

6 NYCRR SUBPART 374-3 EXPRESS TERMS

Paragraph 374-3.1(a)(1) introductory language through subparagraph 374-2.1(a)(1)(ii) remain unchanged.

Subparagraph 374-3.1(a)(1)(iii) is amended to read as follows:

(iii) [Thermostats] mercury-containing equipment as described in subdivision (d) of this section; and

Subparagraph 374-3.1(a)(1)(iv) through subdivision 374-3.1(c) remain unchanged.

Subdivision 374-3.1(d) is amended to read as follows:

Applicability -- [mercury thermostats] mercury-containing equipment.

(1) [Thermostats] Mercury-containing equipment covered under this Subpart. The requirements of this Subpart apply to persons managing [thermostats] mercury-containing equipment, as described in subdivision (i) of this section, except those listed in paragraph (2) of this subdivision.

(2) [Thermostats] Mercury-containing equipment not covered under this Subpart. The requirements of this Subpart do not apply to persons managing the following [thermostats] mercury-containing equipment:

(i) [Thermostats] Mercury-containing equipment that [are] is not yet [wastes] a waste under Part 371 of this Title. Paragraph (3) of this subdivision describes when [thermostats] mercury-containing equipment [become wastes.] becomes a waste[:];

(ii) [Thermostats] Mercury-containing equipment that [are] is not a hazardous waste. [A thermostat] Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in section 371.3 of this Title or is listed in section 371.4 of this Title[:];

(iii) Equipment and devices from which the mercury-containing components have been removed.

(3) Generation of waste [thermostats] mercury-containing equipment.

(i) [A used thermostat] Used mercury-containing equipment becomes a waste on the date it is discarded (e.g., sent for reclamation).

(ii) [An unused thermostat] Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

Subdivision 374-3.1(e) through subdivision 374-3.1(h) remain unchanged.

Existing paragraphs 374-3.1(i)(1) through 374-3.1(i)(6) are renumbered paragraphs 374-3.1(i)(2) through 374-3.1(i)(7).

Existing paragraph 374-3.1(i)(7) through 374-3.1(i)(14) are renumbered 374-3.1(i)(9) through 374-3.1(i)(16).

New paragraph 374-3.1(i)(1) is adopted to read as follows:

(1) ‘Ampule’ means an airtight vial made of glass, plastic, metal, or any combination of these materials.

Renumbered paragraphs 374-3.1(i)(2) through (6) remain unchanged.

Renumbered 374-3.1(i)(7) is amended to read as follows:

(7) ‘Large quantity handler of universal waste’ means a universal waste handler (as defined in this subdivision) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, [thermostats] mercury-containing equipment, or lamps, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram [kilograms or more total of universal waste is accumulated] limit is met or exceeded.

New paragraph 374-3.1(i)(8) is adopted to read as follows:

(8) ‘Mercury-containing equipment’ means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

Renumbered paragraphs 374-3.1(i)(9) and (10) remain unchanged.

Renumbered paragraph 374-3.1(i)(11) is amended to read as follows:

(11) ‘Small quantity handler of universal waste’ means a universal waste handler (as defined in this subdivision) who does not accumulate 5,000 kilograms or more [total] of universal waste (batteries, pesticides, [thermostats] mercury-containing equipment, or lamps calculated collectively) at any time.

Renumbered paragraph 374-3.1(i)(12) remains unchanged.

Renumbered paragraph 374-3.1(i)(13) is amended to read as follows:

(13) ‘Universal Waste’ means any of the following hazardous wastes that are subject to the universal waste requirements of this Subpart:

- (i) batteries as described in subdivision (b) of this section;
- (ii) pesticides as described in subdivision (c) of this section;
- (iii) [Thermostats] mercury-containing equipment as described in subdivision (d) of this section; and
- (iv) lamps as described in subdivision (e) of this section.

Renumbered paragraph 374-3.1(i)(14) through existing paragraph 374-3.2(d)(2) remain unchanged.

Paragraph 374-3.2(d)(3) is amended to read as follows:

(3) [Universal waste thermostats] Mercury-containing equipment: A small quantity handler of universal waste must manage universal waste [thermostats] mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must [contain] take appropriate steps to prevent the escape of mercury into the environment by volatilization and other means. The handler must place in a container any universal waste [thermostats] mercury-containing equipment with non-contained elemental mercury and mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions [in a container]. The container must be closed, structurally sound, compatible with the contents of the [thermostat] device, [and] must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed and closed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste [thermostats] mercury-containing equipment provided the handler:

(a) removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(b) removes the ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(c) ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules[,] from [the] that containment device to a container that meets the requirements of section 372.2(a)(8) of this Title;

(d) immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of paragraph 372.2(a)(8) of this Title;

(e) ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury (29 CFR (Labor) as incorporated by reference in section 370.1(e) of this Title);

(f) ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(g) stores removed ampules in closed, non-leaking containers that are in good condition; and

(h) packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation[.];

(iii) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(‘a’) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(‘b’) Follows all requirements for removing ampules and managing removed ampules under subparagraph 374-3.2(d)(3)(ii) of this subdivision; and

[iii] (iv) (‘a’) A small quantity handler of universal waste who removes mercury-containing ampules from [thermostats] mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in section 371.3 of this Title:

(1) mercury or clean-up residues resulting from spills or leaks; and/or

(2) other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining [thermostats units] mercury-containing device).

