KC SWD Comments

General comments:

- We commend Ecology's efforts to clarify regulations related to the Mercury-Containing Lights Product Stewardship Program, but recommend only developing and adopting rules when there are clear gaps or lack of clarity in statute. There seems to be a lot of unnecessary repetition of 70A.505 RCW in 173-910 WAC – and even repetition in the sections of 173-910 WAC.
- We appreciate Ecology's proposed rules for a Contingency Plan to be submitted with Program Plans beginning January 1, 2029.

TYPE OF COMMENT	SECTION	PAGE	TOPIC / TEXT	*COMMENT*
Technical	**WAC 173-910-100 Definitions.**	8-9	"Covered entities" means: (a) A household generator or other person who purchases mercury-containing lights at retail and delivers no more than *the following amounts of mercury-containing lights to registered collectors for a product stewardship program on any given day:* *(i) An unlimited number of compact fluorescent lamps, as defined in RCW 70A.230.020, that are mercury-containing lights under this chapter and that feature a screw base;* *(ii) 15 pin-based compact or linear fluorescent lamps, as defined in RCW 70A.230.020, that are mercury-containing lights under this chapter;* *and*	*The existing WAC also includes limits in the definitions, but the amounts of lights that can be delivered should not be listed under Definitions.* *This should be (and currently is already) addressed in WAC 173-910-320 Stewardship collection system.*

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			(iii) Two high-intensity discharge lamps that are mercury-containing lights under this chapter; and (b) A household generator or other person who purchases mercury-containing lights at retail and *utilizes* a registered residential curbside collection program or a mail-back program for collection of mercury-containing lights and discards no more than *15* mercury-containing lights into those programs on any given day.	
Technical	**WAC 173-910-100 Definitions.**	12	"Market share" means the percentage of mercury-containing lights that were products for which a producer had an obligation to participate in the program created in this chapter at any point in time between January 1, 2015, and December 31, 2028, by units sold during that period of time, as determined by the stewardship organization in RCW 70A.505.050.	*It is in the statute, but unclear why the phrase "that were products" is necessary.*
Technical	**WAC 173-910-310 Stewardship organization requirements.**	30	(5) Additional stewardship organization costs that are not adequately covered by the environmental handling charge and that derive from activities occurring between June 6, 2024, and December 31, 2028, must be funded by participant members of the stewardship organization.	*Use the term "Participating Producer" that is in the Definitions instead of participant members to be consistent.*

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General	**WAC 173-910-310 Stewardship organization requirements.**	31	(6) Beginning with calendar year 2029 of program implementation, each stewardship organization is responsible for all costs of implementing mercury-containing light collection, transportation, processing, education, administration, agency reimbursement, recycling, and end-of-life management in accordance with environmentally sound management practices.	*Exact same text as RCW 70A.505.050 Environmental handling charge—Collection of charges for cost of plan implementation—Annual fee*
General	**WAC 173-910-310 Stewardship organization requirements.**	32	(7) For program administrative and operational costs related to the implementation of program requirements in calendar year 2029, a stewardship organization may plan to use reserve funds in the possession of the stewardship organization from the environmental handling charges assessed until December 31, 2028.	*Exact same text as RCW 70A.505.030 Product stewardship program.*
General	**WAC 173-910-310 Stewardship organization requirements.**	32-33	(8) For program administrative and operational costs related to the planning and implementation of the program requirements that must be implemented beginning in calendar year 2030, a stewardship organization operating a product stewardship program must pay all administrative and operational costs associated with its program with revenues received from participating legacy producers. A stewardship organization may offer incentives or payments to collectors.	*Exact same text as RCW 70A.505.030 Product stewardship program.*

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Technical	**WAC 173-910-310 Stewardship organization requirements.**	33	(9) The stewardship organization must arrange for collection service in all cities in the state with populations greater than 10,000 and all counties of the state on an ongoing, year-round basis, which may include household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable private locations. No such entity is required to provide collection services at their location.	*Repeat of RCW 70A.505.030 Product stewardship program, but omits the "at a minimum, no cost services"* *Ensure that collection service is at no-cost.* *Duplication with WAC 173-910-320 Stewardship collection system.* *(2) A convenient collection service network will include:* *(a) County: Provide collection services for mercury-containing lights for each county of the state;* *(b) City: Provide additional collection services in each city or town with a population greater than ten thousand; and* *(c) Rural: Consult with rural counties that do not have logical in-county collection sites to provide convenient alternative arrangements.*
Technical	**WAC 173-910-310 Stewardship organization requirements.**	36	(13) Stewardship organizations will provide quarterly updates to the department for producers, collectors, transporters, and processing facilities participating in the plan.	*Include 'legacy producers"*
Technical	**WAC 173-910-320 Stewardship collection system.**	38	(c) For curbside and mail-back programs, a stewardship organization must pay the costs of transporting	*This is already stated in WAC 173-910-310 Stewardship organization requirements.*

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			mercury-containing lights from accumulation points and for processing mercury-containing lights collected by curbside and mail-back programs.	*(4)(b) For curbside and mail-back programs, a stewardship organization must pay for the costs of transporting and processing mercury-containing lights from the point of accumulation. The collector is responsible for the cost of receiving, accumulating and storing, and packaging mercury-containing lights for curbside and mail-back programs.*
Technical	**WAC 173-910-410 Product stewardship plans.**	48	(5) On June 1st of the year, prior to implementation, each producer must ensure that a stewardship organization submits a proposed product stewardship plan on the producer's behalf to the department for approval. Plans approved by the department must be implemented by January 1st of the following calendar year.	*Include 'legacy producers"*
Technical	**WAC 173-910-420 Plan content.**	50-51	(2) **Description of the financing system:** Beginning with calendar year 2029 of program implementation, each stewardship organization must describe the system it developed to collect charges from participating legacy producers to cover the costs of plan implementation based on the market share of participating producers using all reasonable means and based on the best available information.	*Legacy producers don't have a market share… how will this be calculated?*

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Technical	**WAC 173-910-410 Product stewardship plans.**	61	(10) **Education, public outreach, and marketing:** (11) Beginning January 1, 2029, plans must also include the development and maintenance of: (f) Until December 31, 2028, the description must also include information to make consumers aware that an environmental handling charge has been added to the purchase price of mercury-containing lights sold at retail to fund the mercury-containing light stewardship programs in the state. The environmental handling charge may not be described as a department recycling fee or charge at the point of retail sale. Beginning January 1, 2029, these efforts must include the development:	*Numbering is confusing.* *(11) Beginning January 1, 2029 but (f) is "Until December 31, 2028"* *Should (f) be (12)?*
Technical	**WAC 173-910-410 Product stewardship plans.**	65	(c) Upon initiating the contingency plan, the stewardship organization must include sufficient reserve funds to allow the trustee to satisfy all obligations until such time as producer members have joined a different stewardship organization.	*Use the term "Participating Producer" that is in the Definitions instead of participant members to be consistent.*