

**E2SHB 1185** - S COMM AMD

By Committee on Environment, Energy & Technology

**NOT ADOPTED 03/01/2024**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2025  
4 the state's stewardship program for the end-of-life management of  
5 mercury-containing lights is statutorily scheduled to undergo review  
6 and termination or possible extension under chapter 43.131 RCW, the  
7 sunset act. If the mercury-containing lights product stewardship  
8 program were allowed to sunset as scheduled, Washington residents  
9 would lose a consistent, convenient, and safe way to return unwanted  
10 mercury-containing lights, which will remain in use for years as  
11 existing inventory winds down, even as the lighting industry has  
12 moved away from most mercury-containing lights. Mercury-containing  
13 lights present such a significant health risk that other states have  
14 recently restricted their sale, which represents a solution to reduce  
15 the public health impacts of new lighting products, but does not  
16 address the end-of-life management issues associated with the  
17 existing light bulbs currently in use.

18 (2) The state's existing mercury-containing lights program, which  
19 was first enacted over a decade ago, contains policy provisions,  
20 including the establishment of a per-bulb fee attached to the sale of  
21 mercury-containing lights, that are now recognized as not  
22 representing the best practices for the design of stewardship  
23 programs.

24 (3) Therefore, it is the intent of the legislature to:  
25 (a) Restrict the sale of most mercury-containing lights;  
26 (b) Extend the implementation of the stewardship program for  
27 mercury-containing lights; and  
28 (c) Modernize key elements of the state's mercury-containing  
29 lights stewardship program.

1       **Sec. 2.** RCW 70A.230.020 and 2003 c 260 s 3 are each amended to  
2 read as follows:

3       (1) Effective January 1, 2004, a manufacturer, wholesaler, or  
4 retailer may not knowingly sell at retail a fluorescent lamp if the  
5 fluorescent lamp contains mercury and was manufactured after November  
6 30, 2003, unless the fluorescent lamp is labeled in accordance with  
7 the guidelines listed under subsection (2) of this section. Primary  
8 responsibility for affixing labels required under this section is on  
9 the manufacturer, and not on the wholesaler or retailer.

10       (2) Except as provided in subsection (3) of this section, a lamp  
11 is considered labeled pursuant to subsection (1) of this section if  
12 the lamp has all of the following:

13       (a) A label affixed to the lamp that displays the internationally  
14 recognized symbol for the element mercury; and

15       (b) A label on the lamp's packaging that: (i) Clearly informs the  
16 purchaser that mercury is present in the item; (ii) explains that the  
17 fluorescent lamp should be disposed of according to applicable  
18 federal, state, and local laws; and (iii) provides a toll-free  
19 telephone number, and a uniform resource locator internet address to  
20 a website, that contains information on applicable disposal laws.

21       (3) The manufacturer of a mercury-added lamp is in compliance  
22 with the requirements of this section if the manufacturer is in  
23 compliance with the labeling requirements of another state.

24       (4) The provisions of this section do not apply to products  
25 containing mercury-added lamps.

26       (5) Beginning January 1, 2029, a manufacturer, wholesaler, or  
27 retailer may not knowingly sell a compact fluorescent lamp or linear  
28 fluorescent lamp.

29       (6) The provisions of subsection (5) of this section do not apply  
30 to:

31       (a) A special purpose mercury-containing light;

32       (b) The products specified in RCW 70A.230.110; or

33       (c) The sale or purchase of mercury-containing lights as a casual  
34 or isolated sale as defined in RCW 82.04.040.

35       (7) A violation of this section is punishable by a civil penalty  
36 not to exceed \$1,000 for each violation in the case of a first  
37 violation. Repeat violators are liable for a civil penalty not to  
38 exceed \$5,000 for each repeat violation. Penalties collected under  
39 this section must be deposited in the model toxics control operating  
40 account created in RCW 70A.305.180. Penalties imposed under this

1 section are appealable to the pollution control hearings board  
2 established in chapter 43.21B RCW.

3 (8) The department may adopt rules to implement, administer, and  
4 enforce the requirements of this section.

5 (9) The definitions in this subsection apply throughout this  
6 section unless the context clearly requires otherwise.

7 (a) "Compact fluorescent lamp" means a compact low-pressure,  
8 mercury-containing, electric-discharge light source in which a  
9 fluorescent coating transforms some of the ultraviolet energy  
10 generated by the mercury discharge into visible light, and includes  
11 all of the following characteristics:

12 (i) One base (end cap) of any type including, but not limited to,  
13 screw, bayonet, two pins, and four pins;

14 (ii) Integrally ballasted or nonintegrally ballasted;

15 (iii) Light emission between a correlated color temperature of  
16 1700K and 24000K and a Duv of +0.024 and -0.024 in the international  
17 commission on illumination (CIE) uniform color space (CAM02-UCS);

18 (iv) All tube diameters and all tube lengths;

19 (v) All lamp sizes and shapes for directional and nondirectional  
20 installations including, but not limited to, PL, spiral, twin tube,  
21 triple twin, 2D, U-bend, and circular.

22 (b) "Linear fluorescent lamp" means a low-pressure, mercury-  
23 containing, electric-discharge light source in which a fluorescent  
24 coating transforms some of the ultraviolet energy generated by the  
25 mercury discharge into visible light, and includes all of the  
26 following characteristics:

27 (i) Two bases (end caps) of any type including, but not limited  
28 to, single-pin, two-pin, and recessed double contact;

29 (ii) Light emission between a correlated color temperature of  
30 1700K and 24000K and a Duv of +0.024 and -0.024 in the CIE CAM02-UCS;

31 (iii) All tube diameters including, but not limited to, T5, T8,  
32 T10, and T12;

33 (iv) All tube lengths from 0.5 to 8.0 feet, inclusive; and

34 (v) All lamp shapes including, but not limited to, linear, U-  
35 bend, and circular.

36 (c) "Special purpose mercury-containing light" includes any of  
37 the following lights that contain mercury:

38 (i) A lamp designed and marketed exclusively for image capture  
39 and projection, including photocopying, printing, either directly or

1 in preprocessing, lithography, film and video projection, and  
2 holography; or

3 (ii) A lamp that has a high proportion of ultraviolet light  
4 emission and is one of the following:

5 (A) A lamp with high ultraviolet content that has ultraviolet  
6 power greater than two milliwatts per kilolumen (mW/klm);

7 (B) A lamp for germicidal use, such as the destruction of DNA,  
8 that emits a peak radiation of approximately 253.7 nanometers;

9 (C) A lamp designed and marketed exclusively for disinfection or  
10 fly trapping from which either the radiation power emitted between  
11 250 and 315 nanometers represents at least five percent of, or the  
12 radiation power emitted between 315 and 400 nanometers represents at  
13 least 20 percent of, the total radiation power emitted between 250  
14 and 800 nanometers;

15 (D) A lamp designed and marketed exclusively for the generation  
16 of ozone where the primary purpose is to emit radiation at  
17 approximately 185.1 nanometers;

18 (E) A lamp designed and marketed exclusively for coral  
19 zooxanthellae symbiosis from which the radiation power emitted  
20 between 400 and 480 nanometers represents at least 40 percent of the  
21 total radiation power emitted between 250 and 800 nanometers;

22 (F) Any lamp designed and marketed exclusively in a sunlamp  
23 product, defined as any electronic product designed to incorporate  
24 one or more ultraviolet lamps and intended for irradiation of any  
25 part of the living human body, by ultraviolet radiation;

26 (G) Any lamp designed and marketed exclusively for use in a  
27 sunlamp product, as defined in 21 C.F.R. Sec. 1040.20(b)(9), January  
28 1, 2023;

29 (H) A lamp designed and marketed exclusively for use in medical  
30 or veterinary diagnosis or treatment, or in a medical device;

31 (I) A lamp designed and marketed exclusively for use in the  
32 manufacturing or quality control of pharmaceutical products;

33 (J) A lamp designed and marketed exclusively for spectroscopy and  
34 photometric applications, such as UV-visible spectroscopy, molecular  
35 spectroscopy, atomic absorption spectroscopy, nondispersive infrared  
36 (NDIR), Fourier transform infrared (FTIR), medical analysis,  
37 ellipsometry, layer thickness measurement, process monitoring, or  
38 environmental monitoring;

39 (K) A lamp used by academic and research institutions for  
40 conducting research projects and experiments; or

1 (L) A compact fluorescent lamp used to replace a lamp in a motor  
2 vehicle manufactured on or before January 1, 2020.

