

**Chapter 70A.505 RCW**  
**MERCURY-CONTAINING LIGHTS—PROPER DISPOSAL**

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**Reviser's note—Sunset Act application:** The mercury-containing lights product stewardship program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.421. RCW 70.275.010 through 70.275.070 and 70.275.090 through 70.275.901 [70A.505.010 through 70A.505.070 and 70A.505.090 through 70A.505.901] are scheduled for future repeal under RCW 43.131.422.

**RCW 70A.505.010 Findings—Purpose.** The legislature finds that:

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

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

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

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

(5) Providers of premium collection services such as residential curbside and mail-back programs may charge a fee to cover the collection costs for these more convenient forms of collection. [2010 c 130 § 1. Formerly RCW 70.275.010.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.020 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

(3) "Covered entities" means:

(a) A household generator or other person who purchases mercury-containing lights at retail and delivers no more than ten mercury-containing lights to registered collectors for a product stewardship program on any given day; and

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

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

(5) "Environmental handling charge" or "charge" means the charge approved by the department to be applied to each mercury-containing light to be sold at retail in or into Washington state. The environmental handling charge must cover all administrative and operational costs associated with the product stewardship program, including the fee for the department's administration and enforcement.

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

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

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

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

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

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

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

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

(14) "Producer" means a person that:

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

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

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

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

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

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

(17) "Product stewardship program" or "program" means the methods, systems, and services financed in the manner provided for under RCW 70A.505.050 and provided by producers of mercury-containing lights generated by covered entities that addresses product

stewardship and includes arranging for the collection, transportation, recycling, processing, and final disposition of unwanted mercury-containing lights, including orphan products.

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

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

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

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

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

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

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

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

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

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

(26) "Unwanted product" means a mercury-containing light no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner. [2020 c 20 § 1414. Prior: 2014 c 119 § 2; prior: 2010 c 130 § 2. Formerly RCW 70.275.020.]

**Sunset Act application:** See note following chapter digest.

**Finding—2014 c 119:** "The legislature finds that additional flexibility is needed for mercury-containing light manufacturers to comply with the requirements of chapter 70.275 RCW in order to provide a sustainable funding mechanism and provide effective state protections to producer-operated product stewardship programs under chapter 70.275 RCW." [2014 c 119 § 1.]

**RCW 70A.505.030 Product stewardship program.** (1) Every producer of mercury-containing lights sold in or into Washington state for retail sale in Washington state must participate in a product stewardship program for those products, operated by a stewardship organization and financed in the manner provided by RCW 70A.505.050. Every such producer must inform the department of the producer's participation in a product stewardship program by including the producer's name in a plan submitted to the department by a stewardship organization as required by RCW 70A.505.040. Producers must satisfy

these participation obligations individually or may do so jointly with other producers.

(2) A stewardship organization operating a product stewardship program must pay all administrative and operational costs associated with its program with revenues received from the environmental handling charge described in RCW 70A.505.050. The stewardship organization's administrative and operational costs are not required to include a collection location's cost of receiving, accumulating and storing, and packaging mercury-containing lights. However, a stewardship organization may offer incentives or payments to collectors. The stewardship organization's administrative and operational costs do not include the collection costs associated with curbside and mail-back collection programs. The stewardship organization must arrange for collection service at locations described in subsection (4) of this section, which may include household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable private locations. No such entity is required to provide collection services at their location. For curbside and mail-back programs, a stewardship organization must pay the costs of transporting mercury-containing lights from accumulation points and for processing mercury-containing lights collected by curbside and mail-back programs. For collection locations, including household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable private locations, a stewardship organization must pay the costs of packaging and shipping materials as required under RCW 70A.505.070 or must compensate collectors for the costs of those materials, and must pay the costs of transportation and processing of mercury-containing lights collected from the collection locations.

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

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

(5) Product stewardship programs shall promote the safe handling and recycling of mercury-containing lights to the public, including producing and offering point-of-sale educational materials to retailers of mercury-containing lights and point-of-return educational materials to collection locations.

(6) All product stewardship programs operated under approved plans must recover their fair share of unwanted covered products as determined by the department.

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

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

(9) Product stewardship programs for mercury-containing lights must be fully implemented by January 1, 2015. [2020 c 20 § 1415; 2014 c 119 § 3; 2010 c 130 § 3. Formerly RCW 70.275.030.]

