

IMERC-member State Labeling Requirements for CFLs
Background Paper for U.S. EPA CFL Workgroup
Prepared by IMERC Staff - October 2009

This background paper responds to an inquiry from the U.S. Environmental Protection Agency regarding IMERC-member states' current requirements for mercury labeling of compact fluorescent lamps (CFLs).

IMERC

In 2001 the Northeast Waste Management Officials' Association (NEWMOA) launched the Interstate Mercury Education and Reduction Clearinghouse (IMERC) to provide:

- ongoing technical and programmatic assistance to states that have enacted mercury education and reduction legislation
- a single point of contact for industry and the public for information on mercury-added products and member states' mercury education and reduction programs

The fourteen IMERC-member states include California, Connecticut, Illinois, Louisiana, Maine, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, Vermont, and Washington.

States that Require Labeling

Among the IMERC-member states, Connecticut, Louisiana, Maine, Massachusetts, Minnesota, New York, Rhode Island, Vermont, and Washington prohibit the sale of certain mercury-added products unless they have a label indicating that the product contains mercury. In addition, Maryland and Oregon have mercury-added product labeling laws, but these states do not belong to IMERC. The IMERC-member states that require mercury-added product labeling meet regularly as the IMERC Labeling Committee to discuss issues related to their product labeling legislation.

A mercury-added product label must meet certain specified standards (see: standard labeling) regarding wording, size, location, visibility, and durability unless the states have approved an alternative to standard labeling that allows the manufacturer to vary from one or more of the specified standards.

"Standard" Labeling Requirements (Listed on IMERC website)

Labeling requirements generally mandate that a mercury-added product have a visible and durable label on the product that indicates that it contains mercury and should be managed or disposed of properly. The states also require that the product packaging bear a label that is visible prior to purchase indicating that it contains mercury and should be managed or disposed of properly. A standard label is one that meets all the following specifications:

1. Is visible to the product user;
2. Is printed in English using 10 point font or larger;
3. Is mounted, engraved, molded, embossed, or otherwise affixed to the product using materials that are sufficiently durable to remain legible throughout the life of the product;
4. Bears the wording "contains mercury" or equivalent wording;
5. States that the product cannot be placed in trash and must be recycled or disposed of as a hazardous waste.

Examples:

"Contains Mercury, Don't Put In Trash. Recycle or Dispose as Hazardous Waste"

"Contains Mercury, Dispose According to Local, State or Federal Laws"



"Contains Mercury, Dispose of Properly "

6. If the product incorporates a mercury-added component that is not visibly labeled in accordance with this standard, the label on the larger product must clearly identify the internal component, e.g., the [describe component] in this product contains mercury, dispose according to local, state, or federal law or some equivalent language indicated in sample wording above.
7. If the product is sold in packaging that obscures the label, the packaging also must be labeled such that the label:
 - o Is visible at the time of purchase;
 - o Bears the wording "contains mercury" in 10 point or larger font;
 - o Identifies the mercury-added component within the package (e.g., "lamp contains mercury" if the product is a light fixture that includes a fluorescent lamp); and
 - o Bears the wording "dispose according to local, state, or federal laws," "do not place in trash, dispose as a hazardous waste" or some equivalent wording;
8. If the product is offered for sale by catalog, telephone, or internet such that the label on the product or packaging is not visible at the time of purchase, the consumer must be made aware prior- to-purchase that there is intentionally-added mercury in the product by placing a label or other information provided in sales literature, web site pages, etc.

Labeling Plan Submission and Approval Process

In 1998, the State of Vermont was the first state to establish a product labeling plan review process when it passed its law requiring the labeling of mercury-added products prior to “sale for use” in the state. All submission, review, and communication with manufacturers regarding standard labeling plans occurred through Vermont. A number of additional IMERC-member states have since passed laws regarding labeling of mercury-added products, however their legislation is silent on requirements for “standard” labeling plan submission and approval. As a result, Vermont DEC retained its lead role in the review process, and if the state ultimately approved a plan, the plan was also approved in the other states. There is no expiration date for approved standard labeling plans.

It should be noted that the state of Vermont recently repealed the requirement for manufacturers to submit a standard labeling plan and will instead institute a self-certification process through which manufacturers will confirm their compliance with standard labeling guidelines. This change in the legislation is now law.

Alternative Labeling

If a product cannot be labeled in accordance with standard labeling guidelines, manufacturers must submit an alternative labeling plan for review by states with alternative labeling requirements. In the past, Vermont took a lead role in processing the submissions and communicating with the companies until it was time for the other IMERC states with alternative labeling requirements to come together for a joint review. Alternative plans are discussed by the states during IMERC Labeling Committee conference calls and the states come to joint decisions on these plans. With the recent changes to Vermont’s labeling requirements, IMERC will now take the lead role in processing the alternative plans and organizing the review calls.

More information about alternative labeling can be found at:

www.mercvt.org/manreq/2005reqmts/altlabel.htm

All alternative plans must be resubmitted and approved every few years. All alternative plans currently on file with Vermont expired on March 1, 2009, and the IMERC-member states are in the process of contacting manufacturers about the requirement to resubmit their plans.