3 **Sec. 3.** RCW 70A.505.010 and 2010 c 130 s 1 are each amended to  
4 read as follows:

5 The legislature finds that:

6 (1) Mercury is an essential component of many energy efficient  
7 lights. Improper disposal methods will lead to mercury releases that  
8 threaten the environment and harm human health. Spent mercury  
9 lighting is a hard to collect waste product that is appropriate for  
10 product stewardship;

11 (2) Convenient and environmentally sound product stewardship  
12 programs for mercury-containing lights that include collecting,  
13 transporting, and recycling mercury-containing lights will help  
14 protect Washington's environment and the health of state residents;

15 (3) (a) The purpose of this chapter (~~((130, Laws of 2010))~~) is to  
16 achieve a statewide goal of recycling all end-of-life mercury-  
17 containing lights (~~((by 2020))~~) through expanded public education, a  
18 uniform statewide requirement to recycle all mercury-containing  
19 lights, and the development of a comprehensive, safe, and convenient  
20 collection system that includes use of residential curbside  
21 collection programs, mail-back containers, increased support for  
22 household hazardous waste facilities, and a network of additional  
23 collection locations;

24 (b) The purpose of this act is to reduce exposure to mercury by  
25 prohibiting the sale of most mercury-containing lights beginning in  
26 2029 and to provide continuing collection of mercury-containing  
27 lights that have already entered the marketplace;

28 (4) Product producers must play a significant role in financing  
29 no-cost collection and processing programs for mercury-containing  
30 lights; and

31 (5) Providers of premium collection services such as residential  
32 curbside and mail-back programs may charge a fee to cover the  
33 collection costs for these more convenient forms of collection.

34 **Sec. 4.** RCW 70A.505.020 and 2020 c 20 s 1414 are each amended to  
35 read as follows:

36 The definitions in this section apply throughout this chapter  
37 unless the context clearly requires otherwise.

1 (1) "Brand" means a name, symbol, word, or mark that identifies a  
2 product, rather than its components, and attributes the product to  
3 the owner of the brand as the producer.

4 (2) "Collection" or "collect" means, except for persons involved  
5 in mail-back programs:

6 (a) The activity of accumulating any amount of mercury-containing  
7 lights at a location other than the location where the lights are  
8 used by covered entities, and includes curbside collection  
9 activities, household hazardous waste facilities, and other  
10 registered drop-off locations; and

11 (b) The activity of transporting mercury-containing lights in the  
12 state, where the transporter is not a generator of unwanted mercury-  
13 containing lights, to a location for purposes of accumulation.

14 (3) "Covered entities" means:

15 (a) A household generator or other person who purchases mercury-  
16 containing lights at retail and delivers no more than ~~((ten))~~ the  
17 following amounts of mercury-containing lights to registered  
18 collectors for a product stewardship program on any given day:

19 (i) An unlimited number of compact fluorescent lamps, as defined  
20 in RCW 70A.230.020, that are mercury-containing lights under this  
21 chapter and that feature a screw base;

22 (ii) 15 pin-based compact or linear fluorescent lamps, as defined  
23 in RCW 70A.230.020, that are mercury-containing lights under this  
24 chapter; and

25 (iii) Two high-intensity discharge lamps that are mercury-  
26 containing lights under this chapter; and

27 (b) A household generator or other person who purchases mercury-  
28 containing lights at retail and utilizes a registered residential  
29 curbside collection program or a mail-back program for collection of  
30 mercury-containing lights and discards no more than ~~((fifteen))~~ 15  
31 mercury-containing lights into those programs on any given day.

32 (4) "Department" means the department of ecology.

33 (5) "Environmental handling charge" or "charge" means the charge  
34 approved by the department to be applied to each mercury-containing  
35 light to be sold at retail in or into Washington state until December  
36 31, 2028. The environmental handling charge must cover ~~((all))~~  
37 current administrative and operational costs associated with the  
38 product stewardship program, including the fee for the department's  
39 administration and enforcement.

1 (6) "Final disposition" means the point beyond which no further  
2 processing takes place and materials from mercury-containing lights  
3 have been transformed for direct use as a feedstock in producing new  
4 products, or disposed of or managed in permitted facilities.

5 (7) "Hazardous substances" or "hazardous materials" means those  
6 substances or materials identified by rules adopted under chapter  
7 70A.300 RCW.

8 (8) "Mail-back program" means the use of a prepaid postage  
9 container, with mercury vapor barrier packaging that is used for the  
10 collection and recycling of mercury-containing lights from covered  
11 entities as part of a product stewardship program and is transported  
12 by the United States postal service or a common carrier.

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

16 (10) "Mercury vapor barrier packaging" means sealable containers  
17 that are specifically designed for the storage, handling, and  
18 transport of mercury-containing lights in order to prevent the escape  
19 of mercury into the environment by volatilization or any other means,  
20 and that meet the requirements for transporting by the United States  
21 postal service or a common carrier.

22 (11) "Orphan product" means a mercury-containing light that lacks  
23 a producer's brand, or for which the producer is no longer in  
24 business and has no successor in interest, or that bears a brand for  
25 which the department cannot identify an owner.

26 (12) "Person" means a sole proprietorship, partnership,  
27 corporation, nonprofit corporation or organization, limited liability  
28 company, firm, association, cooperative, or other legal entity  
29 located within or outside Washington state.

30 (13) "Processing" means recovering materials from unwanted  
31 products for use as feedstock in new products. (~~Processing must~~  
32 ~~occur at permitted facilities.~~)

33 (14) "Producer" means a person that:

34 (a) Has or had legal ownership of the brand, brand name, or  
35 cobrand of a mercury-containing light sold in or into Washington  
36 state, unless the brand owner is a retailer whose mercury-containing  
37 light was supplied by another producer participating in a stewardship  
38 program under this chapter;

1 (b) Imports or has imported mercury-containing lights branded by  
2 a producer that meets the requirements of (a) of this subsection and  
3 where that producer has no physical presence in the United States;

4 (c) If (a) and (b) of this subsection do not apply, makes or made  
5 a mercury-containing light that is sold or has been sold in or into  
6 Washington state; or

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

11 (15) "Product stewardship" means a requirement for a producer of  
12 mercury-containing lights to manage and reduce adverse safety,  
13 health, and environmental impacts of the product throughout its life  
14 cycle, including financing and providing for the collection,  
15 transporting, reusing, recycling, processing, and final disposition  
16 of their products.

17 (16) "Product stewardship plan" or "plan" means a detailed plan  
18 describing the manner in which a product stewardship program will be  
19 implemented.

20 (17) "Product stewardship program" or "program" means the  
21 methods, systems, and services financed in the manner provided for  
22 under RCW 70A.505.050 and provided by producers of mercury-containing  
23 lights generated by covered entities that addresses product  
24 stewardship and includes arranging for the collection,  
25 transportation, recycling, processing, and final disposition of  
26 unwanted mercury-containing lights, including orphan products.

27 (18) "Recovery" means the collection and transportation of  
28 unwanted mercury-containing lights under this chapter.

29 (19) (a) "Recycling" means transforming or remanufacturing  
30 unwanted products into usable or marketable materials for use other  
31 than landfill disposal or incineration.

32 (b) "Recycling" does not include energy recovery or energy  
33 generation by means of combusting unwanted products with or without  
34 other waste.

35 (20) "Reporting period" means the period commencing January 1st  
36 and ending December 31st in the same calendar year.

