

Environmental Handling Charge Policy for the LightRecycle Washington Mercury Containing Lights Product Stewardship Program

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1 Program Overview

The Washington State Mercury-Containing Lights Product Stewardship Program, called LightRecycle Washington, has been developed pursuant to the provisions of Chapter 70.275 of the Revised Code of Washington ([Chapter 70.275 RCW](#)) “Mercury-containing lights-proper disposal” (the “Law”). The Program plan has been approved by the Washington State Department of Ecology (“Ecology”).

The Law requires that the Program be funded through an Environmental Handling Charge (EHC) added to the purchase price of each Mercury-containing light sold at retail in or into Washington State as of the program start date, January 1, 2015. The EHC is approved by Ecology, and may be changed over time to ensure the Program is adequately funded.

Every Producer of Mercury-containing lights sold in or into Washington State for retail sale must participate in a product stewardship program for those products. Participation in LightRecycle Washington is open to all Producers.

LightRecycle Washington is administered by PCA Product Stewardship (PCA), a non-profit organization. More information about the program can be found on the program website: www.lightrecycle.org

2 Definitions

“Distributor” means any person or party who supplies Program Products to Retailers, wholesalers, stores or any other business that sell to consumers.

"Environmental Handling Charge" or "EHC" means the charge approved by the Department of Ecology to be applied to each Mercury-containing light to be sold at retail in or into Washington State. (RCW 70.275.020 (5))

“Law” means the provisions of [Chapter 70.275](#) of the Revised Code of Washington “Mercury-containing lights-proper disposal”.

"Mercury-containing lights" means lamps, bulbs, tubes, or other devices that contain mercury and provide functional illumination in homes, businesses, and outdoor stationary fixtures. (RCW 70.275.020 (9))

“Participant” means a party that has registered with LightRecycle Washington.

“Participant Agreement” means the agreement that must be accepted to register with LightRecycle Washington. A copy of the Participant Agreement is available on the LightRecycle Washington website and also available for download during registration.

“PCA” means PCA Product Stewardship Inc.

“Producer” means a person that (RCW 70.275.020 (14)):

- a) Has or had legal ownership of the brand, brand name, or co-brand of a Mercury-containing light sold in or into Washington state unless the brand owner is a Retailer whose Mercury-containing light was supplied by another Producer participating in a stewardship program under this chapter;
- b) Imports or has imported Mercury-containing lights branded by a Producer that meets the requirements of (a) of this definition and where that Producer has no physical presence in the United States;
- c) If (a) and (b) of this definition do not apply, makes or made a Mercury-containing light that is offered for sale or sold in or into Washington state; or
- d) Sells or sold at wholesale or retail a Mercury-containing light and does not have legal ownership of the brand and elects to fulfill the responsibilities of the Producer for that product.

“Program” means LightRecycle Washington, the Washington State Mercury-Containing Lights Product Stewardship Program.

“Program Products” means products that are accepted by the Program as defined under the Program’s plan, State Law or regulation. See Section 7 for a complete overview of Program Products.

"Retailer" means a person who offers Mercury-containing lights for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a Retailer. (RCW 70.275.020 (22))

"Remitting Retailer" means a Retailer, or a Distributor who is fulfilling the definition of a Retailer and conducts some retail sales, who has registered for LightRecycle Washington as a Participant and is then responsible for reporting sales and remitting EHCs to the program directly instead of being invoiced by its supplier.

“Supplier - Customer Remitter Determination Form” means the form provided in Appendix A. The Supplier is the party that supplies Program Products, and may be a Producer or Distributor, and the customer is the purchaser of Program Products, and may be a Distributor or Retailer.

3 Retail Sales

According to the law, the EHC must be applied to all Mercury-containing lights **sold at retail** in the state. A sale at retail is any sale to a person or business by a Retailer (as defined in Section 2), or by a Distributor who is fulfilling the definition of a Retailer where the sale has either occurred at a retail store, by catalog, or online. For greater clarity, sales that are conducted online or through the internet are considered sold at retail.

