

**RCW 70A.505.040 Submission of proposed product stewardship plans
—Department to establish rules—Public review—Plan update—Annual
report. (Effective until January 1, 2035.)**

(1) (a) On January 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.

(b) A stewardship organization that plans to implement a stewardship plan in calendar year 2029 must submit a new or updated plan by January 1, 2028. The new or updated plan under this subsection (1) (b) must address the changes required of program operations by chapter 339, Laws of 2024.

(2) The department shall establish rules for plan content. Plans must include but are not limited to:

(a) All necessary information to inform the department about the plan operator and participating producers or legacy producers and their brands;

(b) The management and organization of the product stewardship program that will oversee the collection, transportation, and processing services;

(c) The identity of collection, transportation, and processing service providers, including a description of the consideration given to existing residential curbside collection infrastructure and mail-back systems as an appropriate collection mechanism and a list of all current and proposed collection sites to be used by the program, including the latitude and longitude of each collection site;

(d) How the product stewardship program will seek to use businesses within the state, including transportation services, retailers, collection sites and services, existing curbside collection services, existing mail-back services, and processing facilities;

(e) A description of how the public will be informed about the product stewardship program, including how consumers will be provided with information describing collection opportunities for unwanted mercury-containing lights from covered entities and safe handling of mercury-containing lights, waste prevention, and recycling. 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:

(i) And maintenance of a website;

(ii) And distribution of periodic press releases and articles;

(iii) And placement of public service announcements and graphic advertisements for use on social media or other relevant media platforms;

(iv) Of promotional materials about the program and the restriction on the disposal of mercury-containing lights in RCW 70A.230.160 to be used by retailers, government agencies, and nonprofit organizations;

(v) And distribution of the collection site safety training procedures procedural manual approved by the department to collection sites to help ensure proper management of unwanted mercury-containing lights at collection locations;

(vi) And implementation of outreach and educational resources targeted to overburdened communities and vulnerable populations identified by the department under chapter 70A.02 RCW that are conceptually, linguistically, and culturally accurate for the communities served and reach the state's diverse ethnic populations, including through meaningful consultation with communities that bear disproportionately higher levels of adverse environmental and social justice impacts;

(vii) And distribution of consumer-focused educational promotional materials to each collection location used by the program and accessible by customers of retailers that sell mercury-containing lights;

(viii) And distribution of safety information related to light collection activities to the operator of each collection site; and

(ix) And implementation of a periodic survey of public awareness regarding the requirements of the program established under this chapter, carried out at least every five years and the results of which must be shared with the department;

(f) A description of the financing system required under RCW 70A.505.050;

(g) How mercury and other hazardous substances will be handled for collection through final disposition, including:

(i) Mercury spill and release response plans for use by collection locations that describes the materials, equipment, and procedures that will be used to respond to any mercury release from an unwanted mercury-containing light; and

(ii) Worker safety plans for use by collection locations that describes the handling of the unwanted mercury-containing lights at the collection location and measures that will be taken to protect worker health and safety;

(h) A public review and comment process; and

(i) Any other information deemed necessary by the department to ensure an effective mercury light product stewardship program that is in compliance with all applicable laws and rules.

(3) All plans submitted to the department must be made available for public review on the department's website.

(4) No less often than three years from the dates specified in subsection (1) of this section and once every five years thereafter, each stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the department for review and approval according to rules adopted by the department.

(5) By June 1, 2016, and each June 1st thereafter, each stewardship organization must submit an annual report to the department describing the results of implementing the stewardship organization's plan for the prior calendar year, including an independent financial audit once every two years. The department may adopt rules for reporting requirements. Financial information included in the annual report must include but is not limited to:

(a) For programs operating until December 31, 2028, the amount of the environmental handling charge assessed on mercury-containing lights and the revenue generated;

(b) Identification of confidential information pursuant to RCW 43.21A.160 submitted in the annual report; and

(c) The cost and revenue of the mercury-containing lights product stewardship program, including line item costs for:

(i) Program operations, including collection, transportation, and processing;

(ii) Communications, including media, printing and fulfillment, public relations, and other education and outreach projects;

(iii) Administration, including administrative personnel costs, travel, compliance and auditing, legal services, banking services, insurance, and other administrative services and supplies, and stewardship organization corporate expenses; and

(iv) Amount of unallocated reserve funds.

(6) Beginning in 2023 every stewardship organization must include in its annual report a list of all collection sites, including address and latitude and longitude, anticipated to be used by the program in the upcoming year.

(7) As a component of all new or updated plans under this chapter submitted by a stewardship organization after January 1, 2025, the stewardship organization must submit:

(a) A contingency plan demonstrating how the activities in the plan will continue to be carried out by some other entity, such as an escrow company:

(i) Until such time as a new plan is submitted and approved by the department;

(ii) In the event that the stewardship organization has been notified by the department that they must transfer implementation responsibility for the program to a different stewardship organization;

(iii) In the event that the stewardship organization notifies the department that it will cease to implement an approved plan; or

(v) [(iv)] In any other event that the stewardship organization can no longer carry out plan implementation; and

(b) Performance goals that measure, on an annual basis, the achievements of the program. Performance goals must take into consideration technical feasibility and economic practicality in achieving continuous, meaningful progress in improving:

(i) The rate of mercury-containing light collection for recycling in Washington;

(ii) The level of convenience and access for all residents; and

(iii) Public awareness of the program.

(8) All plans and reports submitted to the department must be made available for public review, excluding sections determined to be confidential pursuant to RCW 43.21A.160, on the department's website. [2024 c 339 s 6; 2020 c 20 s 1416; 2017 c 254 s 2; 2014 c 119 s 4; 2010 c 130 s 4. Formerly RCW 70.275.040.]

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

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