**Sunset Act application:** See note following chapter digest.

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

**RCW 70A.505.040 Submission of proposed product stewardship plans—Department to establish rules—Public review—Plan update—Annual report.**

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

(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 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;

(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. 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;

(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;

(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 and at the department's headquarters.

(4) At least two years from the start of the product stewardship program and once every four 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) 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 of the mercury-containing lights product stewardship program, including line item costs for:

(i) Program operations;

(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 an analysis of the percent of total sales of lights sold at retail to covered entities in Washington that mercury-containing lights constitute, the estimated number of mercury-containing lights in use by covered entities in the state, and the projected number of unwanted mercury-containing lights to be recycled in future years.

(7) 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 and at the department's headquarters. [2020 c 20 § 1416; 2017 c 254 § 2; 2014 c 119 § 4; 2010 c 130 § 4. Formerly RCW 70.275.040.]

**Sunset Act application:** See note following chapter digest.

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

**RCW 70A.505.050 Environmental handling charge—Annual fee. (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. 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, including the department's annual fee required by subsection (5) of this section, and a prudent reserve. 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 sixty 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:

(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. 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) Beginning March 1, 2015, and each year thereafter, each stewardship organization shall pay to the department an annual fee equivalent to three thousand dollars for each participating producer to cover the department's administrative and enforcement costs. The amount paid under this section must be deposited into the product stewardship programs account created in RCW 70A.505.120. [2020 c 20 § 1417; 2017 c 254 § 1; 2014 c 119 § 5; 2010 c 130 § 5. Formerly RCW 70.275.050.]

**Sunset Act application:** See note following chapter digest.



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

**RCW 70A.505.060 Collection and management of mercury.** (1) All mercury-containing lights collected in the state by product stewardship programs or other collection programs must be recycled and any process residuals must be managed in compliance with applicable laws.

(2) Mercury recovered from retorting must be recycled or placed in a properly permitted hazardous waste landfill, or placed in a properly permitted mercury repository. [2010 c 130 § 6. Formerly RCW 70.275.060.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.070 Collectors of unwanted mercury-containing lights —Duties.** (1) Except for persons involved in registered mail-back programs, a person who collects unwanted mercury-containing lights in the state, receives funding through a product stewardship program for mercury-containing lights, and who is not a generator of unwanted mercury-containing lights must:

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

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

(c) Maintain a worker safety plan at the collection location 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; and

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

(2) A person who operates a curbside collection program or owns or operates a mail-back business participating in a product stewardship program for mercury-containing lights and uses the United States postal service or a common carrier for transport must register with the department and use mercury vapor barrier packaging for curbside collection and mail-back containers. [2010 c 130 § 7. Formerly RCW 70.275.070.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.080 Requirement to recycle end-of-life mercury-containing lights. (Recodified as RCW 70A.230.150, effective July 1,**

**2026, subject to the contingency in 2014 c 119 § 10.)** Effective January 1, 2013:

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

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

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

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

(5) No solid waste collector may be found in violation of this section for mercury-containing lights placed in a disposal container by the generator of the mercury-containing light. [2010 c 130 § 8. Formerly RCW 70.275.080.]

**RCW 70A.505.090 Producers must participate in an approved product stewardship program.** As of January 1, 2013, no producer, wholesaler, retailer, electric utility, or other person may distribute, sell, or offer for sale mercury-containing lights for residential use to any person in this state unless the producer is participating in a product stewardship program under a plan approved by the department. [2010 c 130 § 9. Formerly RCW 70.275.090.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.100 Written warning—Penalty—Appeal.** (1) The department shall send a written warning and a copy of this chapter and any rules adopted to implement this chapter to a producer who is not participating in a product stewardship program approved by the department and whose mercury-containing lights are being sold in or into the state.

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

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

(4) The department shall send a written warning to a producer that fails to submit a product stewardship plan, update or change the plan when required, or submit an annual report as required under this chapter. The written warning must include compliance requirements and

notification that the requirements must be met within sixty days. If requirements are not met within sixty days, the producer will be assessed a ten thousand dollar penalty per day of noncompliance starting with the first day of notice of noncompliance.

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

(6) A producer may appeal penalties prescribed under this section to the pollution control hearings board created under chapter 43.21B RCW. [2010 c 130 § 10. Formerly RCW 70.275.100.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.110 Department's website to list producers participating in product stewardship plan—Required participation in a product stewardship plan—Written warning—Penalty—Rules—Exemptions.**

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

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

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

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

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

(6) The department shall adopt rules to implement this section.

