
HOUSE BILL 1185

State of Washington

68th Legislature

2023 Regular Session

By Representatives Hackney and Duerr

Prefiled 01/06/23.

1 AN ACT Relating to reducing environmental impacts associated with
2 lighting products; amending RCW 70A.230.020, 70A.505.010,
3 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060,
4 70A.505.070, 70A.505.100, 70A.505.110, 70A.505.120, 70A.505.130,
5 70A.505.160, 82.04.660, 43.21B.110, and 70A.230.080; adding a new
6 section to chapter 70A.505 RCW; creating a new section; repealing RCW
7 70A.505.090, 43.131.421, 43.131.422, and 70A.230.150; prescribing
8 penalties; and providing effective dates.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2025 the
11 state's stewardship program for the end-of-life management of
12 mercury-containing lights is statutorily scheduled to undergo review,
13 termination, and possible extension under chapter 43.131 RCW, the
14 sunset act. If the mercury-containing lights product stewardship
15 program were allowed to sunset as scheduled, Washington residents
16 would lack a consistent, convenient, and safe way to return unwanted
17 mercury-containing lights, which will remain in use for years, even
18 as the lighting industry has moved away from mercury-containing
19 lights. Mercury-containing lights present such a significant health
20 risk that other states have recently restricted their sale, which
21 represents a solution to reduce the public health impacts of new

1 lighting products, but which does not address the end-of-life
2 management issues associated with the existing light bulbs currently
3 in use. Lights other than mercury-containing lights also contain
4 valuable and recyclable components whose end-of-life management would
5 improve as a result of their inclusion in the existing stewardship
6 program.

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

13 (3) Therefore, it is the intent of the legislature to:

14 (a) Restrict the sale of some mercury-containing lights;

15 (b) Include other types of lights in the state's stewardship
16 program; and

17 (c) Modernize key elements of the state's stewardship program for
18 lighting products.

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

21 (1) Effective January 1, ~~((2004))~~ 2026, a manufacturer,
22 wholesaler, or retailer may not knowingly sell at retail a
23 ~~((fluorescent lamp))~~ light, as defined in RCW 70A.505.020 if the
24 ~~((fluorescent lamp))~~ light contains mercury ~~((and was manufactured~~
25 ~~after November 30, 2003, unless the fluorescent lamp is labeled in~~
26 ~~accordance with the guidelines listed under subsection (2) of this~~
27 ~~section. Primary responsibility for affixing labels required under~~
28 ~~this section is on the manufacturer, and not on the wholesaler or~~
29 ~~retailer)).~~

30 ~~((Except as provided in subsection (3) of this section, a~~
31 ~~lamp is considered labeled pursuant to subsection (1) of this section~~
32 ~~if the lamp has all of the following:~~

33 ~~(a) A label affixed to the lamp that displays the internationally~~
34 ~~recognized symbol for the element mercury; and~~

35 ~~(b) A label on the lamp's packaging that: (i) Clearly informs the~~
36 ~~purchaser that mercury is present in the item; (ii) explains that the~~
37 ~~fluorescent lamp should be disposed of according to applicable~~
38 ~~federal, state, and local laws; and (iii) provides a toll-free~~

1 ~~telephone number, and a uniform resource locator internet address to~~
2 ~~a website, that contains information on applicable disposal laws.~~

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

6 ~~(4) The provisions of this section do not apply to products~~
7 ~~containing mercury-added lamps)) The provisions of subsection (1) of~~
8 ~~this section do not apply to:~~

9 (a) A special purpose mercury-containing light, as defined in RCW
10 70A.505.020;

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

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

14 (3) A violation of this section is punishable by a civil penalty
15 not to exceed \$1,000 for each violation in the case of a first
16 violation. Repeat violators are liable for a civil penalty not to
17 exceed \$5,000 for each repeat violation. Penalties collected under
18 this section must be deposited in the model toxics control operating
19 account created in RCW 70A.305.180. Penalties imposed under this
20 section are appealable to the pollution control hearings board
21 established in chapter 43.21B RCW.