37 (21) "Residuals" means nonrecyclable materials left over from  
38 processing an unwanted product.

39 (22) "Retailer" means a person who offers mercury-containing  
40 lights for sale at retail through any means including, but not



1 limited to, remote offerings such as sales outlets, catalogs, or the  
2 internet, but does not include a sale that is a wholesale transaction  
3 with a distributor or a retailer.

4 (23)(a) "Reuse" means a change in ownership of a mercury-  
5 containing light or its components, parts, packaging, or shipping  
6 materials for use in the same manner and purpose for which it was  
7 originally purchased, or for use again, as in shipping materials, by  
8 the generator of the shipping materials.

9 (b) "Reuse" does not include dismantling of products for the  
10 purpose of recycling.

11 (24) "Stakeholder" means a person who may have an interest in or  
12 be affected by a product stewardship program.

13 (25) "Stewardship organization" means an organization designated  
14 by a producer or group of producers to act as an agent on behalf of  
15 each producer to operate a product stewardship program.

16 (26) "Unwanted product" means a mercury-containing light no  
17 longer wanted by its owner or that has been abandoned, discarded, or  
18 is intended to be discarded by its owner.

19 (27) "Legacy producer" means a producer that was required to  
20 participate in the product stewardship program established by this  
21 chapter at any point in time between January 1, 2015, and December  
22 31, 2028.

23 (28) "Market share" means the percentage of mercury-containing  
24 lights that were products for which a producer had an obligation to  
25 participate in the program created in this chapter at any point in  
26 time between January 1, 2015, and December 31, 2028, by units sold  
27 during that period of time, as determined by the stewardship  
28 organization in RCW 70A.505.050.

29 **Sec. 5.** RCW 70A.505.030 and 2020 c 20 s 1415 are each amended to  
30 read as follows:

31 (1)(a) Every producer of mercury-containing lights sold, made  
32 available for sale, or distributed in or into Washington state for  
33 retail sale in Washington state must participate in a product  
34 stewardship program for those products, operated by a stewardship  
35 organization and financed in the manner provided by RCW 70A.505.050.  
36 Every such producer must inform the department of the producer's  
37 participation in a product stewardship program by including the  
38 producer's name in a plan submitted to the department by a  
39 stewardship organization as required by RCW 70A.505.040. Producers

1 must satisfy these participation obligations individually or may do  
2 so jointly with other producers.

3 (b) Except as provided in (c) of this subsection, a stewardship  
4 organization implementing an approved program under this chapter must  
5 continue to implement an approved program until December 31, 2028,  
6 and may continue to do so in the form and manner described in the  
7 plan approved by the department as of January 1, 2024, until December  
8 31, 2028. The provisions of this act apply to programs that a  
9 stewardship organization must implement beginning January 1, 2029,  
10 and to the rule adoption, fee payment to the department, plan  
11 submission, and plan approval processes that predate the  
12 implementation of the new program to begin January 1, 2029.

13 (c) A stewardship organization may not increase the amount of the  
14 environmental handling charge established under this chapter from the  
15 amount that was approved by the department as of January 1, 2024.  
16 Additional stewardship organization costs that are not adequately  
17 covered by the environmental handling charge and that derive from  
18 activities occurring between the effective date of this section and  
19 December 31, 2028, must be funded by participant members of the  
20 stewardship organization. Changes to the limits of mercury-containing  
21 lights accepted at collection sites must take effect January 1, 2025.

22 (2) ((A)) Until December 31, 2028, a stewardship organization  
23 operating a product stewardship program must pay ((all))  
24 administrative and operational costs associated with its current  
25 program with revenues received from the environmental handling charge  
26 ((described in RCW 70A.505.050. The stewardship organization's  
27 administrative and operational costs are not required to include a  
28 collection location's cost of receiving, accumulating and storing,  
29 and packaging mercury-containing lights. However, a)) imposed under  
30 the plan approved by the department prior to the effective date of  
31 this section. For program administrative and operational costs  
32 related to the planning and implementation of the program  
33 requirements that must be implemented beginning in calendar year  
34 2029, a stewardship organization operating a product stewardship  
35 program must pay all administrative and operational costs associated  
36 with its program with revenues received from participating legacy  
37 producers. A stewardship organization may offer incentives or  
38 payments to collectors. The stewardship organization's administrative  
39 and operational costs do not include the collection costs associated  
40 with curbside and mail-back collection programs. The stewardship

1 organization must arrange for collection service at locations  
2 described in subsection (4) of this section, which may include  
3 household hazardous waste facilities, charities, retailers,  
4 government recycling sites, or other suitable private locations. No  
5 such entity is required to provide collection services at their  
6 location. For curbside and mail-back programs, a stewardship  
7 organization must pay the costs of transporting mercury-containing  
8 lights from accumulation points and for processing mercury-containing  
9 lights collected by curbside and mail-back programs. For collection  
10 locations, including household hazardous waste facilities, charities,  
11 retailers, government recycling sites, or other suitable private  
12 locations, a stewardship organization must pay the costs of packaging  
13 and shipping materials as required under RCW 70A.505.070 or must  
14 compensate collectors for the costs of those materials, and must pay  
15 the costs of transportation and processing of mercury-containing  
16 lights collected from the collection locations.

17 (3) Product stewardship programs shall collect unwanted mercury-  
18 containing lights delivered from covered entities for recycling,  
19 processing, or final disposition, and ~~((not charge))~~ are prohibited  
20 from charging a fee when lights are sold, dropped off, or delivered  
21 into the program.

22 (4) (a) Product stewardship programs shall provide, at a minimum,  
23 no cost services in all cities in the state with populations greater  
24 than ~~((ten thousand))~~ 10,000 and all counties of the state on an  
25 ongoing, year-round basis.

26 (b) (i) The department may amend the convenience standards  
27 established in this section to relieve a stewardship organization of  
28 its obligation to operate a collection site or to provide a  
29 collection opportunity when it is demonstrated by the stewardship  
30 organization to:

31 (A) Result in the annual collection of fewer than 500 mercury-  
32 containing lights; and

33 (B) Not remove collection opportunities for people living in a  
34 rural county or an overburdened community.

35 (ii) For the purposes of this subsection (4) (b), "rural county"  
36 has the same meaning provided in RCW 82.14.370 and "overburdened  
37 community" has the same meaning provided in RCW 70A.02.010.

38 (5) Product stewardship programs shall promote the safe handling  
39 and recycling of mercury-containing lights to the public, including  
40 producing and offering point-of-sale educational materials to

1 retailers of mercury-containing lights and point-of-return  
2 educational materials to collection locations.

3 (6) All product stewardship programs operated under approved  
4 plans must recover their fair share of unwanted (~~covered products~~)  
5 mercury-containing lights as determined by the department.

6 (7) The department or its designee may inspect, audit, or review  
7 audits of processing and disposal facilities used to fulfill the  
8 requirements of a product stewardship program.

9 (8) No product stewardship program required under this chapter  
10 may use federal or state prison labor for processing unwanted  
11 products.

12 (9) Product stewardship programs for mercury-containing lights  
13 must be fully implemented by January 1, 2015. Product stewardship  
14 programs for mercury-containing lights meeting the new requirements  
15 of this act must be fully implemented by January 1, 2029.

16 **Sec. 6.** RCW 70A.505.040 and 2020 c 20 s 1416 are each amended to  
17 read as follows:

18 (1) (a) On (~~June~~) January 1st of the year prior to  
19 implementation, each producer must ensure that a stewardship  
20 organization submits a proposed product stewardship plan on the  
21 producer's behalf to the department for approval. Plans approved by  
22 the department must be implemented by January 1st of the following  
23 calendar year.

24 (b) A stewardship organization that plans to implement a  
25 stewardship plan in calendar year 2029 must submit a new or updated  
26 plan by January 1, 2028. The new or updated plan under this  
27 subsection (1)(b) must address the changes required of program  
28 operations by this act.