Alternative Labeling and Fluorescent Lamps

Lamp manufacturers have claimed that due to their size and function, many fluorescent lamps cannot be labeled according to the states’ standard requirements. Vermont DEC and the lamp manufacturing members of the National Electrical Manufacturers Association (NEMA) discussed these constraints at length and in 2002 ultimately agreed to an alternative labeling plan

for mercury-added lamps, otherwise known as the 0258 alternative. The main feature of this plan was that the manufacturers may use the “Hg” symbol in a circle to satisfy the requirement for the label on the lamp itself. This applies to both CFLs and linear fluorescent tubes. The alternative also included direction for packaging labeling that notes the product contains mercury, how to dispose of the lamp properly, and contact information for recycling options.

Vermont’s initial approval of this alternative included a condition that NEMA financially support a campaign to educate consumers on the meaning of the Hg symbol and maintain the lamprecycle.org website to provide recycling and disposal information. Non-NEMA members were allowed to use the 0258 alternative but are not required to fund the educational outreach to do so.

The full requirements of the 0258 alternative are available at:
www.mercvt.org/manreq/1998reqmts/alt0258.htm

FTC Proposed Labeling for CFLs

The Energy Independence and Security Act of 2007 directs the Federal Trade Commission (FTC) to evaluate the labeling of compact fluorescent lamps in terms of energy efficiency, specifically looking at such characteristics as lamp brightness, energy use, operating cost, color temperature, and lamp life. During the comment period before the start of a consumer study regarding the effectiveness of lamp labeling, NEMA submitted comments primarily focused on the issues regarding energy efficiency, but also included a request for FTC to “include the NEMA nationwide mercury label on lamp packages.” This “nationwide” label is the 0258 language. The entire NEMA comment is available at:
www.ftc.gov/os/comments/lampstudypra2/540385-00005.pdf

State Requirements and Fluorescent Lamps

All nine IMERC-member states that require labeling of mercury-added products require labeling of CFLs and other fluorescent lamps (NOTE: This is the only mercury-added product category that Washington requires labeling for). Both Washington and Connecticut have specific language in their laws regarding how fluorescent lamps must be labeled. The other IMERC states have used alternative labeling plans to regulate how fluorescent lamps are labeled. More information can be found at the following websites:

CT – www.cga.ct.gov/2009/pub/chap446m.htm#Sec22a-619.htm

LA – www.deq.louisiana.gov/portal/tabid/287/Default.aspx

MA – www.mass.gov/legis/laws/seslaw06/sl060190.htm

ME – www.maine.gov/dep/mercury/label.htm

MN – www.revisor.leg.state.mn.us/statutes/?id=116.92

NY – www.dec.ny.gov/chemical/8853.html

RI – www.dem.ri.gov/pubs/regs/regs/waste/hgreg07.pdf

VT – www.mercvt.org/manreq/index.htm#Labeling

WA – www.ecy.wa.gov/mercury/mercury_light_bulbs.html

Lamp Labeling Lessons Learned

The purpose of the states' mercury-added product legislation is to inform the consumer that the product they are purchasing contains mercury and that the product needs to be recycled or managed as hazardous waste at its end-of-life. Ensuring that a mercury-added product is properly managed at its end-of-life prevents the release of mercury into the environment when it enters the waste stream. The IMERC-member states have always advocated both mercury-added product and product packaging labeling. Without a product label, the mercury and recycling message would be lost since most consumers do not keep packaging for the life of the product.

When submitting their original labeling plan, the lamp manufacturers claimed that many mercury-containing lamps were too small to carry the standard label language that includes the word "mercury." Vermont approved the lamp manufacturer's alternative label of "Hg" for the product itself, and other states' followed suit to allow this alternative label. The alternative plan also required manufacturers to maintain a web site to provide consumers with information on recycling of mercury-added lamps and to contribute financially to Vermont's consumer education program.

Since allowing this alternative label, state labeling program staff have received much feedback that consumers do not know what the "Hg" symbol means. This label does not inform average consumers when the bulb burns out that the lamp contains mercury and should be recycled. It is the IMERC states' understanding that FTC is currently considering new lamp labeling requirements for screw-base CFLs. Although some compact fluorescent lamps may not have enough surface area to carry a standard label, the base of this common type of CFL does have sufficient space for a label that meets the intent of the states' laws. One such label could be

"Contains Mercury – Recycle ".

Users have also found that the manufacturers' web site (lamprecycle.org) is not very user friendly. It is far from comprehensive in providing state-specific lamp recycling information (e.g., not all consumer recycling options are clearly listed), and it is hard to locate information on the safe clean-up of a broken fluorescent lamp. At this time, the IMERC-member states recommend that EPA's web site (epa.gov/bulbrecycling) be listed on lamp packaging labeling because it is more effective in providing lamp recycling and clean-up information.

Based on the IMERC states' experience to date, NEMA's proposal for a "nationwide mercury label on lamp packages" would not meet the intent and/or requirements of at least some existing state laws.

Other Lamp Labeling Issues

One requirement of EnergyStar qualified CFLs is mercury content of less than 5 mg. Because this is the maximum amount of mercury allowed in CFLs by law in the European Union, California, and Maine, all CFLs sold in these jurisdictions would meet that requirement. The EnergyStar standard for mercury content of CFLs should be lowered to a maximum of 3 mg to provide consumers with a clear indicator of environmentally-preferable CFLs in regard to mercury.

Lead content (glass and circuitry) and “power factor” are important considerations for lamp toxics content and efficiency, respectively. We believe that they are important product considerations that warrant consumer disclosure and should be addressed in a lamp labeling rule or program. However, we do not have extensive experience with these issues and, therefore, we are not in a position to make specific recommendations.