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

24 NEW SECTION. Sec. 3. A new section is added to chapter 70A.505
25 RCW to read as follows:

26 (1) As of January 1, 2026, no producer, wholesaler, retailer,
27 electric utility, or other person may distribute, sell, or offer for
28 sale lights to any person in this state unless the producer is
29 participating in a product stewardship program under a plan approved
30 by the department.

31 (2) Subsection (1) of this section does not apply to mercury-
32 containing lights other than special purpose mercury-containing
33 lights. Mercury-containing lights other than special purpose mercury-
34 containing lights are subject to the provisions of RCW 70A.505.090
35 until December 31, 2025, after which they are instead subject to the
36 provisions of RCW 70A.230.020 beginning January 1, 2026.

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

1 The legislature finds that:

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

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

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

19 (b) The purpose of this act is to reduce exposure to mercury by
20 phasing out the sale of most mercury-containing lights, and by
21 transitioning the stewardship program established under this chapter
22 to one that is focused on the improved end-of-life management of all
23 types of lights;

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

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

30 **Sec. 5.** RCW 70A.505.020 and 2020 c 20 s 1414 are each amended to
31 read as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

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

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

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

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

10 (3) "Covered entities" means:

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

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

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

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

29 (~~6~~) "Final disposition" means the point beyond which no further
30 processing takes place and materials from (~~mercury-containing~~)
31 lights have been transformed for direct use as a feedstock in
32 producing new products, or disposed of or managed in permitted
33 facilities.

34 (~~7~~) (6) "Hazardous substances" or "hazardous materials" means
35 those substances or materials identified by rules adopted under
36 chapter 70A.300 RCW.

37 (~~8~~) (7) "Lights" includes:

38 (a) Lamps, bulbs, tubes, or other devices that provide functional
39 illumination in homes, businesses, and outdoor stationary fixtures;
40 and

1 (b) Special purpose mercury-containing lights.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (24) "Special purpose mercury-containing light" includes any of
9 the following lights that contain mercury:

10 (a) A lamp used for image capture and projection, including
11 photocopying, printing, either directly or in preprocessing,
12 lithography, film and video projection, and holography; or

13 (b) A lamp that has a high proportion of ultraviolet light
14 emission and is one of the following:

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

17 (ii) A lamp for germicidal use, such as the destruction of DNA,
18 that emits a peak radiation of approximately 253.7 nanometers;

19 (iii) A lamp used for disinfection or fly trapping from which
20 either the radiation power emitted between 250 and 315 nanometers
21 represents at least five percent of, or the radiation power emitted
22 between 315 and 400 nanometers represents at least 20 percent of, the
23 total radiation power emitted between 250 and 800 nanometers;

24 (iv) A lamp used for the generation of ozone where the primary
25 purpose is to emit radiation at approximately 185.1 nanometers;

26 (v) A lamp used for coral zooxanthellae symbiosis from which the
27 radiation power emitted between 400 and 480 nanometers represents at
28 least 40 percent of the total radiation power emitted between 250 and
29 800 nanometers; or

30 (vi) Any lamp used in a sunlamp product, defined as any
31 electronic product designed to incorporate one or more ultraviolet
32 lamps and intended for irradiation of any part of the living human
33 body, by ultraviolet radiation.

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

36 (~~(25)~~) (26) "Stewardship organization" means an organization
37 designated by a producer or group of producers to act as an agent on
38 behalf of each producer to operate a product stewardship program.

1 ~~((26))~~ (27) "Unwanted product" means a ~~((mercury-containing))~~
2 light no longer wanted by its owner or that has been abandoned,
3 discarded, or is intended to be discarded by its owner.

4 (28) "Urban cluster" has the same meaning as defined in RCW
5 70A.515.020.

