

WAC 173-910-230 Producer violation notices and penalties.

**Table 200
Producer Violation Notices and Penalties**

Notice	Participation Violation <i>Failure to participate in an approved plan</i>	Implementation Violation <i>Failure to implement an approved plan</i>	Plan/Report Violation <i>Failure to submit plan, update plan, change plan or submit annual report</i>
First Violation Notice	Warning letter to participate within 60 days	Automatic penalty of up to \$5,000, plus warning letter regarding subsequent penalties	Warning letter to comply within 60 days
Second Violation Notice	Penalty of up to \$1,000 per day starting 60 days after receipt of warning letter	Penalty of up to \$10,000 for each 30 days of noncompliance starting 30 days after receipt of warning letter	Penalty of up to \$10,000 per day starting 60 days after receipt of warning letter
If Compliance is Achieved Within 30 Days of Second Violation Notice	Penalty reduced by 50% if compliance is achieved by day 90	Penalty reduced by 50% if compliance is achieved by day 30	Penalty reduced by 50% if compliance is achieved by day 90
Third Violation and Subsequent Notices	Penalty of up to \$1,000 per day for every day of noncompliance to be issued every 60 days	Penalty of up to \$10,000 for every 30 days of noncompliance to be issued every 30 days	Penalty of up to \$10,000 per day for every 30 days of noncompliance to be issued every 30 days

(1) **Participation penalties** apply to producers not participating in an approved product stewardship plan.

(a) Producers selling mercury-containing lights in or into the state for sale at retail that are not participating in an approved product stewardship plan will receive a warning letter, or first violation notice, to participate in an approved plan within sixty days or incur penalties. The warning letter will include compliance requirements and notification that the requirements must be met within sixty days.

(b) Producers not participating in an approved product stewardship plan that continue to sell mercury-containing lights in or into the state for sale at retail sixty days after receiving the warning letter will receive a penalty, or second violation notice, of up to one thousand dollars for each violation; a violation is one day of noncompliance.

(c) Penalties will be reduced by fifty percent if the producer meets the compliance requirements within thirty days of the second violation notice.

(d) Producers that continue to not participate in an approved product stewardship plan will receive penalties of up to one thousand dollars per day of noncompliance starting from the date of the second violation notice. This penalty will be issued after each subsequent period of sixty days of noncompliance.

(2) **Implementation penalties** apply to producers that fail to implement their approved product stewardship plan.

(a) Producers not implementing an approved product stewardship plan will receive a penalty for the first violation of up to five thousand dollars, plus a warning letter to implement its approved plan within thirty days or incur additional penalties. The warning letter will include compliance requirements and notification that the requirements must be met within thirty days.

(b) Producers that fail to implement their product stewardship plan will receive a penalty, or second violation notice, of up to ten thousand dollars for the thirty days of noncompliance.

(c) Penalties will be reduced by fifty percent if the producer meets the compliance requirements within thirty days of the second violation notice.

(d) Producers that continue to fail to implement their product stewardship plan will receive penalties of up to ten thousand dollars for each subsequent thirty days of noncompliance.

(3) **Plan/report penalties** apply to producers that fail to submit a product stewardship plan, plan update, or change the plan when required, or fail to submit an annual report.

(a) Producers not submitting the plan, plan update, or annual report will receive a warning letter, or first violation notice, to submit the plan or report within sixty days or incur penalties. The warning letter will include compliance requirements and notification that the requirements must be met within sixty days.

(b) Producers that fail to submit the plan, plan update, or annual report will receive a penalty, or second violation notice, of up to ten thousand dollars for each violation; a violation is one day of noncompliance starting with the first day of notice of noncompliance.

(c) Penalties will be reduced by fifty percent if the producer meets the compliance requirements within thirty days of the second violation notice.

(d) Producers that continue to fail to submit the plan, plan update, or annual report will receive penalties of up to ten thousand dollars per day issued after each subsequent period of thirty days of noncompliance.

(4) The department will deposit all penalties collected under this section into the mercury-containing lights recycling account created under chapter 70.275 RCW.

(5) To correct a violation the producer must:

(a) Meet the compliance requirements in the warning or penalty letter from the department; and

(b) Pay any penalties due to the department.

(6) Penalties applied to the stewardship organization in WAC 173-910-340 for the same violation will not be applied to producers.

(7) Penalties may be appealed to the pollution control hearings board, pursuant to chapter 43.21B RCW.

[Statutory Authority: RCW 70.275.040, 70.275.110, 70.275.140. WSR 16-17-146 (Order 15-04), § 173-910-230, filed 8/24/16, effective 9/24/16. Statutory Authority: Chapter 70.275 RCW. WSR 12-23-049 (Order 11-09), § 173-910-230, filed 11/16/12, effective 12/17/12.]