

**RCW 70A.505.050 Environmental handling charge—Collection of charges for cost of plan implementation—Annual fee. (Effective until January 1, 2035.)** (1) 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 until December 31, 2028. 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 through calendar year 2029 of program expenses. 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 RCW 70A.505.030(2);

(d) The administrative costs of the stewardship organization including the department's annual fee, described in subsection (5) of this section; and

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

(2) The department must review, adjust if necessary, and approve the stewardship organization's recommended environmental handling charge within 60 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.

(3) No sooner than January 1, 2015, and through calendar year 2028 of program implementation:

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

(b) Each Washington retailer must add the mercury-containing light environmental handling charge to the purchase price of all mercury-containing lights sold at retail in this 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.

(4) 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 (2) 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. Until December 31, 2028, a stewardship organization may submit to the department a recommended adjustment to the environmental handling charge that is 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. The stewardship organization may propose to use revenues from environmental handling charges to cover program expenses through calendar year 2029. 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.

(5) (a) Beginning with calendar year 2029 of program implementation, each stewardship organization must develop and implement a system 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. A stewardship organization must determine each producer's percentage of market share by:

(i) To the extent data necessary to make such a calculation are available, dividing each legacy producer's total units of mercury-containing lights for which the producer had an obligation under this chapter sold in Washington at any point in time between January 1, 2015, and December 31, 2028, by the sum total of all units of mercury-containing lights sold in or into Washington by all participating legacy producers at any point in time between January 1, 2015, and December 31, 2028; and

(ii) To the extent that data specified in (a) (i) of this subsection are not fully available, extrapolating a reasonable approximation of a manufacturer's market share similar to the calculation specified in (a) (i) of this section [subsection] based on the data available to the stewardship organization.

(b) To determine the market share of legacy producers, a stewardship organization may:

(i) Require data from legacy producers. A stewardship organization may notify the department if a legacy producer has declined to respond within 90 days to a demand for data by a stewardship organization and the department may demand the information if it is determined to be necessary to calculate the market share of the legacy producer; and

(ii) Use any combination of the following types of data:

(A) Generally available market research data;

(B) Data historically provided by producers or retailers to a stewardship organization or the department under this chapter;

(C) Sales data supplied by producers; and

(D) Sales data provided by retailers.

(c) The amendments to the method of financing the program described in chapter 339, Laws of 2024 must be implemented by a stewardship organization by January 1, 2029.

(6) Beginning with calendar year 2029 of program implementation, each stewardship organization is responsible for all costs of participating mercury-containing light collection, transportation, processing, education, administration, agency reimbursement, recycling, and end-of-life management in accordance with environmentally sound management practices.

(7) Beginning March 1, 2015, until March 1, 2024, each stewardship organization shall pay to the department an annual fee equivalent to \$3,000 for each participating producer to cover the department's administrative and enforcement costs. Beginning March 1, 2025, each stewardship organization shall pay to the department the annual fee to cover the department's administrative and enforcement costs. The department must apply any remaining annual payment funds from the current year to the annual payment for the coming fiscal year if the collected annual payment exceeds the department's costs for a given year and increase annual payments for the coming fiscal year to cover the department's fees if the collected annual payment was less than the department's costs for a given year. The amount paid under this section must be deposited into the mercury-containing light product stewardship programs account created in RCW 70A.505.120. [2024 c 339 s 7; 2020 c 20 s 1417; 2017 c 254 s 1; 2014 c 119 s 5; 2010 c 130 s 5. Formerly RCW 70.275.050.]

**Finding—Intent—2024 c 339:** See note following RCW 70A.505.010.

**Finding—2014 c 119:** See note following RCW 70A.505.020.