6 (29) "Urbanized area" has the same meaning as in RCW 70A.515.020.

7 **Sec. 6.** RCW 70A.505.030 and 2020 c 20 s 1415 are each amended to
8 read as follows:

9 (1) Every producer of ~~((mercury-containing))~~ lights sold, made
10 available for sale, or distributed in or into Washington state for
11 ~~((retail-sale))~~ use in Washington state must participate in a product
12 stewardship program for those products, operated by a stewardship
13 organization and financed in the manner provided by RCW 70A.505.050.
14 Every such producer must inform the department of the producer's
15 participation in a product stewardship program by including the
16 producer's name in a plan submitted to the department by a
17 stewardship organization as required by RCW 70A.505.040. Producers
18 must satisfy these participation obligations individually or may do
19 so jointly with other producers.

20 (2) A stewardship organization operating a product stewardship
21 program must pay all administrative and operational costs associated
22 with its program with revenues received from ~~((the environmental~~
23 ~~handling charge described in RCW 70A.505.050. The stewardship~~
24 ~~organization's administrative and operational costs are not required~~
25 ~~to include a collection location's cost of receiving, accumulating~~
26 ~~and storing, and packaging mercury-containing lights. However, a))~~
27 participating producers. A stewardship organization may offer
28 incentives or payments to collectors. The stewardship organization's
29 administrative and operational costs do not include the collection
30 costs associated with curbside and mail-back collection programs. The
31 stewardship organization must arrange for collection service at
32 locations described in subsection (4) of this section, which may
33 include household hazardous waste facilities, charities, retailers,
34 government recycling sites, or other suitable private locations. No
35 such entity is required to provide collection services at their
36 location. For curbside and mail-back programs, a stewardship
37 organization must pay the costs of transporting ~~((mercury-~~
38 ~~containing))~~ lights from accumulation points and for processing
39 ~~((mercury-containing))~~ lights collected by curbside and mail-back

1 programs. For collection locations, including household hazardous
2 waste facilities, charities, retailers, government recycling sites,
3 or other suitable private locations, a stewardship organization must
4 pay the costs of packaging and shipping materials as required under
5 RCW 70A.505.070 or must compensate collectors for the costs of those
6 materials, and must pay the costs of transportation and processing of
7 (~~mercury-containing~~) lights collected from the collection
8 locations.

9 (3) Product stewardship programs shall collect unwanted
10 (~~mercury-containing~~) lights delivered from covered entities for
11 recycling, processing, or final disposition, and (~~not charge~~) are
12 prohibited from charging a fee when lights are sold at retail,
13 dropped off, or delivered into the program.

14 (4) (a) Product stewardship programs shall provide, at a minimum,
15 (~~no cost services in all cities in the state with populations~~
16 ~~greater than ten thousand and all counties of the state on an~~
17 ~~ongoing, year-round basis~~) statewide collection of unwanted lights
18 from covered entities in urban and rural areas of the state,
19 including island communities and geographically isolated areas.

20 (b) To ensure adequate collection coverage, the program must use
21 geographic information modeling to determine the number and
22 distribution of collection sites based on the following criteria: At
23 least 90 percent of Washington residents must have a permanent
24 collection site within a 15-mile radius; and unless otherwise
25 approved by the department, one additional permanent site must be
26 established for every 30,000 residents of an urbanized area and for
27 every urban cluster of at least 30,000 residents distributed to
28 provide convenient and reasonably equitable access for residents
29 within each.

30 (c) For the portion of the population that does not have a
31 permanent collection location within a 15-mile radius, the program
32 must provide residents a reasonable opportunity to drop off unwanted
33 lights at collection events. The stewardship organization, in
34 consultation with the department and the local community, must
35 determine a reasonable frequency and location of these collection
36 events, to be held in underserved areas.

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

1 to 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 as
5 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. All processing must occur at permitted facilities.

