

§1672. Mercury-added lamps

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Manufacturer" means a person who manufactures a mercury-added lamp and has a presence in the United States or a person who imports a mercury-added lamp manufactured by a person who does not have a presence in the United States. [PL 2009, c. 272, §1 (NEW).]

A-1. "Covered entity" means a person who at any one time presents for drop off at a collection location participating in a department-approved program for the recycling of mercury-added lamps under this subsection:

(1) Any number of compact fluorescent mercury-added lamps; or

(2) Ten or fewer mercury-added lamps that are not compact fluorescent mercury-added lamps. [PL 2019, c. 286, §1 (NEW).]

B. "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process, including, but not limited to, linear fluorescent, compact fluorescent, black light, high-intensity discharge, ultraviolet and neon lamps. [PL 2009, c. 272, §1 (NEW).]

C. "Municipal collection location" means a solid waste disposal facility, transfer station, storage facility or recycling facility at which mercury-added lamps from a covered entity are collected for recycling that is municipally owned or operated or operated by a regional association. [PL 2019, c. 286, §2 (AMD).]

D. "Person" means any individual, corporation, partnership, cooperative, association, firm, sole proprietorship, government agency or other entity. [PL 2009, c. 272, §1 (NEW).]

E. "Population center" means an urbanized area or urban cluster, as defined by the United States Department of Commerce, Bureau of the Census to identify areas of high population density and urban land use with a population of 2,500 or greater. [PL 2019, c. 286, §3 (NEW).]

F. "Proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and which is not otherwise publicly available. [PL 2019, c. 286, §3 (NEW).]

[PL 2019, c. 286, §§1-3 (AMD).]

2. Mercury content standards. The following provisions govern mercury content standards.

A. The department shall adopt rules establishing mercury content standards for lamps sold or manufactured in the State on or after January 1, 2012. The standards must be based on mercury content standards for lamps established in California. If one or more categories of lamps are not covered by the mercury content standards established in California, the department may adopt standards minimizing the mercury content of lamps within those categories, including adoption of a no-mercury standard if a nonmercury alternative is available at a cost comparable to a mercury alternative. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 272, §1 (NEW).]

B. The rules adopted under paragraph A must provide that:

(1) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall prepare and, at the request of the department, submit within 28 days of the date of the request technical documentation or other information showing that the manufacturer's mercury-added lamps sold or offered for sale in the State comply with the rules. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the documentation requested, that manufacturer may not be allowed to sell or offer for sale mercury-added lamps in the State; and

(2) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall provide upon request a certification to a person who sells or offers for sale a mercury-added lamp of that manufacturer. The certification must attest that the mercury-added lamp does not contain levels of mercury that would result in the prohibition of that lamp being sold or offered for sale in the State. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the certification requested, that manufacturer may not be allowed to sell or offer mercury-added lamps for sale in the State. [PL 2009, c. 272, §1 (NEW).]

[PL 2009, c. 272, §1 (NEW).]

3. Mercury-added lamp purchasing. When making purchasing decisions on mercury-added lamps and ballasts, the Department of Administrative and Financial Services, in consultation with the department and the Public Utilities Commission, shall request information on mercury content, energy use, lumen output and lamp life from potential suppliers and shall issue specifications and make purchasing decisions that favor models at comparable cost with high energy efficiency, lower mercury content and longer lamp life. Information obtained on mercury content, energy use and lamp life must be made available by the Department of Administrative and Financial Services to other purchasers who purchase a large number of mercury-added lamps. This information must also be posted on the State's publicly accessible website.

[PL 2009, c. 272, §1 (NEW).]

4. Manufacturer recycling programs for mercury-added lamps. Each manufacturer of mercury-added lamps sold or distributed in the State for use by a covered entity on or after January 1, 2001 shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps from a covered entity.

A. The recycling program required under this subsection must include, but is not limited to:

(1) Convenient collection locations adequate to serve the needs of covered entities in rural and urban areas throughout the State where a covered entity can drop off mercury-added lamps without cost, including but not limited to municipal collection locations and participating retail establishments. The program must include a method of determining the adequate number and geographic distribution of collection locations based on geographic information system modeling.

No later than January 1, 2020, the collection system implemented under the program must provide at least 90% of the residents of the State with a permanent collection location or a nonpermanent collection location available on a periodic basis within 15 miles of their residence unless the commissioner determines that this requirement is not practicable due to geographic constraints, in which case the commissioner may approve an alternative collection system that includes a geographic distribution of collection locations but that does not otherwise meet this requirement.