The following examples are provided to assist Retailers and Distributors determine when a retail sale has occurred, or determine which sales may be exempt from having the EHC added to the purchase price.

Examples of a retail sale:

- Sale to a customer at a physical store location, through sales outlets, catalogs, or on the internet
- Sale purchased through a retailer, defined in [RCW 70.275.020 \(22\)](#) as a person who offers mercury-containing lights for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.
- Sale to a consumer by a store or other business [WAC 173-910-100](#)

Examples of sales that would not be considered a retail sale:

- Wholesale sale
- Sale to a non-retail customer
- Sale to a contractor who purchases at a distributor and pays less than standard retail pricing
- Sale to someone who has a contractor’s license
- Sale to someone who has a reseller permit

To maintain a fair competitive landscape, and to satisfy the requirements of the law, Distributors who conduct mainly wholesale sales but do a small portion of retail sales are required to add the EHC to the purchase price of those retail sales, regardless of the volume. Wholesale transactions conducted by Distributors either online or by catalog are not considered retail sales.

4 EHC Remittance Obligation and Retailer/Distributor Remittance Option

Producers are required to register with LightRecycle Washington as a Participant and report and remit EHCs to PCA. The EHC must be remitted on all Program Products sold or supplied by the Producer in or into Washington State and intended for retail sale on or after January 1, 2015, with the exceptions noted below. An overview of Program Products is provided in Section 7 below.

In some cases the Distributor or the Retailer may be better positioned to determine the quantity of Program Products sold at retail in or into Washington State and may prefer to report and remit EHCs directly to the program, rather than to pay the EHCs to the Producer.

The Distributor or Retailer has the choice of two options:

1. **Producer Remits:** The Producer registers for LightRecycle Washington as a Participant and is responsible for reporting sales/remitting EHCs on behalf of their Distributors or Retailers for Program Products supplied to those Distributors or Retailers. As such, the EHCs must be included in invoices issued to the Distributor or Retailer for product that will be sold after January 1, 2015. Accordingly the Distributor or Retailer will pay the EHC on all lights purchased as inventory for retail sale in or into Washington State at the time of wholesale purchase, and the Producer in turn will remit the EHCs to the program.
2. **Distributor / Retailer Remits:** The Distributor or Retailer registers for LightRecycle Washington as a Participant and is then responsible for reporting sales and remitting EHCs to the program directly instead of being invoiced by its supplier. In this case, the Distributor or Retailer remits the EHCs directly to the program in the month after such retail sale has occurred and the Producer is no longer required to report and remit EHCs to LightRecycle Washington on the sale or supply of Program Products sold to that Distributor or Retailer.

The term “Distributor” is used in different ways, and sometimes means a business that buys from manufacturers and sells to retailers, and sometimes means a business that sells to large volume customers. Accordingly in some circumstances the Distributor will elect to be classified as a “Producer” and in some circumstances as a “Remitting Retailer”.

Distributor as Producer: A distributor who is not otherwise classified as a Producer may elect to report and remit EHCs directly to the program as a Producer under the following provision:

"Producer" means a person that: (d)(i) Sells or sold at wholesale or retail a mercury-containing light; (ii) does not have legal ownership of the brand; and (iii) elects to fulfill the responsibilities of the producer for that product.

Distributors who sell to Retailers and who elect to participate will be classified in the program’s registration and reporting system as Producers, and not as Remitting Retailers. Distributors must work with their Retailer customers to determine if the Distributor will include the EHC on invoices to the Retailer, or if the Retailer will elect to become a Remitting Retailer and remit directly to the program on the Distributor’s behalf.

Distributor as Remitting Retailer: Distributors who conduct a small portion of retail sales directly to consumers and elect to participate to remit the EHCs for those retail sales only may register as Remitting Retailers and will be entitled to the Remitting Retailer holdback. See Section 11 below for information regarding the holdback allowed for Remitting Retailers.