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

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

(9) In-state distributors, wholesalers, and retailers in possession of mercury-containing lights on the date that restrictions on the sale of the product become effective may exhaust their existing stock through sales to the public. [2010 c 130 § 11. Formerly RCW 70.275.110.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.120 Product stewardship programs account—Refund of fees.** The product stewardship programs account is created in the custody of the state treasurer. All funds received from producers under this chapter and penalties collected under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. The department may not retain fees in excess of the estimated amount necessary to cover the agency's administrative costs over the coming year related to the mercury light stewardship program under this chapter. Beginning with the state fiscal year 2018, by October 1st after the closing of each state fiscal year, the department shall refund any fees collected in excess of its estimated administrative costs to any approved stewardship organization under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2017 c 254 § 3; 2010 c 130 § 13. Formerly RCW 70.275.130.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.130 Adoption of rules—Report to the legislature—Invitation to entities to comment on issues—Estimate of statewide recycling rate for mercury-containing lights—Mercury vapor barrier packaging.** (1) The department may adopt rules necessary to implement, administer, and enforce this chapter.

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

(3) By December 31, 2010, and annually thereafter until December 31, 2014, the department shall report to the appropriate committees of the legislature concerning the status of the product stewardship program and recommendations for changes to the provisions of this chapter.

(4) Beginning October 1, 2014, the department shall annually invite comments from local governments, communities, and citizens to report their satisfaction with services provided by product stewardship programs. This information must be used by the department to determine if the plan operator is meeting convenience requirements and in reviewing proposed updates or changes to product stewardship plans.

(5) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the impacts of the requirements of this chapter on the availability or purchase of energy efficient lighting within the

state. If the department determines that evidence shows the requirements of this chapter have resulted in negative impacts on the availability or purchase of energy efficient lighting in the state, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for changes to the provisions of this chapter.

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

(7) Beginning October 1, 2014, the department shall annually estimate the overall statewide recycling rate for mercury-containing lights and calculate that portion of the recycling rate attributable to the product stewardship program.

(8) The department may require submission of independent performance evaluations and report evaluations documenting the effectiveness of mercury vapor barrier packaging in preventing the escape of mercury into the environment. The department may restrict the use of packaging for which adequate documentation has not been provided. Restricted packaging may not be used in any product stewardship program required under this chapter. [2010 c 130 § 14. Formerly RCW 70.275.140.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.140 Application of chapter to the Washington utilities and transportation commission.** Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide such service itself or by contract under RCW 81.77.020. [2010 c 130 § 15. Formerly RCW 70.275.150.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.150 Application of chapter to entities regulated under chapter 70A.300 RCW.** Nothing in this chapter changes the requirements of any entity regulated under chapter 70A.300 RCW to comply with the requirements under that chapter. [2020 c 20 § 1418; 2010 c 130 § 16. Formerly RCW 70.275.160.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.160 Immunity from antitrust liability.** (1) It is the intent of the legislature that a producer, group of producers, stewardship organization preparing, submitting, and implementing a

mercury-containing light product stewardship program pursuant to this chapter, as well as participating entities in the distribution chain, including retailers and distributors, are granted immunity, individually and jointly, from federal and state antitrust liability that might otherwise apply to the activities reasonably necessary for implementation and compliance with this chapter. It is further the intent of the legislature that the activities of the producer, group of producers, stewardship organization, and entities in the distribution chain, including retailers and distributors, in implementing and complying with the provisions of this chapter may not be considered to be in restraint of trade, a conspiracy, or combination thereof, or any other unlawful activity in violation of any provisions of federal or state antitrust laws.

(2) The department shall actively supervise the conduct of the stewardship organization, the producers of mercury-containing lights, and entities in the distribution chain in determination and implementation of the environmental handling charge authorized by this chapter. [2014 c 119 § 6. Formerly RCW 70.275.170.]

**Sunset Act application:** See note following chapter digest.

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

**RCW 70A.505.900 Chapter liberally construed.** This chapter must be liberally construed to carry out its purposes and objectives. [2010 c 130 § 17. Formerly RCW 70.275.900.]

**Sunset Act application:** See note following chapter digest.

**RCW 70A.505.901 Severability—2010 c 130.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2010 c 130 § 21. Formerly RCW 70.275.901.]

**Sunset Act application:** See note following chapter digest.