12 (9) (a) Product stewardship programs for mercury-containing lights
13 must be fully implemented by January 1, 2015.

14 (b) Product stewardship programs must begin collecting and
15 managing other lights not subject to the requirements of (a) of this
16 subsection by January 1, 2026.

17 **Sec. 7.** RCW 70A.505.040 and 2020 c 20 s 1416 are each amended to
18 read as follows:

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

24 (b) A stewardship organization that plans to implement a
25 stewardship plan for calendar year 2026 must submit a new or updated
26 plan by June 1, 2025. The new or updated plan under this subsection
27 (1)(b) must address the inclusion of lights other than mercury-
28 containing lights under the program and other changes required of
29 program operations by this act.

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

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

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

37 (c) The identity of collection, transportation, and processing
38 service providers, including a description of the consideration given
39 to existing residential curbside collection infrastructure and mail-

1 back systems as an appropriate collection mechanism and a list of all
2 collection sites to be used by the program;

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
12 of mercury-containing lights, waste prevention, and recycling. (~~The~~
13 ~~description must also include information to make consumers aware~~
14 ~~that an environmental handling charge has been added to the purchase~~
15 ~~price of mercury-containing lights sold at retail to fund the~~
16 ~~mercury-containing light stewardship programs in the state. The~~
17 ~~environmental handling charge may not be described as a department~~
18 ~~recycling fee or charge at the point of retail sale)) These efforts
19 must include the development:~~

20 (i) And maintenance of a website;

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

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

25 (iv) Of promotional materials about the program and the
26 restriction on the disposal of mercury-containing lights in RCW
27 70A.505.080 to be used by retailers, government agencies, and
28 nonprofit organizations;

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

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

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

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

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

10 (f) A description of the financing system required under RCW
11 70A.505.050;

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

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

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

22 (h) How management of materials other than mercury in lights
23 collected by the product stewardship program will prioritize the
24 recycling of materials as a first priority, to the greatest extent
25 practicable consistent with best environmental management and waste
26 reduction practices;

27 ~~((h))~~ (i) A public review and comment process; and

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

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

35 ~~((At least two years from the start of the product~~
36 ~~stewardship program and once every four))~~ No less often than three
37 years from the dates specified in subsection (1) of this section and
38 once every five years thereafter, each stewardship organization
39 operating a product stewardship program must update its product

1 stewardship plan and submit the updated plan to the department for
2 review and approval according to rules adopted by the department.

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

10 (a) ~~((The amount of the environmental handling charge assessed on
11 mercury-containing lights and the revenue generated;~~

12 ~~(b))~~) Identification of confidential information pursuant to RCW
13 43.21A.160 submitted in the annual report; and

14 ~~((c))~~) (b) The cost of the ~~((mercury-containing))~~ lights product
15 stewardship program, including line item costs for:

16 (i) Program operations;

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

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

23 (iv) Amount of unallocated reserve funds.

24 (6) Beginning in 2023 every stewardship organization must include
25 in its annual report ~~((a))~~):

26 (a) A list of all collection sites anticipated to be used by the
27 program in the upcoming year; and

28 (b) An analysis of the percent of total sales of lights sold at
29 retail to covered entities in Washington that mercury-containing
30 lights constitute, the estimated number of mercury-containing lights
31 in use by covered entities in the state, and the projected number of
32 unwanted mercury-containing lights to be recycled in future years.

33 (7) As a component of all new or updated plans under this chapter
34 submitted by a stewardship organization after June 1, 2025, the
35 stewardship organization must submit a contingency plan demonstrating
36 how the activities in the plan will continue to be carried out by
37 some other entity, such as an escrow company:

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

40 (b) Upon the expiration of an approved plan;

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

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

7 (e) In any other event that the stewardship organization can no
8 longer carry out plan implementation.