To formalize the “Distributor / Retailer Remits” option, the Distributor or Retailer and Producer must have a binding agreement in place and must notify PCA of any such arrangements to ensure all EHCs are properly recorded and remitted. A Supplier - Customer Remitter Determination Form is provided in Appendix A of this document. A copy signed by both the Producer, Distributor and/or Retailer must be provided to PCA as evidence that a binding agreement has been established.

The Supplier - Customer Remitter Determination Form requires the Producers, Distributors and/or Retailer’s LightRecycle Washington participant number, which is generated when the Producer, Distributor or Retailer registers with LightRecycle Washington as a Participant. If PCA is not notified of any arrangements, it is assumed that option 1 applies, and the Producer is responsible for reporting and remitting EHCs on all sales to the Distributor or Retailer.

Producers are required to work with their Distributors and Retailers to establish who will be reporting and remitting EHCs, the Producer, the Distributor or the Retailer. It is possible to make changes to any remitting relationships that have been established, however PCA must be notified of any such changes.

5 Managing EHCs

EHCs are payable by LightRecycle Washington Participants (Producers, Distributors who fulfill the role of Producers and Remitting Retailers) to PCA. It is the decision of the Participant how to manage this business cost. EHCs may be shown as a separate line item on the product invoice or receipt, or incorporated directly into the price of the product, at the discretion of the Participant. EHCs may also be charged on a separate invoice if desired, so long as the quantity of EHCs charged can be traced to the quantity of Program Products sold. The amount charged by a Participant to its customer to recover the EHC must equal the actual EHC payable by the Participant to PCA.

According to the Law, consumers must be made aware that an EHC has been added to the purchase price of Mercury-containing lights sold at retail. LightRecycle Washington provides marketing materials for Retailers to provide to their consumers informing them of the EHC. If the EHC is shown as a separate line item on receipts, it may not be described as a government recycling fee or charge, and must include the terms “Environmental Handling Charge”, “EHC” or another appropriate abbreviation.

Participants are required to report and remit EHCs for Program Products which are sold at retail on or after January 1, 2015. There is no exemption for EHCs on retail sales that occur on or after January 1, 2015 even if pursuant to a commitment that was established at a prior date between a Producer and a Retailer.

Packages containing multiple lights must have the EHC added to the price for each light in the package. For example, lights sold in a 2-pack will have two EHCs added to the purchase price of the package.

6 Retail Sales Tax

The Law requires that the EHC must be added to the purchase price of all Mercury-containing lights to be sold at retail. Accordingly, whenever Washington sales tax applies on a retail sale of a program product, the part of the retail sales price which is the EHC, is also subject to retail sales tax.

7 Program Products

The Program will collect all Mercury-containing lights, defined as *lamps, bulbs, tubes, or other devices that contain mercury and provide functional illumination in homes, businesses, and outdoor stationary fixtures*. For greater clarity, the program will collect and manage the following product categories:

1. Straight Fluorescent Tubes up to 8 feet in length
2. Curve-shaped Fluorescent Tubes including u-shaped, circular and others
3. Compact Fluorescent Lamps (CFL) – All sizes and types, including pin and screw base
4. High Intensity Discharge (HID) – HID lights include High Pressure Sodium, Mercury Vapor and Metal Halide

The following table provides a list of certain product inclusions and exclusions. This list is not exhaustive. If you are uncertain if a product should be included, please contact PCA for clarification.

Inclusions	Exclusions
<ul style="list-style-type: none"> - Lights included in the product categories listed above. - Lights intended for horticultural purposes. - Lights intended for zoological or pet care purposes. - Replacement lights for fixtures that are sold separately from the fixture. 	<ul style="list-style-type: none"> - Incandescent and halogen lights. - Light emitting diodes (LEDs). - Ultra High Performance (UHP) lamps (replacement projector lamps). - Lights sold installed in lighting fixtures of any types and sizes, (such as chandeliers, wall mounts, pot lights, etc.). - Decorative light strings. - Small fixtures such as book lights, bike lights, flashlights, etc. - Light-containing products, whose primary function is not illumination, such as appliances, electronics, or other devices.

