

TEXT OF PROPOSED REGULATIONS

Chapter 24. Mercury Thermostat Collection and Performance Requirements

§66274.1 Scope.

§66274.2 Applicability.

§66274.3 Definitions.

§66274.4 Methodology for Determining the Number of Out-of-Service Mercury Added Thermostats Becoming Waste Annually.

(a)(1) The number of out-of-service mercury-added thermostats becoming waste in a calendar year (TT) shall be determined as follows. For a given calendar year, the number of out-of-service mercury-added thermostats becoming waste shall be the annual flow specified in the “Low Estimate” column of Table 1.5 of the SERA report for that year (beginning with “year 4” for 2013). The table below specifies the number of out-of-service mercury-added thermostats becoming waste each year (TT)

~~(b) The table below specifies the number of out-of-service mercury-added thermostats becoming waste each year (TT), calculated pursuant to subsection (a) of this section.~~

<u>A</u>	<u>B</u>
<u>Year</u>	<u>“Low Estimate” from table 1.5 of the SERA report</u>
<u>2013</u>	<u>217,000</u>
<u>2014</u>	<u>212,000</u>
<u>2015</u>	<u>207,000</u>
<u>2016</u>	<u>202,000</u>
<u>2017</u>	<u>197,000</u>
<u>2018</u>	<u>193,000</u>
<u>2019</u>	<u>187,000</u>
<u>2020</u>	<u>181,000</u>
<u>2021</u>	<u>174,000</u>
<u>2022</u>	<u>168,000</u>

(2) If the effective date of this section is July 1, 2013, the pro rata portion of TT for 2013 shall be 50 percent of 217,000, or 108,500 out-of-service mercury-added thermostats, and the collection rate performance requirement, TP, shall be 30 percent of this value, representing 32,550 out-of-service mercury-added thermostats.

(eb) ~~Any person manufacturer or group of manufacturers~~ may submit to the department additional data on the number of mercury-added thermostats estimated to remain in use in California and the number of these thermostats that will become waste in each year. At least six months prior to making such a submittal, the person may provide the department with a proposed plan or methodology for obtaining the additional data; at its discretion, the department may provide feedback to the person on this proposed plan or methodology. Any submittal ~~by a manufacturer or group of manufacturers made~~ pursuant to this subsection shall include all raw data,

formulas, assumptions, models and calculations used, sufficient to allow the department to replicate the ~~manufacturer's or group of manufacturer's~~ calculations.

(~~dc~~) The department shall consider any data submitted ~~by a manufacturer or group of manufacturers~~ pursuant to subsection ~~(eb)~~ of this section and may adjust the estimated number of thermostats becoming waste annually (TT) specified in this section if the department determines that the data supports such an adjustment.

Authority: Sections 58012 and 25150, Health and Safety Code. Reference: Sections, and 25214.8.17, 25214.8.18 Health and Safety Code.

§66274.5 Annual Collection Rate Performance Requirements.

Beginning with calendar year 2013, a manufacturer or group of manufacturers shall meet or exceed the collection rate performance requirement (TP) specified in subsection (a) of this section for that year.

(a)(1) The table below specifies the collection rate performance requirement (TP) as a percentage of out-of-service mercury-added thermostats becoming waste annually (column C) and as a number of out-of-service mercury-added thermostats (column D).

<u>A. Year</u>	<u>B. TT, determined pursuant to §66274.4</u>	<u>C. Performance requirement (TP), expressed as a percentage of TT</u>	<u>D. Performance requirement (TP), expressed as a number of thermostats (=B x C)</u>
<u>2013</u>	<u>217,000</u>	<u>30%</u>	<u>65,100</u>
<u>2014</u>	<u>212,000</u>	<u>45%</u>	<u>95,400</u>
<u>2015</u>	<u>207,000</u>	<u>55%</u>	<u>113,850</u>
<u>2016</u>	<u>202,000</u>	<u>65%</u>	<u>131,300</u>
<u>2017</u>	<u>197,000</u>	<u>75%</u>	<u>147,750</u>
<u>2018 and Subsequent Years</u>		<u>75%</u>	

(2) The department may adopt regulations updating the performance requirements for 2018 and subsequent years. Unless and until the department adopts such regulations, the collection rate performance requirement (TP) shall be 75 percent of TT in 2018 and in subsequent years shall remain 75 percent of the number of out-of-service mercury-added thermostats becoming waste each year (TT), as calculated pursuant to ~~subsection section~~ California Code of Regulation, title 22, section 66274.4 subsection ~~(b)~~ (a).

