

WAC 173-910-310 Stewardship organization requirements. (1) A stewardship organization will implement a department-approved plan.

(2) Stewardship organizations will: Estimate the total program cost for the coming year, including the department's annual fee for all participating producers;

(3) Each stewardship organization must recommend to the department an environmental handling charge to be added to the price of each mercury-containing light sold in or into the state of Washington for sale at retail. The environmental handling charge must be designed to provide revenue necessary and sufficient to cover all administrative and operational costs associated with the stewardship program described in the department-approved product stewardship plan for that organization, including the department's annual fee required by subsection (7) of this section, and a prudent reserve. The stewardship organization must consult with collectors, retailers, recyclers, and each of its participating producers in developing its recommended environmental handling charge. The environmental handling charge may, but is not required to, vary by the type of mercury-containing light. In developing its recommended environmental handling charge, the stewardship organization must take into consideration and report to the department:

(a) The anticipated number of mercury-containing lights that will be sold to covered entities in the state at retail during the relevant period;

(b) The number of unwanted mercury-containing lights delivered from covered entities expected to be recycled during the relevant period;

(c) The operational costs of the stewardship organization as described in WAC 173-910-310(11);

(d) The administrative costs of the stewardship organization including the department's annual fee, described in subsection (7) of this section; and

(e) The cost of other stewardship program elements including public outreach.

(4) The department will review, adjust if necessary, and approve the stewardship organization's recommended environmental handling charge within sixty days of submittal. In making its determination, the department shall review the product stewardship plan and may consult with the producers, the stewardship organization, retailers, collectors, recyclers, and other entities.

(5) No sooner than January 1, 2015:

(a) The mercury-containing light environmental handling charge must be added to the purchase price of all mercury-containing lights sold to Washington state retailers for sale at retail, and each Washington state retailer must add the charge to the purchase price of all mercury-containing lights sold at retail in Washington state, and the producer must remit the environmental handling charge to the stewardship organization in the manner provided for in the stewardship plan; or

(b) Each Washington state retailer must add the mercury-containing light environmental handling charge to the purchase price of all mercury-containing lights sold at retail in Washington state, where the retailer, by voluntary binding agreement with the producer, arranges to remit the environmental handling charge to the stewardship organization on behalf of the producer in the manner provided for in the stewardship plan. Producers may not require retailers to opt for this provision via contract, marketing practice, or any other means.

The stewardship organization must allow retailers to retain a portion of the environmental handling charge as reimbursement for any costs associated with the collection and remittance of the charge.

(6) At any time, a stewardship organization may submit to the department a recommendation for an adjusted environmental handling charge for the department's review, adjustment, if necessary, and approval under subsection (3) of this section to ensure that there is sufficient revenue to fund the cost of the program, current deficits, or projected needed reserves for the next year. The department must review the stewardship organization's recommended environmental handling charge and must adjust or approve the recommended charge within thirty days of submittal if the department determines that the charge is reasonably designed to meet the criteria described in subsection (1) of this section.

(7) Beginning March 1, 2015, and each year thereafter, each stewardship organization must pay to the department an annual fee equivalent to five thousand dollars for each participating producer to cover the department's administrative and enforcement costs. The amount paid under this section will be deposited into the product stewardship programs account created in RCW 70.275.130.

(8) Stewardship organizations for a plan must begin implementation of the plan no later than January 1st of the calendar year following approval of the plan by the department.

(9) Stewardship organizations must implement the approved plan. Updates to the plan will follow the process outlined in WAC 173-910-460.

(10) Stewardship organizations, as agents of their participating producers, are required to:

(a) Annually register producers, collectors, transporters, and processing facilities participating in the stewardship plan and report this information to the department.

(i) Registration includes documentation that each producer, collector, transporter, and processing facility is meeting the requirements of this chapter.

(ii) Provide regular updates to the department for producers, collectors, transporters, and processing facilities participating in the plan.

(b) Submit a product stewardship plan and required plan updates to the department as required in WAC 173-910-440.

(c) Annually report to the department as required in WAC 173-910-430.

(d) Monitor the compliance of all parties participating in the stewardship plan and report compliance issues to the department.

(e) Finance all administrative and operational costs associated with their program, including collection, transport, and processing of mercury-containing lights and the department's annual fee for all participating producers.

(f) Finance the costs of transporting and processing mercury-containing lights from accumulation points for curbside and mail-back collection programs.

(11) A stewardship organization operating a product stewardship program must pay all administrative and operational costs associated with its program with revenues received from the environmental handling charge described in WAC 173-910-310(3). The stewardship organization's administrative and operational costs are not required to include a collection location's cost of receiving, accumulating and storing, and packaging mercury-containing lights. However, a steward-

ship organization may offer incentives or payments to collectors. The stewardship organization's administrative and operational costs do not include the collection costs associated with curbside and mail-back collection programs.

(12) Stewardship organizations must collaborate with state government, local governments, electric utilities, retailers, collectors, transporters, processing facilities, and citizens in the development and implementation of public education, outreach, and marketing efforts. Education and outreach efforts include, but are not limited to:

(a) Development of a program website and social media services;

(b) Product stewardship programs must promote the safe handling and recycling of mercury-containing lights to the public, including producing and offering point of sale educational materials, like posters and brochures, to retailers of mercury-containing lights and point of return educational materials to collection locations.

(c) Publishing media releases in print, radio, and television.

(13) All mercury-containing lights collected by a product stewardship program or other collection programs must be recycled.

(14) If the department determines a stewardship organization is out of compliance with the requirements of the plan, the department will document each violation and follow the procedures in WAC 173-910-330 and 173-910-340.

(15) Stewardship organizations submitting information to the department may request confidential treatment under RCW 43.21A.160.

[Statutory Authority: RCW 70.275.040, 70.275.110, 70.275.140. WSR 16-17-146 (Order 15-04), § 173-910-310, filed 8/24/16, effective 9/24/16. Statutory Authority: Chapter 70.275 RCW. WSR 12-23-049 (Order 11-09), § 173-910-310, filed 11/16/12, effective 12/17/12.]