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

13 **Sec. 8.** RCW 70A.505.050 and 2020 c 20 s 1417 are each amended to
14 read as follows:

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

31 (a) The anticipated number of mercury-containing lights that will
32 be sold to covered entities in the state at retail during the
33 relevant period;

34 (b) The number of unwanted mercury-containing lights delivered
35 from covered entities expected to be recycled during the relevant
36 period;

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

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

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

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

12 ~~(3) No sooner than January 1, 2015:~~

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

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

31 ~~(4) At any time, a stewardship organization may submit to the~~
32 ~~department a recommendation for an adjusted environmental handling~~
33 ~~charge for the department's review, adjustment, if necessary, and~~
34 ~~approval under subsection (2) of this section to ensure that there is~~
35 ~~sufficient revenue to fund the cost of the program, current deficits,~~
36 ~~or projected needed reserves for the next year. The department must~~
37 ~~review the stewardship organization's recommended environmental~~
38 ~~handling charge and must adjust or approve the recommended charge~~
39 ~~within thirty days of submittal if the department determines that the~~

1 ~~charge is reasonably designed to meet the criteria described in~~
2 ~~subsection (1) of this section.~~

3 (5)) develop, and continually improve over the years of program
4 implementation, a system to collect charges from participating
5 producers to cover the costs of plan implementation in an
6 environmentally sound and socially just manner that encourages the
7 use of design attributes that reduce the environmental impacts of
8 lights, such as by:

9 (i) Encouraging the use of recycling content; and

10 (ii) Discourage the use of hazardous, toxic, or difficult-to-
11 recycle materials.

12 (b) The amendments to the method of financing the program
13 described in this act must be implemented by a stewardship
14 organization by January 1, 2026.

15 (2) Each stewardship organization is responsible for all costs of
16 participating covered light collection, transportation, processing,
17 education, administration, agency reimbursement, recycling, and end-
18 of-life management in accordance with environmentally sound
19 management practices.

20 (3) (a) A stewardship organization must reimburse local
21 governments for demonstrable costs incurred as a result of a local
22 government facility or solid waste handling facility serving as a
23 collection location for a program including, but not limited to,
24 associated labor costs and other costs associated with accessibility
25 and collection site standards, such as storage.

26 (b) A stewardship organization must include in its plan, and
27 provide upon request, a template of the service agreement and any
28 other forms, contracts, or other documents for use in distribution of
29 reimbursements. The service agreement template must be developed with
30 local government input. The entities seeking or receiving
31 reimbursement from the stewardship organization are not required to
32 use the template agreement included in the program plan and are not
33 limited to the terms of the template agreement included in the
34 program plan.

35 (4) Beginning March 1, ((2015)) 2024, and each year thereafter,
36 each stewardship organization shall pay to the department an annual
37 fee ((equivalent to three thousand dollars for each participating
38 producer)) to cover the department's administrative and enforcement
39 costs. The amount paid under this section must be deposited into the

1 light product stewardship programs account created in RCW
2 70A.505.120.

3 **Sec. 9.** RCW 70A.505.060 and 2010 c 130 s 6 are each amended to
4 read as follows:

5 (1) All (~~mercury-containing~~) lights collected in the state by
6 product stewardship programs or other collection programs must be
7 recycled and any process residuals must be managed in compliance with
8 applicable laws.

9 (2) Mercury recovered from retorting and other hazardous
10 materials must be recycled or placed in a properly permitted
11 hazardous waste landfill, or placed in a properly permitted mercury
12 repository.

13 **Sec. 10.** RCW 70A.505.070 and 2010 c 130 s 7 are each amended to
14 read as follows:

15 (1) Except for persons involved in registered mail-back programs,
16 a person who collects unwanted (~~mercury-containing~~) lights in the
17 state, receives funding through a product stewardship program for
18 (~~mercury-containing~~) lights, and who is not a generator of unwanted
19 (~~mercury-containing~~) lights must(~~:~~

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

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

32 ~~(c) Maintain a worker safety plan at the collection location that~~
33 ~~describes the handling of the unwanted mercury-containing lights at~~
34 ~~the collection location and measures that will be taken to protect~~
35 ~~worker health and safety; and~~

36 ~~(d) Use))~~ use packaging and shipping material for mercury-
37 containing lights that will minimize the release of mercury into the
38 environment and minimize breakage and use mercury vapor barrier

1 packaging if mercury-containing lights are transported by the United
2 States postal service or a common carrier.