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

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

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

36 (c) The identity of collection, transportation, and processing  
37 service providers, including a description of the consideration given  
38 to existing residential curbside collection infrastructure and mail-  
39 back systems as an appropriate collection mechanism and a list of all

1 current and proposed collection sites to be used by the program,  
2 including the latitude and longitude of each collection site;

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

8 (e) A description of how the public will be informed about the  
9 product stewardship program, including how consumers will be provided  
10 with information describing collection opportunities for unwanted  
11 mercury-containing lights from covered entities and safe handling of  
12 mercury-containing lights, waste prevention, and recycling. ~~((The))~~  
13 Until December 31, 2028, the description must also include  
14 information to make consumers aware that an environmental handling  
15 charge has been added to the purchase price of mercury-containing  
16 lights sold at retail to fund the mercury-containing light  
17 stewardship programs in the state. The environmental handling charge  
18 may not be described as a department recycling fee or charge at the  
19 point of retail sale. Beginning January 1, 2029, these efforts must  
20 include the development:

21 (i) And maintenance of a website;

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

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

26 (iv) Of promotional materials about the program and the  
27 restriction on the disposal of mercury-containing lights in section  
28 19 of this act to be used by retailers, government agencies, and  
29 nonprofit organizations;

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

34 (vi) And implementation of outreach and educational resources  
35 targeted to overburdened communities and vulnerable populations  
36 identified by the department under chapter 70A.02 RCW that are  
37 conceptually, linguistically, and culturally accurate for the  
38 communities served and reach the state's diverse ethnic populations,  
39 including through meaningful consultation with communities that bear

1 disproportionately higher levels of adverse environmental and social  
2 justice impacts;

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

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

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

13 (f) A description of the financing system required under RCW  
14 70A.505.050;

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

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

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

25 (h) A public review and comment process; and

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

29 (3) All plans submitted to the department must be made available  
30 for public review on the department's website (~~and at the~~  
31 ~~department's headquarters~~)).

32 (~~At least two years from the start of the product~~  
33 ~~stewardship program and once every four~~) No less often than three  
34 years from the dates specified in subsection (1) of this section and  
35 once every five years thereafter, each stewardship organization  
36 operating a product stewardship program must update its product  
37 stewardship plan and submit the updated plan to the department for  
38 review and approval according to rules adopted by the department.

39 (5) By June 1, 2016, and each June 1st thereafter, each  
40 stewardship organization must submit an annual report to the

1 department describing the results of implementing the stewardship  
2 organization's plan for the prior calendar year, including an  
3 independent financial audit once every two years. The department may  
4 adopt rules for reporting requirements. Financial information  
5 included in the annual report must include but is not limited to:

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

9 (b) Identification of confidential information pursuant to RCW  
10 43.21A.160 submitted in the annual report; and

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

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

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

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

21 (iv) Amount of unallocated reserve funds.

22 (6) Beginning in 2023 every stewardship organization must include  
23 in its annual report ~~((an analysis of the percent of total sales of~~  
24 ~~lights sold at retail to covered entities in Washington that mercury-~~  
25 ~~containing lights constitute, the estimated number of mercury-~~  
26 ~~containing lights in use by covered entities in the state, and the~~  
27 ~~projected number of unwanted mercury-containing lights to be recycled~~  
28 ~~in future years)) a list of all collection sites, including address  
29 and latitude and longitude, anticipated to be used by the program in  
30 the upcoming year.~~

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

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

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

39 (ii) In the event that the stewardship organization has been  
40 notified by the department that they must transfer implementation

1 responsibility for the program to a different stewardship  
2 organization;

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

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

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

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

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

14 (iii) Public awareness of the program.

15 (8) All plans and reports submitted to the department must be  
16 made available for public review, excluding sections determined to be  
17 confidential pursuant to RCW 43.21A.160, on the department's website  
18 ((and at the department's headquarters)).

19 **Sec. 7.** RCW 70A.505.050 and 2020 c 20 s 1417 are each amended to  
20 read as follows:

21 ~~(1) ((Each stewardship organization must recommend to the~~  
22 ~~department an environmental handling charge to be added to the price~~  
23 ~~of each mercury-containing light sold in or into the state of~~  
24 ~~Washington for sale at retail. The environmental handling charge must~~  
25 ~~be designed to provide revenue necessary and sufficient to cover all~~  
26 ~~administrative and operational costs associated with the stewardship~~  
27 ~~program described in the department-approved product stewardship plan~~  
28 ~~for that organization, including the department's annual fee required~~  
29 ~~by subsection (5) of this section, and a prudent reserve. The~~  
30 ~~stewardship organization must consult with collectors, retailers,~~  
31 ~~recyclers, and each of its participating producers in developing its~~  
32 ~~recommended environmental handling charge. The environmental handling~~  
33 ~~charge may, but is not required to, vary by the type of mercury-~~  
34 ~~containing light. In developing its recommended environmental~~  
35 ~~handling charge, the stewardship organization must take into~~  
36 ~~consideration and report to the department:~~

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



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

4 ~~(c) The operational costs of the stewardship organization as~~  
5 ~~described in RCW 70A.505.030(2);~~

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

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

11 ~~(2) The department must review, adjust if necessary, and approve~~  
12 ~~the stewardship organization's recommended environmental handling~~  
13 ~~charge within sixty days of submittal. In making its determination,~~  
14 ~~the department shall review the product stewardship plan and may~~  
15 ~~consult with the producers, the stewardship organization, retailers,~~  
16 ~~collectors, recyclers, and other entities.~~

17 ~~(3)) No sooner than January 1, 2015, and through calendar year~~  
18 ~~2028 of program implementation:~~

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

26 (b) Each Washington retailer must add the mercury-containing  
27 light environmental handling charge to the purchase price of all  
28 mercury-containing lights sold at retail in this state, where the  
29 retailer, by voluntary binding agreement with the producer, arranges  
30 to remit the environmental handling charge to the stewardship  
31 organization on behalf of the producer in the manner provided for in  
32 the stewardship plan. Producers may not require retailers to opt for  
33 this provision via contract, marketing practice, or any other means.  
34 The stewardship organization must allow retailers to retain a portion  
35 of the environmental handling charge as reimbursement for any costs  
36 associated with the collection and remittance of the charge.

37 ~~((4) At any time, a stewardship organization may submit to the~~  
38 ~~department a recommendation for an adjusted environmental handling~~  
39 ~~charge for the department's review, adjustment, if necessary, and~~  
40 ~~approval under subsection (2) of this section to ensure that there is~~

1 ~~sufficient revenue to fund the cost of the program, current deficits,~~  
2 ~~or projected needed reserves for the next year. The department must~~  
3 ~~review the stewardship organization's recommended environmental~~  
4 ~~handling charge and must adjust or approve the recommended charge~~  
5 ~~within thirty days of submittal if the department determines that the~~  
6 ~~charge is reasonably designed to meet the criteria described in~~  
7 ~~subsection (1) of this section.~~

8 ~~(5)) (2) Until calendar year 2029 of program implementation, a~~  
9 ~~stewardship organization that determines that the funds from the~~  
10 ~~environmental handling charge are not sufficient to sustain the~~  
11 ~~program must obtain any necessary additional funds by assessing~~  
12 ~~charges to participating legacy producers based on the market share~~  
13 ~~of the producer.~~

14 ~~(3) (a) Beginning with calendar year 2029 of program~~  
15 ~~implementation, each stewardship organization must develop and~~  
16 ~~implement a system to collect charges from participating legacy~~  
17 ~~producers to cover the costs of plan implementation based on the~~  
18 ~~market share of participating producers using all reasonable means~~  
19 ~~and based on the best available information. A stewardship~~  
20 ~~organization must determine each producer's percentage of market~~  
21 ~~share by:~~

22 ~~(i) To the extent data necessary to make such a calculation are~~  
23 ~~available, dividing each legacy producer's total units of mercury-~~  
24 ~~containing lights for which the producer had an obligation under this~~  
25 ~~chapter sold in Washington at any point in time between January 1,~~  
26 ~~2015, and December 31, 2028, by the sum total of all units of~~  
27 ~~mercury-containing lights sold in or into Washington by all~~  
28 ~~participating legacy producers at any point in time between January~~  
29 ~~1, 2015, and December 31, 2028; and~~

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

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

37 ~~(i) Require data from legacy producers. A stewardship~~  
38 ~~organization may notify the department if a legacy producer has~~  
39 ~~declined to respond within 90 days to a demand for data by a~~  
40 ~~stewardship organization and the department may demand the~~

1 information if it is determined to be necessary to calculate the  
2 market share of the legacy producer; and

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

4 (A) Generally available market research data;

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

7 (C) Sales data supplied by producers; and

8 (D) Sales data provided by retailers.