8 Registration

All participating Producers, Distributors and Remitting Retailers are required to register with LightRecycle Washington using PCA’s online registration and reporting system at <https://ehcreporting.lightrecycle.org/>. The registration and reporting link is also available from the [Participant Resource Center](#) on the LightRecycle Washington website.

Registration involves submitting basic company information, entering the details for your company’s contact person, and accepting the terms and conditions of PCA’s Participant Agreement. After the registration is submitted and accepted by PCA, you will be issued a LightRecycle Washington participant number by PCA. Detailed instructions outlining the registration process are available under the

Resources tab on the registration and reporting system website, and in the Participant Resource Centre on the LightRecycle Washington website.

9 Reporting and Remittance Process

After registration is complete, Participants will receive a participant number, username, and password, which will be used to log in to the LightRecycle Washington online reporting system. All Participants are required to report and remit applicable EHCs to PCA on a monthly basis using the online reporting system. Reports and remittances for each calendar month, starting with January 2015, are due within 30 days following the end of the month. The online system requires Participants to input the quantity of Program Products sold or supplied during the reporting period for each of the EHC product categories.

Where no sales were made in the reporting period, a Nil or \$0 report must be filed. Once a report is submitted, the reporting system generates an invoice that must be paid to PCA by the Participant within 30 days of the end of the month of the reporting period.

The reporting and remittance system will also allow Participants to update company information, contact person details, and contact PCA if assistance is required. Instructions for using the online reporting and remittance system are available under the Resources tab on the registration and reporting system website, and in the Participant Resource Centre on the LightRecycle Washington website..

All data that is submitted to PCA on the online reporting system will be kept confidential.

10 EHC Reporting Periods

Participants must report and remit EHCs on a monthly basis, and reports and remittances must be received by PCA by the end of the month following the reporting month. For example, applicable EHCs on sales of Program Products made from January 1 to 31, 2015 must be reported and received by PCA before the end of February, 2015. Once a report has been submitted, the system automatically generates an invoice for the records of the Participant. Payment can be made by Electronic Funds Transfer or by check.

Participants who remit less than \$10,000 of EHCs annually may request to report on a quarterly basis. Participants will be permitted to move to quarterly reporting only if they are in good standing with PCA (meaning they have consistently paid invoices on time) and have remitted less than \$10,000 for the previous 12 months. For clarity, no Participants will be permitted to move to calendar quarterly reporting during the 2015 calendar year, as 12 months of remittance history is required to establish that the Participant is in good standing and reports less than \$10,000 annually. Where quarterly reporting is allowed, quarterly reports and remittances must be received by PCA by the end of the month following the calendar quarter reporting period. For example, EHCs on sales of Program Products made from January 1 to March 31, 2016 (1st calendar quarter) must be reported and received by PCA before the end of April 2016.

11 Remitting Retailer Hold-back

According to the Law, Remitting Retailers who become Participants of LightRecycle Washington and report and remit EHCs on behalf of Producers and Distributors are allowed to retain a portion of the EHC as reimbursement for any costs associated with the collection and remittance of the charge.

The Remitting Retailer hold-back is \$0.02 per unit, up to a maximum of \$200 per reporting period.

For example, assuming the EHC is \$0.50 / unit, if a Retailer has sold 1,000 units during the reporting period, EHCs at \$0.50 per unit are \$500, minus the hold-back of \$20, resulting in \$480 due to PCA. Alternatively, if a Retailer has sold 15,000 units during the reporting period, EHCs at \$0.50 per unit are \$7500 minus the maximum hold-back of \$200, resulting in \$7300 due to PCA.

The Remitting Retailer hold-back applies to Retailers who report sales and remit EHCs on time. Late reports and remittances will not be entitled to the Remitting Retailer hold-back.

In addition to the hold-back, Remitting Retailers have the benefit of shifting cash-flow so that the EHC is paid after the lights are sold (and only on lights that are sold), compared to paying the EHC on all inventory purchased from the Producer up front. To become a Remitting Retailer, Retailers must register with LightRecycle Washington as per Section 8 of this document and submit a Supplier - Customer Remitter Determination Form signed by both the Producer and Retailer to PCA. A Supplier - Customer Remitter Determination Form is provided in Appendix A of this document.