3 (2) A person who operates a curbside collection program or owns
4 or operates a mail-back business participating in a product
5 stewardship program for (~~mercury-containing~~) lights and uses the
6 United States postal service or a common carrier for transport of
7 mercury-containing lights must register with the department and use
8 mercury vapor barrier packaging for curbside collection and mail-back
9 containers.

10 **Sec. 11.** RCW 70A.505.100 and 2010 c 130 s 10 are each amended to
11 read as follows:

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

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

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

30 ~~(4) The department shall send a written warning to a producer~~
31 ~~that fails to submit a product stewardship plan, update or change the~~
32 ~~plan when required, or submit an annual report as required under this~~
33 ~~chapter. The written warning must include compliance requirements and~~
34 ~~notification that the requirements must be met within sixty days. If~~
35 ~~requirements are not met within sixty days, the producer will be~~
36 ~~assessed a ten thousand dollar penalty per day of noncompliance~~
37 ~~starting with the first day of notice of noncompliance.~~

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

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

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

13 (c) Whenever on the basis of any information the department
14 determines that a person has violated or is in violation of this
15 chapter, the department may issue an order requiring compliance. A
16 person who fails to take corrective action as specified in a
17 compliance order is liable for a civil penalty as provided in (b) of
18 this subsection, without receiving a written warning prescribed in
19 (e) of this subsection.

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

23 (e) Prior to imposing penalties under this section, the
24 department must provide a producer, retailer, or battery stewardship
25 organization with a written warning for the first violation by the
26 producer, retailer, or battery stewardship organization of the
27 requirements of this chapter. The written warning must inform a
28 producer, retailer, or battery stewardship organization that it must
29 participate in an approved plan or otherwise come into compliance
30 with the requirements of this chapter within 30 days of the notice. A
31 producer, retailer, or battery stewardship organization that violates
32 a provision of this chapter after the initial written warning may be
33 assessed a penalty as provided in this subsection.

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

38 (i) Issue corrective action orders to a producer or stewardship
39 organization;

1 (ii) Issue orders to a stewardship organization to provide for
2 the continued implementation of the program in the absence of an
3 approved plan;

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

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

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

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

15 **Sec. 12.** RCW 70A.505.110 and 2010 c 130 s 11 are each amended to
16 read as follows:

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

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

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

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

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

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

1 (ii) Make a determination as to whether or not to approve a plan,
2 plan update, or plan revision and notify the stewardship organization
3 of the:

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

6 (B) Reasons for not approving a plan. The stewardship
7 organization must submit a new or revised plan within 60 days after
8 receipt of the letter of disapproval. In the event that a new or
9 revised plan submitted by a stewardship organization does not
10 sufficiently meet the requirements of this chapter, including any
11 deficiencies identified in the initial letter of disapproval, the
12 department may:

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

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

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

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

31 ~~(6))~~ The department shall adopt rules to implement this
32 ~~((section))~~ chapter.

33 ~~((7))~~ (6) A sale or purchase of ~~((mercury-containing))~~ lights
34 as a casual or isolated sale as defined in RCW 82.04.040 is not
35 subject to the provisions of this section.

36 ~~((8))~~ (7) A person primarily engaged in the business of reuse
37 and resale of ~~((a))~~ used ~~((mercury-containing))~~ lights is not subject
38 to the provisions of this section when selling used working
39 ~~((mercury-containing))~~ lights, for use in the same manner and purpose
40 for which ~~((it was))~~ the lights were originally purchased.