9 (c) The amendments to the method of financing the program  
10 described in this act must be implemented by a stewardship  
11 organization by January 1, 2029.

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

18 (5) Beginning March 1, 2015, (~~and each year thereafter,~~) until  
19 March 1, 2024, each stewardship organization shall pay to the  
20 department an annual fee equivalent to (~~three thousand dollars~~)  
21 \$3,000 for each participating producer to cover the department's  
22 administrative and enforcement costs. Beginning March 1, 2025, each  
23 stewardship organization shall pay to the department the annual fee  
24 to cover the department's administrative and enforcement costs. The  
25 department must apply any remaining annual payment funds from the  
26 current year to the annual payment for the coming fiscal year if the  
27 collected annual payment exceeds the department's costs for a given  
28 year and increase annual payments for the coming fiscal year to cover  
29 the department's fees if the collected annual payment was less than  
30 the department's costs for a given year. The amount paid under this  
31 section must be deposited into the mercury-containing light product  
32 stewardship programs account created in RCW 70A.505.120.

33 **Sec. 8.** RCW 70A.505.060 and 2010 c 130 s 6 are each amended to  
34 read as follows:

35 (1) All mercury-containing lights and materials recovered from  
36 mercury-containing lights collected in the state by product  
37 stewardship programs or other collection programs must be recycled  
38 and any process residuals must be managed in compliance with  
39 applicable laws.

1 (2) Mercury recovered from retorting and other hazardous  
2 materials must be recycled or placed in a properly permitted  
3 hazardous waste landfill, or placed in a properly permitted mercury  
4 repository.

5 **Sec. 9.** RCW 70A.505.070 and 2010 c 130 s 7 are each amended to  
6 read as follows:

7 (1) Except for persons involved in registered mail-back programs,  
8 a person who collects unwanted mercury-containing lights in the  
9 state, receives funding through a product stewardship program for  
10 mercury-containing lights, and who is not a generator of unwanted  
11 mercury-containing lights must:

12 (a) Register with the department as a collector of unwanted  
13 mercury-containing lights. Until the department adopts rules for  
14 collectors, the collector must provide to the department the legal  
15 name of the person or entity owning and operating the collection  
16 location, the address and phone number of the collection location,  
17 and the name, address, and phone number of the individual responsible  
18 for operating the collection location and update any changes in this  
19 information within thirty days of the change;

20 (b) Maintain a spill and release response plan at the collection  
21 location that describes the materials, equipment, and procedures that  
22 will be used to respond to any mercury release from an unwanted  
23 mercury-containing light;

24 (c) Maintain a worker safety plan at the collection location that  
25 describes the handling of the unwanted mercury-containing lights at  
26 the collection location and measures that will be taken to protect  
27 worker health and safety; and

28 (d) Use packaging and shipping material that will minimize the  
29 release of mercury into the environment and minimize breakage and use  
30 mercury vapor barrier packaging if mercury-containing lights are  
31 transported by the United States postal service or a common carrier.

32 (2) A person who operates a curbside collection program or owns  
33 or operates a mail-back business participating in a product  
34 stewardship program for mercury-containing lights and uses the United  
35 States postal service or a common carrier for transport of mercury-  
36 containing lights must register with the department and use mercury  
37 vapor barrier packaging for curbside collection and mail-back  
38 containers.

1       **Sec. 10.** RCW 70A.505.100 and 2010 c 130 s 10 are each amended to  
2 read as follows:

3       (1) (a) ~~The department ((shall send a written warning and a copy~~  
4 ~~of this chapter and any rules adopted to implement this chapter to a~~  
5 ~~producer who is not participating in a product stewardship program~~  
6 ~~approved by the department and whose mercury-containing lights are~~  
7 ~~being sold in or into the state.~~

8       ~~(2) A producer not participating in a product stewardship program~~  
9 ~~approved by the department whose mercury-containing lights continue~~  
10 ~~to be sold in or into the state sixty days after receiving a written~~  
11 ~~warning from the department shall be assessed a penalty of up to one~~  
12 ~~thousand dollars for each violation. A violation is one day of sales.~~

13       ~~(3) If any producer fails to implement its approved plan, the~~  
14 ~~department shall assess a penalty of up to five thousand dollars for~~  
15 ~~the first violation along with notification that the producer must~~  
16 ~~implement its plan within thirty days of the violation. After thirty~~  
17 ~~days, any producer failing to implement their approved plan must be~~  
18 ~~assessed a penalty of up to ten thousand dollars for the second and~~  
19 ~~each subsequent violation. A subsequent violation occurs each thirty-~~  
20 ~~day period that the producer fails to implement the approved plan.~~

21       ~~(4) The department shall send a written warning to a producer~~  
22 ~~that fails to submit a product stewardship plan, update or change the~~  
23 ~~plan when required, or submit an annual report as required under this~~  
24 ~~chapter. The written warning must include compliance requirements and~~  
25 ~~notification that the requirements must be met within sixty days. If~~  
26 ~~requirements are not met within sixty days, the producer will be~~  
27 ~~assessed a ten thousand dollar penalty per day of noncompliance~~  
28 ~~starting with the first day of notice of noncompliance.~~

29       ~~(5) Penalties prescribed under this section must be reduced by~~  
30 ~~fifty percent if the producer complies within thirty days of the~~  
31 ~~second violation notice.~~

32       ~~(6) A producer may appeal penalties prescribed under this section~~  
33 ~~to the pollution control hearings board created under chapter 43.21B~~  
34 ~~RCW)) may administratively impose a civil penalty on a person who~~  
35 ~~violates this chapter in an amount of up to \$1,000 per violation per~~  
36 ~~day.~~

37       (b) The department may administratively impose a civil penalty of  
38 up to \$10,000 per violation per day on a person for repeated  
39 violations of this chapter or failure to comply with an order issued  
40 under (c) of this subsection.

1 (c) Whenever on the basis of any information the department  
2 determines that a person has violated or is in violation of this  
3 chapter, including the failure by a stewardship organization to  
4 achieve performance goals proposed in a plan or the failure by a  
5 legacy producer to respond to a requirement for information by a  
6 stewardship organization under RCW 70A.505.050, the department may  
7 issue an order requiring compliance. A person who fails to take  
8 corrective action as specified in a compliance order is liable for a  
9 civil penalty as provided in (b) of this subsection, without  
10 receiving a written warning prescribed in (e) of this subsection.

11 (d) A person who is issued an order or incurs a penalty under  
12 this section may appeal the order or penalty to the pollution control  
13 hearings board established by chapter 43.21B RCW.

14 (e) Prior to imposing penalties under this section, the  
15 department must provide a producer, retailer, or stewardship  
16 organization with a written warning for the first violation by the  
17 producer, retailer, or stewardship organization of the requirements  
18 of this chapter. The written warning must inform a producer,  
19 retailer, or stewardship organization that it must participate in an  
20 approved plan or otherwise come into compliance with the requirements  
21 of this chapter within 30 days of the notice. A producer, retailer,  
22 or stewardship organization that violates a provision of this chapter  
23 after the initial written warning may be assessed a penalty as  
24 provided in this subsection.

