

October 13, 1999

Document Control Office (7407)
Office of Pollution Prevention and Toxics (OPPT)
Environmental Protection Agency
401 M Street SW
Washington, D.C. 20460

Re: Docket Control Number OPPTS-00276

Dear Sirs:

I am providing comments of the National Electrical Manufacturers Association (NEMA) on the draft of the second phase of the North American Regional Action Plan on Mercury. NEMA represents manufacturers of batteries, lamps and thermostats that use mercury.

I would be happy to discuss these comments with you. Please feel free to call me at 703-841-3249

Sincerely,

Ric Erdheim
Senior Manager/Government Affairs

COMMENTS OF THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION ON THE DRAFT PHASE II NARAP ON MERCURY

NEMA Manufacturers Have Taken the Lead in Addressing Mercury Pollution

NEMA and its member companies have a long history of action for reducing mercury in the waste stream.

Battery manufacturers have:

- * eliminated in 1993 use of mercury in alkaline manganese and zinc carbon batteries except for button cells;
- * reduced mercury level in button cells to extremely small levels, well below limits established in many state battery bills;
- * ended in 1995 the sale of mercuric oxide button cell batteries that power hearing aids;
- * established a collection program for very small number of non consumer large mercuric oxide batteries sold in US; and
- * supported the enactment of the 1996 Mercury Containing and Rechargeable Battery Management Act.

Lamp manufacturers have reduced mercury levels in fluorescent lamps by 75% since 1985.

Use of energy saving fluorescent lamps in turn reduces emissions of air pollutants mercury from power plants.

Thermostat manufacturers have established the Thermostat Recycling Corporation to recover mercury from mercury switch thermostats.

These actions have significantly reduced and will continue to reduce mercury levels in the US waste stream.

Manufacturers Use Mercury in a Wide Variety of Products That Do Not Lend Themselves to a One Size Fits All Approach

Manufacturers use mercury in hundreds of products for different purposes.

In NEMA products alone, manufacturers use mercury:

- * as an electrode in large mercuric oxide batteries;
- * to control gassing that reduces battery life in button cells;
- * to create light in fluorescent lamps; and
- * as a switch in thermostats.

These products are vastly different in terms of units sold, size, mercury levels, users (homeowners/businesses/specialized installers), and other factors.

Because of these differences, a one-size fits all approach will be ineffective. The issues involved in waste management vary for each product. NEMA therefore, supports the approach taken in the report of making specific recommendations for each sector.

The goal section of the draft does include language identifying “extended responsibility of producers” as a method for achieving the goals of the plan. There is no definition of what this responsibility requires but it appears to be inconsistent with the specific sector proposals. EPA has no authority to mandate producer take back and the EPA Office of Solid Waste is pushing the concept of “Shared Responsibility” or “Extended Product Responsibility.” Under this concept all actors in the product chain including suppliers manufacturers, distributors, retailers, consumers, recyclers and the waste management community – share responsibility for reducing the life cycle environmental impacts of products (see “Product Responsibility: Promoting Voluntary Action,” by Elizabeth Cotsworth, Acting Director, EPA Office of Solid Waste, May 14, 1999). NEMA recommends that if the plan encourages anything, it should be shared or extended product responsibility, not extended producer responsibility.

Dry Cell Battery Sector

1. Apply product control measures for alkaline batteries to all manufacturers and importers. NEMA supports this proposal. Manufacturers in the US already must comply with the Mercury-Containing and Rechargeable Battery Management Act that bans the addition of mercury to all alkaline manganese batteries except button cells. All Japanese and Western European battery manufacturers comply with the same requirements.
2. Adopt a standard analysis protocol. NEMA supports this proposal. NEMA, the Battery Association of Japan, and the European Portable Battery Association have jointly developed such a protocol. I have attached it and urge you to use it.
3. Consider incentives to develop alternatives for mercury containing batteries including button cells. NEMA believes there is no need for this proposal. First, NEA manufacturers already are working to develop non-mercury button cells. Given NEMA's record of eliminating the use of more than 1000 tons of mercury a year, NEMA battery companies believe they have demonstrated that they do not need any incentives to develop button cells with no added mercury. Second, NEMA manufacturers include very small amounts of mercury in button cells. NEMA estimates that all button cells, including imports, sold in a year in the US contain around 2 tons of mercury. NEMA believes that this level presents a very low priority in terms of addressing concerns about mercury.

Lamp Manufacturing Sector

NEMA disagrees with the introductory statement. According to EPA, lamps account for less than 4% of all mercury in the solid waste stream (Final Universal Waste Rule for Lamps, 64 FR 36471). Lamp manufacturers have significantly reduced mercury levels from 48 mg in 1985 to less than 12 mg in 1999 in four-foot lamps. Use of mercury-containing lamps actually reduces mercury emissions to the environment because of their energy efficiency and resulting emission reductions from fossil fuel power plants.

1. Promote use of Low-Mercury Lamps. NEMA agrees with this recommendation. You should be aware, however, that the biggest incentive to such promotion in the US is the removal of lamps from the hazardous waste regulatory system and the authority to dispose of such lamps in the normal trash. Provisions to prohibit lamp disposal remove the major incentive to the purchase of low-mercury lamps.

2. Develop Maximum Mercury Concentration Levels in Lamps. NEMA opposes this proposal. Each of the three major lamp companies manufactures over 1,000 different varieties of lamps. It is not possible to develop a simplistic maximum concentration level that will address all of these different varieties of lamps. Lamp manufacturer reductions in mercury use clearly demonstrate that industry is reducing lamp mercury content without potentially problematic standards for maximum mercury concentrations.

3. Develop Management Options for Specialty Lamps. NEMA opposes this proposal. Specialty lamps make up a very small percentage of the market. The same management requirements that apply to the widely used linear fluorescent lamps also should apply to specialty lamps. Unique management options are not required for niche market products.

4. Encourage Sound Life Cycle Management. NEMA supports the development of sound life cycle management. NEMA notes, however, that in the US, 85% of all lamps are used by businesses. NEMA recommends that governments focus efforts on businesses. It is much more efficient and mercury reduction potential is much greater by focusing on large users of lamps rather than homeowners and small businesses.