Unless otherwise approved by the commissioner, the collection system implemented under the program:

(a) Must provide at least 2 collection locations within a population center of at least 30,000 residents and an additional collection location for each additional 30,000 residents within the population center; and

(b) Must ensure that the collection locations required under division (a) are located in a manner that provides residents of the population center with convenient and reasonably equitable access to the collection locations;

(2) Handling and recycling equipment and practices in compliance with the universal waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F, with subsection 6 if a crushing device is used and with all other applicable requirements;

- (3) Provision of education and outreach efforts by a manufacturer to promote the program, which must include, but are not limited to, strategies for education of and outreach to covered entities in all areas of the State and ensuring understanding of collection options by covered entities. The education and outreach must, at a minimum, include posters, window clings and point-of-purchase signs that are made available to collection locations without cost, that can be prominently displayed and that will be easily visible to covered entities; and outreach to the general public, including annual Internet-based media campaigns and print and radio media campaigns conducted in rural and urban areas in the State;
- (5) A goal of annually increasing the percentage of the residents of the State that are aware of the requirement to recycle mercury-added lamps and the availability of mercury-added lamp recycling at collection locations implemented under the program;
- (6) Provisions for routinely evaluating the effectiveness of the education and outreach under subparagraph (3);
- (7) Procedures for improving the education and outreach under subparagraph (3) if the goal under subparagraph (5) is not achieved; and
- (8) An annual report to the department, which must include, at a minimum:
- (a) The number of mercury-added lamps recycled under the program;
 - (b) The estimated percentage of mercury-added lamps available for recycling that were recycled under the program and, if the percentage of lamps recycled in the prior calendar year did not represent an increase from the percentage of lamps recycled in the calendar year prior to the prior calendar year, recommendations for program modifications to increase the percentage of lamps recycled under the program;
 - (c) The methodology for estimating the number of mercury-added lamps available for recycling, which must include an assumption of the average lifespan of a lamp by type of lamp and number of lamps sold by type in the years on which the percentage under division (b) is calculated. Proprietary information submitted to the department pursuant to this division that is identified by the manufacturer as proprietary information is confidential and must be handled by the department in the same manner as confidential information is handled under section 1310-B;
 - (d) A description of the education and outreach under subparagraph (3) and an evaluation of the effectiveness of that education and outreach, including a description of the methods used to measure consumer awareness of the requirement to recycle mercury-added lamps and, beginning with the annual report for 2020, the results of an assessment of consumer awareness of the program as completed by an independent 3rd-party assessor;
 - (e) The location of and contact information for each collection location established under the program and an assessment of the convenience of the collection system established under the program;
 - (f) An accounting of the costs associated with implementing and administering the program; and
 - (g) Any recommendations for changes to the program to improve the convenience of the collection system, consumer education or program evaluation. [PL 2019, c. 286, §4 (AMD).]
- B. A manufacturer required to implement a recycling program under this subsection shall submit its proposed recycling program for department review and approval. The department shall solicit public comment on the proposed program before approving or denying the program. [PL 2009, c. 272, §1 (NEW).]

C. Beginning April 1, 2011, a manufacturer not in compliance with this section is prohibited from offering any mercury-added lamp for final sale in the State or distributing any mercury-added lamp in the State. A manufacturer not in compliance with this section shall provide support to retailers to ensure the manufacturer's mercury-added lamps are not offered for sale, sold at final sale or distributed in the State. [PL 2009, c. 272, §1 (NEW).]

D. Beginning April 1, 2011, a retailer may not offer for final sale a mercury-added lamp produced by a manufacturer not in compliance with this section. The department shall notify retailers of the manufacturers of mercury-added lamps not in compliance with this section. [PL 2009, c. 272, §1 (NEW).]

E. Beginning in 2013, and biennially thereafter, the department shall calculate the percentage of mercury-added lamps recycled from covered entities and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on any modifications to the manufacturer recycling programs it intends to make to improve mercury-added lamp recycling rates and any recommendations for statutory changes needed to facilitate mercury-added lamp collection and recycling. The report may be included in the report required pursuant to section 1772, subsection 1. [PL 2019, c. 286, §4 (AMD).]

F. [PL 2019, c. 286, §4 (RP).]

G. A department-approved recycling program under this subsection that is collectively implemented by manufacturers of mercury-added lamps must require the payment of a flat program participation fee, in lieu of payment of any other fees or costs associated with the program's operation, by a manufacturer participating in the program that previously offered for sale or distributed in the State any type of mercury-added lamps but that no longer offers for final sale or distributes in the State any type of mercury-added lamps; except that a manufacturer that previously offered for sale or distributed in the State only compact fluorescent mercury-added lamps but that no longer offers for final sale or distributes in the State compact fluorescent mercury-added lamps may be required to pay the flat program participation fee only for a period beginning on the date the manufacturer stops offering for final sale or distributing in the State compact fluorescent mercury-added lamps and ending 5 years after that date, after which time the manufacturer must be allowed to continue to participate in the program without being required to pay any fees or other costs associated with the program's operation. [PL 2019, c. 286, §4 (NEW).]