25 (2) (a) Upon the department notifying a stewardship organization  
26 that it has not met a significant requirement of this chapter, the  
27 department may, in addition to assessing the penalties provided in  
28 this section, take any combination of the following actions:

29 (i) Issue corrective action orders to a producer or stewardship  
30 organization;

31 (ii) Issue orders to a stewardship organization to provide for  
32 the continued implementation of the program in the absence of an  
33 approved plan;

34 (iii) Revoke the stewardship organization's plan approval and  
35 require the stewardship organization to implement its contingency  
36 plan under RCW 70A.505.040;

37 (iv) Require a stewardship organization to revise or resubmit a  
38 plan within a specified time frame; or

39 (v) Require additional reporting related to compliance with the  
40 significant requirement of this chapter that was not met.

1 (b) Prior to taking the actions described in (a)(iii) of this  
2 subsection, the department must provide the stewardship organization  
3 or a producer an opportunity to respond to or rebut the written  
4 finding upon which the action is predicated.

5 **Sec. 11.** RCW 70A.505.110 and 2010 c 130 s 11 are each amended to  
6 read as follows:

7 (1) The department shall provide on its website a list of all  
8 producers participating in a product stewardship plan that the  
9 department has approved and a list of all producers the department  
10 has identified as noncompliant with this chapter and any rules  
11 adopted to implement this chapter.

12 (2) Product wholesalers, retailers, distributors, and electric  
13 utilities must check the department's website or producer-provided  
14 written verification to determine if producers of products they are  
15 selling in or into the state are in compliance with this chapter.

16 (3) No one may distribute or sell mercury-containing lights from  
17 producers, or any lights in or into the state from legacy producers,  
18 who are not participating in a product stewardship program or who are  
19 not in compliance with this chapter and rules adopted under this  
20 chapter.

21 (4) (a) The department shall serve, or send with delivery  
22 confirmation, a written warning explaining the violation to any  
23 person known to be distributing or selling mercury-containing lights  
24 from producers, or any lights in or into the state from legacy  
25 producers, who are not participating in a product stewardship program  
26 or who are not in compliance with this chapter and rules adopted  
27 under this chapter.

28 (b) The department must review new, updated, and revised plans  
29 submitted by stewardship organizations. The department must:

30 (i) Review new, updated, and revised stewardship organization  
31 plans within 120 days of receipt of a complete plan;

32 (ii) Make a determination as to whether or not to approve a plan,  
33 plan update, or plan revision and notify the stewardship organization  
34 of the:

35 (A) Determination of approval if a plan provides for a program  
36 that meets the requirements of this chapter; or

37 (B) Reasons for not approving a plan. The stewardship  
38 organization must submit a new or revised plan within 60 days after  
39 receipt of the letter of disapproval. In the event that a new or

1 revised plan submitted by a stewardship organization does not  
2 sufficiently meet the requirements of this chapter, including any  
3 deficiencies identified in the initial letter of disapproval, the  
4 department may:

5 (I) Use the enforcement powers specified in this chapter; or

6 (II) Amend the contents of the insufficient new or revised plan  
7 in a manner that ensures that the plan meets the requirements of this  
8 chapter and the department may require the stewardship organization  
9 to implement the plan as amended by the department.

10 (c) The approval of a plan by the department does not relieve  
11 producers participating in the plan from responsibility for  
12 fulfilling the requirements of this chapter.

13 ~~(5) ((Any person who continues to distribute or sell mercury-~~  
14 ~~containing lights from a producer that is not participating in an~~  
15 ~~approved product stewardship program sixty days after receiving a~~  
16 ~~written warning from the department may be assessed a penalty two~~  
17 ~~times the value of the products sold in violation of this chapter or~~  
18 ~~five hundred dollars, whichever is greater. The penalty must be~~  
19 ~~waived if the person verifies that the person has discontinued~~  
20 ~~distribution or sales of mercury-containing lights within thirty days~~  
21 ~~of the date the penalty is assessed. A retailer may appeal penalties~~  
22 ~~to the pollution control hearings board.~~

23 ~~(6))~~ The department shall adopt rules to implement this  
24 ~~((section))~~ chapter.

25 ~~((7))~~ (6) A sale or purchase of mercury-containing lights as a  
26 casual or isolated sale as defined in RCW 82.04.040 is not subject to  
27 the provisions of this section.

28 ~~((8))~~ (7) A person primarily engaged in the business of reuse  
29 and resale of ~~((a))~~ used mercury-containing lights is not subject to  
30 the provisions of this section when selling used working mercury-  
31 containing lights, for use in the same manner and purpose for which  
32 ~~((it was))~~ the lights were originally purchased.

33 ~~((9) In-state distributors, wholesalers, and retailers in~~  
34 ~~possession of mercury-containing lights on the date that restrictions~~  
35 ~~on the sale of the product become effective may exhaust their~~  
36 ~~existing stock through sales to the public.))~~

37 **Sec. 12.** RCW 70A.505.120 and 2017 c 254 s 3 are each amended to  
38 read as follows:



1       The mercury-containing light product stewardship programs account  
2 is created in the custody of the state treasurer. All funds received  
3 from producers and stewardship organizations under this chapter and  
4 penalties collected under this chapter must be deposited in the  
5 account. Expenditures from the account may be used only for  
6 administering this chapter. The department may not retain fees in  
7 excess of the estimated amount necessary to cover the agency's  
8 administrative costs over the coming year related to the mercury  
9 light stewardship program under this chapter. Beginning with the  
10 state fiscal year 2018, by October 1st after the closing of each  
11 state fiscal year, the department shall refund any fees collected in  
12 excess of its estimated administrative costs to any approved  
13 stewardship organization under this chapter. Only the director of the  
14 department or the director's designee may authorize expenditures from  
15 the account. The account is subject to the allotment procedures under  
16 chapter 43.88 RCW, but an appropriation is not required for  
17 expenditures.

18       **Sec. 13.** RCW 70A.505.130 and 2010 c 130 s 14 are each amended to  
19 read as follows:

20       (1) The department may adopt rules necessary to implement,  
21 administer, and enforce this chapter.

22       (2) ~~((The department may adopt rules to establish performance~~  
23 ~~standards for product stewardship programs and may establish~~  
24 ~~administrative penalties for failure to meet the standards.~~

25       ~~(3))~~ By ~~((December 31, 2010, and annually thereafter until~~  
26 ~~December 31, 2014))~~ November 1, 2033, the department shall report to  
27 the appropriate committees of the legislature concerning the status  
28 of the product stewardship program and recommendations for changes to  
29 the provisions of this chapter.

30       ~~((4) Beginning October 1, 2014, the))~~ (3) The department shall  
31 annually invite comments from local governments, communities, and  
32 ~~((citizens))~~ residents to report their satisfaction with services  
33 provided by product stewardship programs created under this chapter.  
34 This information ~~((must))~~ may be used by the department to determine  
35 if the plan operator is meeting convenience requirements and in  
36 reviewing proposed updates or changes to product stewardship plans.

37       ~~((5) Beginning October 1, 2014, the department shall annually~~  
38 ~~invite comments from retailers, consumer groups, electric utilities,~~  
39 ~~the Northwest power and conservation council, and other interested~~

1 ~~parties regarding the impacts of the requirements of this chapter on~~  
2 ~~the availability or purchase of energy efficient lighting within the~~  
3 ~~state. If the department determines that evidence shows the~~  
4 ~~requirements of this chapter have resulted in negative impacts on the~~  
5 ~~availability or purchase of energy efficient lighting in the state,~~  
6 ~~the department shall report this information by December 31st of each~~  
7 ~~year to the appropriate committees of the legislature with~~  
8 ~~recommendations for changes to the provisions of this chapter.~~

9 ~~(6) Beginning October 1, 2014, the department shall annually~~  
10 ~~invite comments from retailers, consumer groups, electric utilities,~~  
11 ~~the Northwest power and conservation council, and other interested~~  
12 ~~parties regarding the availability of energy efficient nonmercury~~  
13 ~~lighting to replace mercury-containing lighting within the state. If~~  
14 ~~the department determines that evidence shows that energy efficient~~  
15 ~~nonmercury-containing lighting is available and achieves similar~~  
16 ~~energy savings as mercury lighting at similar cost, the department~~  
17 ~~shall report this information by December 31st of each year to the~~  
18 ~~appropriate committees of the legislature with recommendations for~~  
19 ~~legislative changes to reduce mercury use in lighting.~~

20 ~~(7))~~ (4) Beginning October 1, 2014, the department shall  
21 annually estimate the overall statewide recycling rate for mercury-  
22 containing lights and calculate that portion of the recycling rate  
23 attributable to the product stewardship program. The department may  
24 require a stewardship organization to submit data as needed for the  
25 department to make the estimations required by this subsection.