(b) If more than one manufacturer or group of manufacturers operates a program in a given calendar year:

(1) Based on information in the annual reports submitted pursuant to California Code of Regulation, title 22, section 66274.8 7, subsections (a) ~~and (c)~~ by all programs in prior years, the department shall assign a pro rata proportion of TT to each manufacturer or group of manufacturers operating a program.

(2) Each program's performance requirement shall be determined pursuant to subsection (a) of this section except that ~~the each~~ program's collection rate goal shall be calculated using the program's pro rata proportion of TT determined by the department pursuant to paragraph (1) of this subsection.

(3) Any manufacturer or group of manufactures wishing to dispute the pro rata proportion of TT assigned to it by the department may submit data to the department in support of its position within 30 days of posting **of the information specified in subsection (c) of this section** by the department on ~~the its~~ internet Web site ~~the percentage for each program~~. The department shall consider such data and may adjust the pro rata proportions of TT assigned to each program if the data supports such an adjustment. If the department makes any adjustments pursuant to this paragraph, the department shall within 60 days, update the information posted on its Internet Web site pursuant to subsection (c) of this section, as necessary.

(c) On or before May 1, 2013, and on or before May 1 of each subsequent year, the department shall post the following information on its Internet Web site regarding

each program's collection of out-of-service mercury-added thermostats during the previous calendar year:

(1) TT as determined pursuant to California Code of Regulation, title 22, section 66274.4, subsection ~~(b)~~ (a) or the program's pro rata proportion of TT determined pursuant to subsection (b) of this section, as appropriate;

(2) The total number of out-of-service mercury-added thermostats collected by the program, as ~~reported-determined~~ pursuant to California Code of Regulation, title 22, section 66274.8 ~~7~~, subsection (e);

(3) The program's collection rate performance requirement (TP), as specified in subsection (a) or as determined pursuant to subparagraph (b)(2) of this section, as appropriate;

(4) The actual collection rate achieved by the program, expressed as a percentage of TT or the program's pro rata proportion of TT, as appropriate; and

(5) A determination of whether or not the program achieved its performance requirement.

Authority: Sections 58012, 25187, 25214.8.13, and 25150, Health and Safety Code.

Reference: Sections 25187, 25214.8.12 25218.8.13, and 25218.8.14, Health and Safety Code.

§66274.6 [Reserved]

§66274.7 Identification Requirements when Delivering Mercury Thermostats to a Collection Location

(a)(1) ~~(A)~~ Upon delivery of out-of-service mercury-added thermostats to a collection location pursuant to California Health and Safety Code section 25214.8.15, an HVAC contractor or an employee of an HVAC contractor shall provide the business

operating the collection location with the contractor's Contractors State Licensing Board Identification Number.

~~(B)(2)~~ Upon delivery of out-of-service mercury-added thermostats to a collection location pursuant to California Health and Safety Code section 25214.8.16, a demolition contractor or an employee of a demolition contractor shall provide the business operating the collection location with the contractor's Contractors State Licensing Board Identification Number.

~~(2)(b)~~ An HVAC contractor, demolition contractor, or employee of an HVAC or demolition contractor that delivers **out-of-service mercury-added** thermostats in a plastic bag or other container, ~~pursuant to California Code of Regulations, title 22, section 66273.35~~ may comply with the requirements in ~~paragraph (a)(1) or (a)(2)~~ of ~~this~~ subsection **(a) of this section** by printing the contractor's Contractors State Licensing Board Identification Number on the bag or container or on a label affixed to the bag or container.

~~(b)(1) A person other than an HVAC contractor, demolition contractor, or employee of an HVAC or demolition contractor who delivers out-of-service mercury-added thermostats to a collection location established by a manufacturer or group of manufacturers pursuant to section 25214.8.14, shall provide his or her name, address, and telephone number to the collection location.~~

~~(2) A person other than an HVAC contractor, demolition contractor, or employee of an HVAC or demolition contractor who delivers out-of-service mercury-added thermostats in a plastic bag or other container may comply with the requirement in paragraph (1) of this subsection by printing the information on the bag or container or on a label affixed to the bag or container.~~

Authority: Sections 58012, 25214.8.15, and 25150, Health and Safety Code.