H. If, based on the information annually reported to the department under paragraph A, subparagraph (8), the department determines that fewer than 25,000 total mercury-added lamps were collected in the prior calendar year in the State under all recycling programs implemented under this subsection and that the combined mercury-added lamp recycling rate in the prior calendar year under all recycling programs implemented under this subsection was 10% or greater, the department shall develop a process for reducing the scope of the manufacturer recycling program required under this subsection and for terminating all program requirements within the 3-year period subsequent to that determination.

(1) In developing the program reduction and termination process under this paragraph, the department shall invite the participation of manufacturers that have implemented a recycling program under this section.

(2) The program reduction and termination process developed under this paragraph must be based on the best available data regarding the collection of mercury-added lamps in the State, including, but not limited to:

(a) The collection activity at each collection location;

(b) The estimated number of mercury-added lamps in the State still available for collection; and

(c) The total number of mercury-added lamps collected in the prior program years.

(3) Following completion of the development of the program reduction and termination process under this paragraph, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding its findings and recommendations for implementing that process, including any proposed legislation. The report under this subparagraph may be included in the report required under section 1772, subsection 1. After reviewing the report the committee may report out a bill to implement the recommendations contained in the report or to otherwise facilitate a reduction and termination of the manufacturer recycling program required under this subsection. [PL 2019, c. 286, §4 (NEW).]

[PL 2019, c. 286, §4 (AMD).]

5. Applicability. The requirements of this section do not apply to motor vehicles as defined in Title 29-A, section 101, subsection 42 or watercraft as defined in Title 12, section 13001, subsection 28 or their component parts.

[PL 2009, c. 272, §1 (NEW).]

6. Lamp crushing. A recycling program required under subsection 4 may include the use of crushing devices in accordance with the provisions of this subsection.

A. The owner of the crushing device shall:

(1) Register the device with the department. The registration must include:

- (a) The owner's name and contact information;
- (b) The brand of device used;
- (c) Anticipated usage of the device; and
- (d) A statement that the operating manual required pursuant to subparagraph (2) is in place;

(2) Develop an operating manual specifying how to safely crush mercury-added lamps. The operating manual must be available to all operators of the device and must include:

- (a) Procedures for operation and maintenance of the device in accordance with written procedures developed by the manufacturer of the device;
- (b) Testing and monitoring procedures;
- (c) Information concerning mercury hazards, crushing procedures, waste handling and emergency procedures;
- (d) An assessment of whether surrounding areas will be negatively affected, either by physical proximity or air exchange with a heating, ventilation and air conditioning system;
- (e) Proper waste management practices;
- (f) Procedures for operator training to ensure operators have been trained in the operation and maintenance of equipment, including, but not limited to, engineering controls to mitigate mercury releases and personal protective equipment use; and
- (g) Procedures to address emergency situations, including, but not limited to, procedures to address mercury hazards, waste handling and equipment failure;

(3) Document maintenance activities, retain maintenance logs, test data from the manufacturer and any additional test data acquired and make available a copy of these records to the department at its request;

(4) Meet all federal Occupational Safety and Health Administration requirements;

(5) Dispose of all material crushed in the device;

(6) Maintain on file an annual report for review by the department, at the discretion of the department, indicating the:

- (a) Total volume of mercury-added lamps crushed;
- (b) Volume and disposition of any carbon or other filter from the device; and
- (c) Names of the destination facilities to which all crushed material was shipped; and

(7) Maintain testing and monitoring data. [PL 2011, c. 275, §2 (NEW).]

B. The crushing device may be operated only in a closed system and in such a manner that any emission of mercury from the crushing device does not exceed 0.3 micrograms per cubic meter when measured on the basis of a time-weighted average over an 8-hour period. [PL 2011, c. 275, §2 (NEW).]

C. The crushing device may be operated only in a secure, ventilated area and may not be operated in an area accessible to the general public. [PL 2011, c. 275, §2 (NEW).]

[PL 2011, c. 275, §2 (NEW).]

SECTION HISTORY

RR 2009, c. 2, §117 (COR). PL 2009, c. 272, §1 (NEW). PL 2011, c. 275, §§1, 2 (AMD). PL 2013, c. 315, §2 (AMD). PL 2019, c. 286, §§1-4 (AMD).

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