26 ~~((8))~~ (5) The department may require submission of independent  
27 performance evaluations and report evaluations documenting the  
28 effectiveness of mercury vapor barrier packaging in preventing the  
29 escape of mercury into the environment. The department may restrict  
30 the use of packaging for which adequate documentation has not been  
31 provided. Restricted packaging may not be used in any product  
32 stewardship program required under this chapter.

33 **Sec. 14.** RCW 70A.505.160 and 2014 c 119 s 6 are each amended to  
34 read as follows:

35 (1) It is the intent of the legislature that a producer, group of  
36 producers, stewardship organization preparing, submitting, and  
37 implementing a mercury-containing light product stewardship program  
38 pursuant to this chapter, as well as participating entities in the  
39 distribution chain, including retailers and distributors, are granted

1 immunity, individually and jointly, from federal and state antitrust  
2 liability that might otherwise apply to the activities reasonably  
3 necessary for implementation and compliance with this chapter. It is  
4 further the intent of the legislature that the activities of the  
5 producer, group of producers, stewardship organization, and entities  
6 in the distribution chain, including retailers and distributors, in  
7 implementing and complying with the provisions of this chapter may  
8 not be considered to be in restraint of trade, a conspiracy, or  
9 combination thereof, or any other unlawful activity in violation of  
10 any provisions of federal or state antitrust laws.

11 (2) The department shall actively supervise the conduct of the  
12 stewardship organization, the producers of mercury-containing lights,  
13 and entities in the distribution chain (~~(in determination and~~  
14 ~~implementation of the environmental handling charge authorized by)~~)  
15 under this chapter.

16 **Sec. 15.** RCW 82.04.660 and 2020 c 20 s 1469 are each amended to  
17 read as follows:

18 (1) An exemption from the taxes imposed in this chapter is  
19 provided for:

20 (a) Producers, with respect to environmental handling charges  
21 added to the purchase price of mercury-containing lights either by  
22 the producer or a retailer pursuant to an agreement with the  
23 producer;

24 (b) Retailers, with respect to environmental handling charges  
25 added to the purchase price of mercury-containing lights sold at  
26 retail, including the portion of environmental handling charges  
27 retained as reimbursement for any costs associated with the  
28 collection and remittance of the charges; and

29 (c) Stewardship organizations, with respect to environmental  
30 handling charges received from producers and retailers and to the  
31 receipts from charges to participating producers and legacy  
32 producers.

33 (2) This section is not subject to the requirements of RCW  
34 82.32.805 and 82.32.808.

35 (3) For purposes of this section, the definitions in RCW  
36 70A.505.020 apply.

1       **Sec. 16.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,  
2 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to  
3 read as follows:

4       (1) The hearings board shall only have jurisdiction to hear and  
5 decide appeals from the following decisions of the department, the  
6 director, local conservation districts, the air pollution control  
7 boards or authorities as established pursuant to chapter 70A.15 RCW,  
8 local health departments, the department of natural resources, the  
9 department of fish and wildlife, the parks and recreation commission,  
10 and authorized public entities described in chapter 79.100 RCW:

11       (a) Civil penalties imposed pursuant to RCW 18.104.155,  
12 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.505.100,  
13 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050,  
14 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,  
15 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, 76.09.170,  
16 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
17 90.56.310, 90.56.330, and 90.64.102.

18       (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
19 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
20 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,  
21 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

22       (c) Except as provided in RCW 90.03.210(2), the issuance,  
23 modification, or termination of any permit, certificate, or license  
24 by the department or any air authority in the exercise of its  
25 jurisdiction, including the issuance or termination of a waste  
26 disposal permit, the denial of an application for a waste disposal  
27 permit, the modification of the conditions or the terms of a waste  
28 disposal permit, or a decision to approve or deny an application for  
29 a solid waste permit exemption under RCW 70A.205.260.

30       (d) Decisions of local health departments regarding the grant or  
31 denial of solid waste permits pursuant to chapter 70A.205 RCW.

32       (e) Decisions of local health departments regarding the issuance  
33 and enforcement of permits to use or dispose of biosolids under RCW  
34 70A.226.090.

35       (f) Decisions of the department regarding waste-derived  
36 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
37 decisions of the department regarding waste-derived soil amendments  
38 under RCW 70A.205.145.

39       (g) Decisions of local conservation districts related to the  
40 denial of approval or denial of certification of a dairy nutrient

1 management plan; conditions contained in a plan; application of any  
2 dairy nutrient management practices, standards, methods, and  
3 technologies to a particular dairy farm; and failure to adhere to the  
4 plan review and approval timelines in RCW 90.64.026.

5 (h) Any other decision by the department or an air authority  
6 which pursuant to law must be decided as an adjudicative proceeding  
7 under chapter 34.05 RCW.

8 (i) Decisions of the department of natural resources, the  
9 department of fish and wildlife, and the department that are  
10 reviewable under chapter 76.09 RCW, and the department of natural  
11 resources' appeals of county, city, or town objections under RCW  
12 76.09.050(7).

13 (j) Forest health hazard orders issued by the commissioner of  
14 public lands under RCW 76.06.180.

15 (k) Decisions of the department of fish and wildlife to issue,  
16 deny, condition, or modify a hydraulic project approval permit under  
17 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
18 comply, to issue a civil penalty, or to issue a notice of intent to  
19 disapprove applications.

20 (l) Decisions of the department of natural resources that are  
21 reviewable under RCW 78.44.270.

22 (m) Decisions of an authorized public entity under RCW 79.100.010  
23 to take temporary possession or custody of a vessel or to contest the  
24 amount of reimbursement owed that are reviewable by the hearings  
25 board under RCW 79.100.120.

26 (n) Decisions of the department of ecology that are appealable  
27 under RCW 70A.245.020 to set recycled minimum postconsumer content  
28 for covered products or to temporarily exclude types of covered  
29 products in plastic containers from minimum postconsumer recycled  
30 content requirements.

31 (o) Orders by the department of ecology under RCW 70A.455.080.

32 (2) The following hearings shall not be conducted by the hearings  
33 board:

34 (a) Hearings required by law to be conducted by the shorelines  
35 hearings board pursuant to chapter 90.58 RCW.

36 (b) Hearings conducted by the department pursuant to RCW  
37 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
38 70A.15.3110, and 90.44.180.

39 (c) Appeals of decisions by the department under RCW 90.03.110  
40 and 90.44.220.

1 (d) Hearings conducted by the department to adopt, modify, or  
2 repeal rules.

3 (3) Review of rules and regulations adopted by the hearings board  
4 shall be subject to review in accordance with the provisions of the  
5 administrative procedure act, chapter 34.05 RCW.

6 **Sec. 17.** RCW 70A.230.080 and 2020 c 20 s 1245 are each amended  
7 to read as follows:

8 A violation of this chapter, other than a violation of RCW  
9 70A.230.020, is punishable by a civil penalty not to exceed (~~one~~  
10 ~~thousand dollars~~) \$1,000 for each violation in the case of a first  
11 violation. Repeat violators are liable for a civil penalty not to  
12 exceed (~~five thousand dollars~~) \$5,000 for each repeat violation.  
13 Penalties collected under this section must be deposited in the model  
14 toxics control operating account created in RCW 70A.305.180.