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

5 **Sec. 13.** RCW 70A.505.120 and 2017 c 254 s 3 are each amended to
6 read as follows:

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

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

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

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

30 (3) By (~~(December 31, 2010))~~) November 1, 2028, and annually
31 thereafter until December 31, 2014, the department shall report to
32 the appropriate committees of the legislature concerning the status
33 of the product stewardship program and recommendations for changes to
34 the provisions of this chapter.

35 (4) (~~(Beginning October 1, 2014, the))~~) The department shall
36 annually invite comments from local governments, communities, and
37 (~~(citizens))~~) residents to report their satisfaction with services
38 provided by product stewardship programs created under this chapter.

1 This information (~~must~~) may be used by the department to determine
2 if the plan operator is meeting convenience requirements and in
3 reviewing proposed updates or changes to product stewardship plans.

4 ~~(5) (Beginning October 1, 2014, the department shall annually~~
5 ~~invite comments from retailers, consumer groups, electric utilities,~~
6 ~~the Northwest power and conservation council, and other interested~~
7 ~~parties regarding the impacts of the requirements of this chapter on~~
8 ~~the availability or purchase of energy efficient lighting within the~~
9 ~~state. If the department determines that evidence shows the~~
10 ~~requirements of this chapter have resulted in negative impacts on the~~
11 ~~availability or purchase of energy efficient lighting in the state,~~
12 ~~the department shall report this information by December 31st of each~~
13 ~~year to the appropriate committees of the legislature with~~
14 ~~recommendations for changes to the provisions of this chapter.~~

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

26 ~~(7))~~ Beginning October 1, 2014, the department shall annually
27 estimate the overall statewide recycling rate for mercury-containing
28 lights and, beginning October 1, 2026, for other lights covered by
29 the requirements of this chapter and calculate that portion of the
30 recycling rate attributable to the product stewardship program. The
31 department may require a stewardship organization to submit data as
32 needed for the department to make the estimations required by this
33 subsection.

34 ~~((8))~~ (6) The department may require submission of independent
35 performance evaluations and report evaluations documenting the
36 effectiveness of mercury vapor barrier packaging in preventing the
37 escape of mercury into the environment. The department may restrict
38 the use of packaging for which adequate documentation has not been
39 provided. Restricted packaging may not be used in any product
40 stewardship program required under this chapter.

1 **Sec. 15.** RCW 70A.505.160 and 2014 c 119 s 6 are each amended to
2 read as follows:

3 (1) It is the intent of the legislature that a producer, group of
4 producers, stewardship organization preparing, submitting, and
5 implementing a (~~mercury-containing~~) light product stewardship
6 program pursuant to this chapter, as well as participating entities
7 in the distribution chain, including retailers and distributors, are
8 granted immunity, individually and jointly, from federal and state
9 antitrust liability that might otherwise apply to the activities
10 reasonably necessary for implementation and compliance with this
11 chapter. It is further the intent of the legislature that the
12 activities of the producer, group of producers, stewardship
13 organization, and entities in the distribution chain, including
14 retailers and distributors, in implementing and complying with the
15 provisions of this chapter may not be considered to be in restraint
16 of trade, a conspiracy, or combination thereof, or any other unlawful
17 activity in violation of any provisions of federal or state antitrust
18 laws.

19 (2) The department shall actively supervise the conduct of the
20 stewardship organization, the producers of (~~mercury-containing~~)
21 lights, and entities in the distribution chain (~~in determination and~~
22 ~~implementation of the environmental handling charge authorized by~~
23 ~~this chapter~~)).