Distributors who register with the Program as Participants must satisfy the definition of Producer in accordance with Section 4 of this document. Therefore participating Distributors will not be entitled to the Remitting Retailer hold-back. Distributors or Producers who conduct sales at retail and want to be classified as Retailers (in order to receive the Remitting Retailer hold-back) must demonstrate to PCA that the majority of their business, meaning more than 50% of Program Product sales, are sold at retail.

12 Inventory Purchased Prior to January 1, 2015

New purchases of Mercury-containing lights (beginning on January 1, 2015) must be from participating Producers. A [list](#) of participating Producers is available on the Department of Ecology [website](#) for mercury-containing lights.

As of January 1, 2015, all retail sales of Mercury-containing lights must include the EHC, regardless of when the inventory was purchased. Retailers are allowed to exhaust any existing stock acquired from non-participating Producers before January 1, 2015, but must apply and remit EHCs on these products.

Producers who have sold inventory prior to January 1, 2015 to non-Remitting Retailers (Retailers who do not opt to report and remit directly to the program) are still obligated to remit the associated EHCs to LightRecycle Washington for any sales that occur after January 1, 2015.

In order to satisfy this obligation, it is recommended that Producers do one of the following options:

- Determine the quantity of inventory held by non-Remitting Retailers as of January 1, 2015 and invoice those Retailers for the associated EHCs, and remit those EHCs to the program.
- Request that non-Remitting Retailers report and remit to the program temporarily until that stock is exhausted, then add the EHC to the cost of inventory for any sales moving forward.
- Invoice non-Remitting Retailers for EHCs on Mercury-containing lights to be shipped prior to January 1, for sales in 2015 and remit those EHCs to the program on the first program report.

13 Product Returns and Exchanges

EHCs are not required to be remitted to LightRecycle Washington on products that are sold to a customer and then returned by the customer and ultimately refunded without being exchanged, including products returned under warranty or recall.

Participants are only required to report and remit EHCs on the net quantity of product supplied. If the sale and refund occur in the same reporting period, the sale of the refunded product need not be reported. If the sale and refund occur in different reporting periods, the adjustment is made in the reporting period when the refund occurred (see below for examples).

Example 1: If the EHC is collected on a sale to a customer and the product is returned and refunded in the same reporting period, the number of products returned and refunded in that reporting period should be deducted from total number of products reported as sold in that reporting period (i.e. products that were sold, returned and refunded are not counted). If 100 units are sold in a reporting period and 2 units are returned and refunded in that reporting period the Participant would report and remit EHCs on the net supply of 98 units for that reporting period.

Example 2: If the EHC is collected on a sale to a customer in one reporting period (e.g. January) and the product is returned and refunded in a subsequent reporting period (e.g. February), the Participant may deduct the returned product (sold in January) from the subsequent (e.g. February) report.

The Law requires that the EHC must be added to the purchase price of all Mercury-containing lights to be sold at retail. Accordingly, if a customer returns a Program Product and the entire purchase price is to be refunded, the refund must also include the EHC.

In the case where a consumer exchanges a Program Product that was originally sold before January 1, 2015 for another Program Product, the following guideline should apply:

- For the exchange of a Program Product for the same or equivalent product due to the original product being defective, the EHC does not need to be added to the purchase price.
- For the exchange of a Program Product for a different Program Product, the EHC must be included in the purchase price of the new Program Product, and as such the exchange will be subject to the EHC.

14 Overdue Payments

LightRecycle Washington reserves the right to apply interest and administrative charges to overdue EHC remittances at the following rates:

- Interest at the rate of 1% per month (12% per annum) as of the date or dates the EHCs should have been remitted;
- An administrative charge of \$100 for the first written reminder, issued at any time;
- An administrative charge of \$200 for the second written reminder, issued 10 or more days after the first reminder;
- An administrative charge of \$625 for the third written reminder, issued 10 or more days after the second reminder.

