat manufacturer not in compliance with this section is prohibited from offering any thermostat for final sale in the state. A thermostat manufacturer not in compliance with this section shall provide the necessary support to thermostat wholesalers and thermostat retailers to ensure the manufacturer's thermostats are not offered for final sale.

b. A thermostat wholesaler or thermostat retailer shall not offer for final sale any thermostat of a manufacturer that is not in compliance with this section.

7. The department shall do all of the following:

a. Review and grant approval of, deny, or approve with modifications a manufacturer plan required under this section. The department shall not approve a plan unless all elements of subsection 4, paragraph "a", are adequately addressed and the program outlined in the plan will assure a maximum rate of collection of mercury-added thermostats. In reviewing a plan the department may consider consistency of the plan with collection requirements in other states and consider consistency between thermostat manufacturer collection programs. In reviewing plans, the agency shall ensure that education and outreach programs are uniform and consistent to ensure ease of implementation by thermostat wholesalers and thermostat retailers.

b. The department shall establish a process for public review and comment on all plans submitted by thermostat manufacturers prior to plan approval. The department shall consult with interested persons, including representatives of thermostat manufacturers, environmental groups, thermostat wholesalers, thermostat retailers, contractors, and local government.

c. By January 15, 2010, and annually thereafter, the department shall submit a written report to the general assembly regarding the collection and recycling of mercury-added thermostats in the state. The first report submitted shall include recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats. Subsequent reports shall include an evaluation of the effectiveness of the mercury-added thermostat collection and recycling programs, information on actual collection rates, and recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats.

8. The goal of the collection and recycling efforts under this section is to collect and recycle as many mercury-added thermostats as reasonably practicable. By January 1, 2009, the department shall determine collection goals for the program in consultation with interested persons, including the national electrical manufacturers association and representatives of thermostat manufacturers, thermostat wholesalers, thermostat retailers, contractors, environmental groups, and local government. If collection efforts fail to meet the collection goals described in this subsection, the department shall, in consultation with the national electrical manufacturers association and other interested persons, consider

modifications to collection programs in an attempt to improve collection rates in accordance with these goals.

2008 Acts, ch 1168, §1