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

26 (1) (~~An exemption from the taxes imposed in this chapter is~~
27 ~~provided for:~~

28 ~~(a) Producers, with respect to environmental handling charges~~
29 ~~added to the purchase price of mercury-containing lights either by~~
30 ~~the producer or a retailer pursuant to an agreement with the~~
31 ~~producer;~~

32 ~~(b) Retailers, with respect to environmental handling charges~~
33 ~~added to the purchase price of mercury-containing lights sold at~~
34 ~~retail, including the portion of environmental handling charges~~
35 ~~retained as reimbursement for any costs associated with the~~
36 ~~collection and remittance of the charges; and~~

37 ~~(c) Stewardship organizations, with respect to environmental~~
38 ~~handling charges received from producers and retailers)) This chapter~~
39 ~~does not apply to the receipts of a stewardship organization formed~~

1 under chapter 70A.505 RCW from charges to participating producers
2 under a stewardship program as provided in RCW 70A.505.050.

3 (2) This section is not subject to the requirements of RCW
4 82.32.805 and 82.32.808.

5 (3) For purposes of this section, the definitions in RCW
6 70A.505.020 apply.

7 **Sec. 17.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to
8 read as follows:

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

16 (a) Civil penalties imposed pursuant to RCW 18.104.155,
17 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.505.100,
18 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050,
19 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 76.09.170,
20 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
21 90.56.310, 90.56.330, and 90.64.102.

22 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
23 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
24 70A.245.020, 70A.65.200, 70A.505.100, 86.16.020, 88.46.070,
25 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

36 (e) Decisions of local health departments regarding the issuance
37 and enforcement of permits to use or dispose of biosolids under RCW
38 70A.226.090.

1 (f) Decisions of the department regarding waste-derived
2 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
3 decisions of the department regarding waste-derived soil amendments
4 under RCW 70A.205.145.

5 (g) Decisions of local conservation districts related to the
6 denial of approval or denial of certification of a dairy nutrient
7 management plan; conditions contained in a plan; application of any
8 dairy nutrient management practices, standards, methods, and
9 technologies to a particular dairy farm; and failure to adhere to the
10 plan review and approval timelines in RCW 90.64.026.

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

14 (i) Decisions of the department of natural resources, the
15 department of fish and wildlife, and the department that are
16 reviewable under chapter 76.09 RCW, and the department of natural
17 resources' appeals of county, city, or town objections under RCW
18 76.09.050(7).

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

21 (k) Decisions of the department of fish and wildlife to issue,
22 deny, condition, or modify a hydraulic project approval permit under
23 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
24 comply, to issue a civil penalty, or to issue a notice of intent to
25 disapprove applications.

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

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

32 (n) Decisions of the department of ecology that are appealable
33 under RCW 70A.245.020 to set recycled minimum postconsumer content
34 for covered products or to temporarily exclude types of covered
35 products in plastic containers from minimum postconsumer recycled
36 content requirements.

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

38 (2) The following hearings shall not be conducted by the hearings
39 board:

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

3 (b) Hearings conducted by the department pursuant to RCW
4 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
5 70A.15.3110, and 90.44.180.

6 (c) Appeals of decisions by the department under RCW 90.03.110
7 and 90.44.220.

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

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

13 **Sec. 18.** RCW 70A.230.080 and 2020 c 20 s 1245 are each amended
14 to read as follows:

15 A violation of this chapter, other than a violation of RCW
16 70A.230.020, is punishable by a civil penalty not to exceed (~~one~~
17 ~~thousand dollars~~) \$1,000 for each violation in the case of a first
18 violation. Repeat violators are liable for a civil penalty not to
19 exceed (~~five thousand dollars~~) \$5,000 for each repeat violation.
20 Penalties collected under this section must be deposited in the model
21 toxics control operating account created in RCW 70A.305.180.

22 NEW SECTION. **Sec. 19.** Sections 2, 16, and 18 of this act take
23 effect January 1, 2026.

24 NEW SECTION. **Sec. 20.** Effective January 1, 2026,
25 RCW 70A.505.090 (Producers must participate in an approved product
26 stewardship program) and 2010 c 130 s 9 are each repealed.

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

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

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

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

1 NEW SECTION. **Sec. 22.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- **END** ---