(b) If the mercury, residues, and/or other solid waste [exhibit] exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Parts 370 through Subpart 374-1 and Part 376 of this Title. The handler is considered the generator of the mercury, residues, and/or other waste and [is] must manage it in compliance with [subject to] Part 372 of this Title.

(c) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations and Part 360 of this Title.

Paragraph 374-3.2(d)(4) through paragraph 374-3.2(e)(3) remain unchanged.

Paragraph 374-3.2(e)(4) is amended to read as follows:

(4) (i) Universal waste [thermostats] mercury-containing equipment (i.e., each [thermostat] device), or a container in which the [thermostats] equipment [are] is contained, must be labeled or marked clearly with any [one] of the following phrases: "Universal Waste -Mercury-Containing Equipment [Thermostat(s)]," [or] "Waste Mercury-Containing Equipment [Thermostat(s)]," or "Used Mercury-Containing Equipment [Thermostat(s)]".

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of

the following phrases: “Universal Waste-Mercury Thermostat(s),” “Waste Mercury Thermostat(s),” or “Used Mercury Thermostat(s).”

Paragraph 374-3.2(e)(5) through subparagraph 374-3.3(c)(2)(iii) remain unchanged.

Subparagraphs 374-3.3(c)(2)(iv) and (v) are amended to read as follows:

(iv) a list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, [thermostats,] mercury-containing equipment, and lamps); and

(v) a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time, [and the types of universal waste (e.g., batteries, pesticides, thermostats, and lamps) the handler is accumulating above this quantity.]

Paragraphs 372-3.3(d)(1) and (2) remain unchanged.

Paragraph 374-3.3(d)(3) is amended to read as follows:

(3) [Universal waste thermostats] Mercury-containing equipment. A large quantity handler of universal waste must manage universal waste [thermostats] mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must take appropriate steps to [contain]prevent the escape of mercury into the environment by volatilization and other means. The handler must place in a container any universal waste [thermostat] mercury-containing equipment with non-contained elemental mercury and mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, [in a container.] The container must be closed, structurally sound, compatible with the contents of the [thermostat] device, [and] must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed and closed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste [thermostats] mercury-containing equipment provided the handler:

(‘a’) removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(‘b’) removes the ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(‘c’) ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks [from] of broken ampules[,] from the containment device to a container that meets the requirements of section 372.2(a)(8) of this Title;

(‘d’) immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of section 372.2(a)(8) of this Title;

(e) ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury (Code of Federal Regulations (Labor) incorporated by reference in section 370.1(e) of this Title);

(f) ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(g) stores removed ampules in closed, non-leaking containers that are in good condition; and

(h) packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation[.];

(iii) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(‘a’) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(‘b’) Follows all requirements for removing ampules and managing removed ampules under subparagraph 374-3.3(d)(3)(ii) of this subdivision; and

[iii] (iv)(‘a’) A large quantity handler of universal waste who removes mercury-containing ampules from [thermostats] mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in section 371.3 of this Title:

(1) mercury or clean-up residues resulting from spills or leaks; and/or

(2) other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g., the remaining [thermostat units] mercury-containing device).

(b) If the mercury, residues, and/or other solid waste [exhibit] exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Parts 370 through Subpart 374-1 and Part 376 of this Title. The handler is considered the generator of the mercury, residues, and/or other waste and [is subject to] must manage it in compliance with Part 372 of this Title.

(c) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable Federal, State or local solid waste regulations, including Part 360 of this Title.

Paragraph 374-3.3(d)(4) through paragraph 374-3.3(e)(3) remains unchanged.

Paragraph 374-3.3(e)(4) is amended to read as follows:

(4) (i) Universal waste [thermostats] mercury-containing equipment (i.e., each [thermostat] device), or a container [or tank] in which the [thermostats are] equipment is contained, must be labeled or marked clearly with any [one] of the following phrases: “Universal Waste - Mercury [Thermostat(s)] Containing Equipment,” [or] “Waste Mercury [Thermostat(s)] -Containing Equipment,” or “Used Mercury [Thermostat(s)] -Containing Equipment.”

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: “Universal Waste-Mercury Thermostat(s),” “Waste Mercury Thermostat(s),” or “Used Mercury Thermostat(s).”

Paragraph 374-3.3(e)(5) through section 374-3.7 remain unchanged.