Reference: Sections 25218.8.14, 25218.8.15, and 25218.8.16, Health and Safety Code.

§66274.8 Annual Reporting Requirements.

On or before April 1 of each calendar year, a manufacturer or group of manufacturers that operates a program shall submit an annual report to the department that shall include all of the information specified in California Health and Safety Code section 25214.8.13, subsection (i) and all of the following additional information for the calendar year covered by the report:

(a) A listing of all ~~brand names of~~ **manufacturers represented in the program that mercury-added thermostats** historically produced **mercury-added thermostats by the manufacturer or group of manufacturers** and sold **them** in California:

(b) The additional information specified below:

(1)~~(A)~~ The name, physical address, and contact phone number of each location ~~to at~~ which **out-of-service mercury-added thermostats were collected in collection bins were shipped provided** by the manufacturer or group of manufacturers, **and**

~~(B) The unique identification number of each bin.~~

~~(2)(A) The name, physical address, and contact phone number of each location at which out-of-service mercury-added thermostats were collected in bins provided by the manufacturer or group of manufacturers and~~

~~(B) The unique identification number of each bin.~~

(2)~~(3)~~(A) The name, physical address, and contact phone number of each location from which a collection bin or bins were returned to the manufacturer or group of manufacturers, **even if different from the location to which the bin or bins were originally shipped; and**

~~(B) The unique identification number of each bin; and~~

~~(C)~~(3) The date or dates on which the bin or bins were received by the manufacturer or group of manufacturers.

(c)(1) The total numbers of intact out-of-service mercury-added thermostats in all bins returned to the manufacturer or group of manufacturers during the calendar year

covered by the report, specifying the number ~~of from each brand name and~~
manufacturer;

(2) The information provided pursuant to subsection (c)(1) of this section shall include counts of thermostats produced by historical manufacturers that are no longer in business and a count of out-of-service mercury-added thermostats whose manufacturers cannot be determined

(d) For loose ampoules returned in collection bins:

(1) The total number of loose ampoules received during the calendar year covered by the report:

(2) The estimated number of out-of-service mercury-added thermostats represented by the loose ampoules reported pursuant to subparagraph (A) of this subsection, which shall be calculated as follows:

(A) Using a conversion factor of two ampoules per thermostat; or

(B) Using an alternate conversion factor determined by the manufacturer or group of manufacturers.

(2) A manufacturer or group of manufacturers shall include data and calculations to support its use of an alternate conversion factor pursuant to subparagraph (B) of this subsection.

(e) The total number of out-of-service mercury-added thermostats collected, which shall be determined by adding the number of ~~all brands of~~ intact out-of-service mercury-added thermostats collected, as reported pursuant to subsection (c) of this section and the estimated number of out-of-service mercury-added thermostats represented by loose ampoules, as reported pursuant to subsection (d)(2) of this section.

(f) A listing of ~~the unique identification numbers of~~ all **participating locations to which the manufacturer or group of manufacturers shipped** collection bins ~~shipped to household hazardous waste collection facilities, retailers, and wholesalers~~ that ~~have were~~ not been returned to the manufacturer or group of manufacturers within 18 months of shipment, as of **December 31 of the reporting year**

~~the date of the report, and the name, address, contact person, and telephone number of the location to which each bin was shipped.~~

(g) A listing of Contractors State Licensing Board Identification Numbers provided pursuant to California Code of Regulations, section 66274.76, subsection (a).

(h) A description of:

(1) Any changes to the program from the previous year and an evaluation of their effectiveness in increasing collection rates; and

(2) Any planned changes to the program to increase collection rates.

(i) A ~~program manufacturer or group of manufacturers~~ that also implements an ~~state-mandated~~ out-of-service mercury-added thermostat collection program in one or more other states shall provide the following information about each such program:

(1) The name of the state;

(2) The number of out-of-service mercury-added thermostats collected in the state during the same calendar year covered by the report; ~~and~~

~~(3) A brief description of the state's law, including any requirement for payment of an incentive to service technicians, contractors or homeowners to encourage collection;~~

~~(4) The number of collection locations for out-of-service mercury-added thermostats in the state, if known; ~~and~~~~

~~(5) A description of any education and outreach and performance requirements included in the state's law.~~

Authority: Sections 58012 and 25150, Health and Safety Code. Reference: Sections 25214.8.13, 25214.8.15, 25214.8.16 and 25214.8.17, Health and Safety Code.