



National Electrical Manufacturers Association

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**Testimony of the National Electrical Manufacturers Association
Before the Connecticut Joint Legislative Committee on the Environment**

**Re: SB 350/SB 93 – *Legislation Requiring Thermostat Manufacturers to
Implement a Program for the Return of Mercury Thermostats***

March 16, 2012

**POSITION: Support SB 350
Oppose SB 93**

Chairmen Meyer and Roy and members of the committee, my name is Mark Kohorst and I am Senior Manager for Environment, Health & Safety at the National Electrical Manufacturers Association. NEMA is the principal trade association representing the interests of the US electrical products industry. These comments reflect the view of several members of the NEMA residential controls section; specifically those companies that at one time manufactured and sold mercury-switch thermostats for residential use.

As an organization, NEMA understands and shares the widespread concern about potential hazards stemming from mercury-added products. In fact, before speaking directly to the bills under consideration here today, I'd first like to talk about the proactive measures NEMA members began taking long ago to address mercury switch thermostats in particular. This information is important for establishing the appropriate context for this legislation.

- In 1998, three members of NEMA's residential controls section – Honeywell, GE, and White-Rodgers – founded a non-profit recycling corporation to provide a nationwide mechanism for safe disposal of mercury switch thermostats.¹ The Thermostat Recycling Corporation (TRC) was one of the first producer responsibility organizations established in the US. It now has 31 corporate members and has recycled more than 1.37 million mercury thermostats since its inception, thereby diverting roughly 6.3 tons of mercury from the solid waste stream.
- The TRC operates by way of reverse distribution through HVAC wholesalers, contractors, HHW facilities, and to a smaller extent, through retail outlets. Aside from a one-time, \$25 fee for collection bins, the program is cost free for participants – manufacturers assume all of the operational expenses. The member companies have invested heavily to improve administration of the program and expand into different collection routes, and TRC works closely with state regulatory authorities on education and outreach activities.

¹ Mercury switch thermostats can contain up to 6 switches per unit, each of which contains approximately 2.8 grams of mercury.

- TRC works very hard at building awareness of its program within the industry. It has a formal relationship with HARDI (Heating Air Conditioning Refrigeration Distributors International) defined by an MOU - exhibiting at its meetings and sponsoring an annual award program. TRC also collaborates with the Air Conditioning Contractors of America (ACCA) and the Oil Heating and Energy Service Professionals (OESP) which represents service managers for oil dealers. TRC fostered relationships and works with these groups because they represent critical links in the distribution chain for thermostats.
- TRC first distributed collection bins in CT in 2000 and records show more than 50 locations, mostly HVAC wholesalers, have volunteered to participate as collection sites. The number of thermostats returned through these bins grew steadily at first, but has leveled off in recent years and has averaged 1850 thermostats per year since 2008. TRC has collected almost 13,000 thermostats in CT since it began operating here, which has kept about 117 pounds of mercury from the state's waste stream.
- Admittedly, these totals are low relative to the probable number of old mercury thermostats that come off the wall in CT each year. No one knows or can provide an accurate estimate of that number, but we can all agree that collections in the state can and should be higher. This brings us to the legislation under consideration here today – SB 93 and SB 350. Both of these bills would require manufacturers of mercury thermostats to establish a collection program – The industry did that over a decade ago. Beyond that the bills diverge in significant ways.
- SB 93 would require manufacturers to pay a financial incentive, or “bounty,” to contractors or technicians who return mercury-switch thermostats for recycling. While we agree that the parties who remove most thermostats from the wall are the key players in this effort, NEMA strongly opposes the bounty approach, which has been tried in two of the nine states that have enacted thermostat collection laws.
- The data are clear that financial incentives are unnecessary, overly expensive and complex, and can lead to manipulation and abuse.² More importantly, their impact on collection rates has been no greater than alternative approaches being used in other states.
- Collection statistics bear this out: In 2011, California's collection rose 40%, Illinois by 45%, Pennsylvania by 50%, and Rhode Island by 154%. All of these states have mandatory programs in place but do NOT require a bounty. Meanwhile collections in Maine and Vermont, the only states that **do** have a bounty provision, were flat for 2011 – virtually no change at all from 2010. This is especially noteworthy in Maine, which is consistently raised as some sort of “model” framework for other states. The industry has always appreciated the efforts of the Maine DEP to help promote the program and enforce its requirements, but the collection increases since the bounty was enacted have continually been disappointing.
- The TRC's best performer in recent years by far is Maryland, which has no law in place at all. The state collected more than 60,000 thermostats in just over two years

² TRC has submitted documented evidence to the Maine DEP of apparent abuse and fraud within the program.

through an arrangement established between Honeywell – the largest TRC member - and Baltimore Gas & Electric, the regional utility. That program has now tapered off, but stands as a great example of the type of demand-response mechanism that produces real results.

- So what do NEMA and the TRC recommend for CT? I will reiterate the themes I shared with this committee last year, which are drawn from what we've learned over the 14 year life of the program. First, **shared responsibility** is crucial. There must be obligations on all parties within the distribution chain **along with** active participation by state regulatory authorities to enforce those obligations. Unfortunately, very few of the key elements are in place in CT right now. These include the following:
 1. **Mandatory contractor recycling coupled with Disposal Ban** – Contractors remove and dispose of the vast majority of mercury-switch thermostats. Legislation should therefore impose a legal responsibility on contractors to handle thermostats in accordance with hazardous waste laws, and to dispose of them properly. **In addition, NEMA supports a statewide disposal ban on mercury thermostats.** To our knowledge, such a ban does not currently exist and it is **perfectly legal** to dispose a mercury thermostat as regular trash. Changing this situation should be priority one in any plan to manage end-of-life thermostats effectively.
 2. **Mandatory wholesaler participation** - To ensure that contractors disposing mercury thermostats have widespread access to the collection network, state law should make it mandatory for HVAC wholesalers who sell thermostats to act as collection sites.
 3. **Shared education and outreach** – Manufacturers voluntarily established a nationwide collection program, but to succeed they need the help of other stakeholder groups with more direct exposure to and influence over target audiences. State environmental agencies, wholesalers, and retailers can all play a valuable role in spreading the word about thermostat recycling.
 4. **Explicit authority for the programs to manage risk**-- Industry programs should be granted authority to act as needed to manage risk, which includes expelling collection sites from the program for violating shipping or storage policies. Handling and transportation of mercury-containing devices are strictly regulated and manufacturers must have leeway to ensure that all participants remain in compliance.
 5. **A “sunset” provision on recycling programs** – Very few companies, and no NEMA members, still produce mercury-switch thermostats, which are banned for sale in a growing number of states. Thus the existing stock of these devices coming into the waste stream is steadily declining. Laws should therefore include a “sunset” provision that sets a date for ending the obligation on manufacturer to operate their programs.

These elements are reflected in the other bill under consideration by the committee today – SB 350 – without the complex and unnecessary bounty provision. We believe

this bill offers the best framework for increasing the rate of thermostat collections in Connecticut and are pleased to endorse its passage.

That concludes my testimony and I am happy to answer any questions you may have.

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