15 Back Fees

A Producer that is legally obligated to participate in LightRecycle Washington and remit EHCs to the Program but fails to register with LightRecycle Washington for that purpose is liable to PCA for EHCs on all Program Products from the start of the Program, January 1, 2015, plus interest at the rate of 1% per month (12% per annum). The Department of Ecology may assess additional monetary and other penalties.

16 Participant Audits

As in any system based on Participant self-reporting, it is necessary for LightRecycle Washington to do compliance audits of Participants to ensure correct reporting. The LightRecycle Washington Participant Agreement provides LightRecycle Washington the right to audit and inspect the records of Participants with respect to the sale, supply, distribution and importation of Program Products in Washington State.

17 Under Remittance

Participants must pay to PCA any EHCs due to PCA as determined by an audit, in accordance with the conditions outlined in the Participant Agreement.

PCA reserves the right to apply interest and administrative charges to remittances determined to be due to PCA, at the following rates:

- Interest at the rate of 1% per month (12% per annum) as of the date or dates the EHCs should have been remitted;
- An administrative charge equal to twenty percent (20%) of the aggregate of such under-payments if the Participant is found to have under-paid EHCs on at least two other occasions.

18 Policy Subject to Change

PCA reserves the right to exercise discretion in the application of this policy. This policy is subject to periodic updates, revisions, deletions and additions. In such cases notice will be provided and a revised copy of this policy will be made available.

Appendix A: Supplier - Customer Remitter Determination Form



PCA Product Stewardship Inc. (PCA)
LightRecycle Washington Program for Mercury-Containing Lights
Supplier - Customer Remitter Determination Form

Dated: _____

Agreement between,

Name of Supplier: _____

Complete legal name (if different): _____

LightRecycle Washington Participant Number*: _____

Name of the contact person: _____

Contact phone number: _____

Contact email address: _____

Enterprise address: _____

(the "Supplier")

and,

Name of Customer: _____

Complete legal name (if different): _____

LightRecycle Washington Participant Number*: _____

Name of the contact person: _____

Contact phone number: _____

Contact email address: _____

Enterprise address: _____

(the "Customer")

* The LightRecycle Washington Participant Number is provided upon completion of registration with LightRecycle Washington.



Please check one of the following two options:

The Customer is the remitter: The Customer confirms that it takes responsibility to report sales and remit Environmental Handling Charges (EHCs) directly to PCA as a LightRecycle Washington Participant on all Program Products supplied by the Supplier to the Customer and sold or distributed by the Customer in or into Washington State.

In order to remit EHCs, the Customer acknowledges the requirement that the Customer is registered as a LightRecycle Washington Participant in good standing (LightRecycle participant number indicated above). The Customer acknowledges that in reliance on this agreement, the Supplier will not report to PCA on the supply of Program Products to the Customer, and the Supplier will not invoice the Customer for EHCs relating to such supply.

The Supplier is the remitter: The Customer requests that the Supplier report sales and remit EHCs to PCA on all program products supplied by the Supplier to the Customer and sold or distributed by the Customer in Washington State. The Customer acknowledges that the Supplier will add the cost of the EHCs to the price on invoices rendered to the Customer with respect to the obligated products.

The Supplier agrees that such reports and remittances are the Supplier's responsibility. In order to remit the EHCs, the Supplier acknowledges the requirement that the Supplier is registered as a PCA Participant in good standing (see registration number above).

I, the under signed, authorized signatory of the **Supplier**, accept the conditions present in this Agreement.

Supplier Signature: _____

Supplier Signatory Name: _____

Supplier Signatory Title: _____

Date: _____

I, the under signed, authorized signatory of the **Customer**, accept the conditions present in this Agreement.

Customer Signature: _____

Customer Signatory Name: _____

Customer Signatory Title: _____

Date: _____

Next Steps Required:

Please complete and return this agreement to EHCreporting@lightrecycle.org.

If a company does not submit this letter, the "Supplier Remits" option will be assumed and the Customer will be charged the EHCs by the Supplier.