15 NEW SECTION. **Sec. 18.** A new section is added to chapter 70A.505  
16 RCW to read as follows:

17 The requirements of this chapter cease to apply beginning the  
18 earlier of:

- 19 (1) January 1, 2035; or  
20 (2) A date determined by the department, based on the diminishing  
21 number of mercury-containing lights collected by the program reaching  
22 a de minimis level where the continued expense and environmental cost  
23 of implementing the program would result in continued costs that  
24 outweigh the benefits of continuing the program, as calculated in a  
25 cost-benefit analysis consistent with the requirements of RCW  
26 34.05.328. Unless the department and stewardship organization agree  
27 to a different cessation date prior to 2035 without carrying out a  
28 cost-benefit analysis, the department must conduct a cost-benefit  
29 analysis under this subsection to be completed during calendar year  
30 2031.

31 NEW SECTION. **Sec. 19.** A new section is added to chapter 70A.230  
32 RCW to read as follows:

- 33 (1) All persons, residents, government, commercial, industrial,  
34 and retail facilities and office buildings must recycle their end-of-  
35 life mercury-containing lights.

1 (2) No mercury-containing lights may knowingly be placed in waste  
2 containers for disposal at incinerators, waste to energy facilities,  
3 or landfills.

4 (3) No mercury-containing lights may knowingly be placed in a  
5 container for mixed recyclables unless there is a separate location  
6 or compartment for the mercury-containing lights that complies with  
7 local government collection standards or guidelines.

8 (4) No owner or operator of a solid waste facility may be found  
9 in violation of this section if the facility has posted in a  
10 conspicuous location a sign stating that mercury-containing lights  
11 must be recycled and are not accepted for disposal.

12 (5) No solid waste collector may be found in violation of this  
13 section for mercury-containing lights placed in a disposal container  
14 by the generator of the mercury-containing light.

15 NEW SECTION. **Sec. 20.** RCW 70A.505.090 (Producers must  
16 participate in an approved product stewardship program) and 2010 c  
17 130 s 9 are each repealed, effective January 1, 2029.

18 NEW SECTION. **Sec. 21.** The following acts or parts of acts are  
19 each repealed:

20 (1) RCW 43.131.421 (Mercury-containing lights product stewardship  
21 program—Termination) and 2021 c 65 s 47 & 2014 c 119 s 7;

22 (2) RCW 43.131.422 (Mercury-containing lights product stewardship  
23 program—Repeal) and 2021 c 65 s 48, 2017 c 254 s 4, & 2014 c 119 s 8;  
24 and

25 (3) RCW 70A.230.150 (Requirement to recycle end-of-life mercury-  
26 containing lights) and 2010 c 130 s 8.

27 NEW SECTION. **Sec. 22.** The following acts or parts of acts are  
28 each repealed effective January 1, 2036:

29 (1) RCW 70A.505.010 (Findings—Purpose) and 2010 c 130 s 1;

30 (2) RCW 70A.505.020 (Definitions) and 2020 c 20 s 1414;

31 (3) RCW 70A.505.030 (Product stewardship program) and 2020 c 20 s  
32 1415, 2014 c 119 s 3, & 2010 c 130 s 3;

33 (4) RCW 70A.505.040 (Submission of proposed product stewardship  
34 plans—Department to establish rules—Public review—Plan update—  
35 Annual report) and 2020 c 20 s 1416, 2017 c 254 s 2, 2014 c 119 s 4,  
36 & 2010 c 130 s 4;

1 (5) RCW 70A.505.050 (Environmental handling charge—Annual fee)  
2 and 2020 c 20 s 1417, 2017 c 254 s 1, 2014 c 119 s 5, & 2010 c 130 s  
3 5;

4 (6) RCW 70A.505.060 (Collection and management of mercury) and  
5 2010 c 130 s 6;

6 (7) RCW 70A.505.070 (Collectors of unwanted mercury-containing  
7 lights—Duties) and 2010 c 130 s 7;

8 (8) RCW 70A.505.080 (Requirement to recycle end-of-life mercury-  
9 containing lights) and 2010 c 130 s 8;

10 (9) RCW 70A.505.090 (Producers must participate in an approved  
11 product stewardship program) and 2010 c 130 s 9;

12 (10) RCW 70A.505.100 (Written warning—Penalty—Appeal) and 2010 c  
13 130 s 10;

14 (11) RCW 70A.505.110 (Department's website to list producers  
15 participating in product stewardship plan—Required participation in a  
16 product stewardship plan—Written warning—Penalty—Rules—Exemptions)  
17 and 2010 c 130 s 11;

18 (12) RCW 70A.505.120 (Product stewardship programs account—Refund  
19 of fees) and 2017 c 254 s 3 & 2010 c 130 s 13;

20 (13) RCW 70A.505.130 (Adoption of rules—Report to the legislature  
21 —Invitation to entities to comment on issues—Estimate of statewide  
22 recycling rate for mercury-containing lights—Mercury vapor barrier  
23 packaging) and 2010 c 130 s 14;

24 (14) RCW 70A.505.140 (Application of chapter to the Washington  
25 utilities and transportation commission) and 2010 c 130 s 15;

26 (15) RCW 70A.505.150 (Application of chapter to entities  
27 regulated under chapter 70A.300 RCW) and 2020 c 20 s 1418 & 2010 c  
28 130 s 16;

29 (16) RCW 70A.505.160 (Immunity from antitrust liability) and 2014  
30 c 119 s 6;

31 (17) RCW 70A.505.900 (Chapter liberally construed) and 2010 c 130  
32 s 17; and

33 (18) RCW 70A.505.901 (Severability—2010 c 130) and 2010 c 130 s  
34 21.

35 NEW SECTION. **Sec. 23.** If any provision of this act or its  
36 application to any person or circumstance is held invalid, the  
37 remainder of the act or the application of the provision to other  
38 persons or circumstances is not affected."



**NOT ADOPTED 03/01/2024**

1 On page 1, line 2 of the title, after "products;" strike the  
2 remainder of the title and insert "amending RCW 70A.230.020,  
3 70A.505.010, 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050,  
4 70A.505.060, 70A.505.070, 70A.505.100, 70A.505.110, 70A.505.120,  
5 70A.505.130, 70A.505.160, 82.04.660, and 70A.230.080; reenacting and  
6 amending RCW 43.21B.110; adding a new section to chapter 70A.505 RCW;  
7 adding a new section to chapter 70A.230 RCW; repealing RCW  
8 70A.505.090, 43.131.421, 43.131.422, 70A.230.150, 70A.505.010,  
9 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060,  
10 70A.505.070, 70A.505.080, 70A.505.090, 70A.505.100, 70A.505.110,  
11 70A.505.120, 70A.505.130, 70A.505.140, 70A.505.150, 70A.505.160,  
12 70A.505.900, and 70A.505.901; prescribing penalties; and providing  
13 effective dates."

EFFECT: (1) Increases the daily maximum quantity of pin-based compact or linear fluorescent lamps that may be provided to a collection site to 15 from 10.

(2) Conditions the department of ecology's (ecology) ability to amend the convenience standards for mercury-containing light (MCL) collection in certain cities and counties on the annual collection of fewer than 500 MCLs and where the amendment would not remove collection opportunities for people living in a rural county or an overburdened community.

(3) Requires ecology to report to the legislature on the status of the program and recommendations for changes on November 1, 2033, rather than November 1, 2029, and December 31, 2035.

(4) Clarifies that the state business and occupation tax exemption applies to stewardship organization receipts from charges to legacy producers in addition to participating producers.

(5) Provides that the program expires on January 1, 2035, or an earlier date determined by ecology based on a specified cost-benefit analysis rather than January 1, 2039, and requires ecology to conduct a cost-benefit analysis in calendar year 2031 rather than 2032 and 2036.

(6) Makes other technical corrections.

--- END ---