Summary of Impacts of SB 5658
National Electrical Manufacturer Association's (NEMA) Proposed Changes to WA Mercury-Containing Lights Recycling Law
Analysis from the Local Hazardous Waste Management Program in King County, Feb. 11, 2013.

SB 5658 strikes the Legislature's determination in 2010 that lighting manufacturers are responsible for recycling their toxic mercury product and should include this cost in their product price. Removes responsibilities from manufacturers and does not provide solutions for how a statewide recycling program will be adequately financed. This puts other stakeholders - including the state, local governments, utilities, and retailers - on the hook for the costs of proper handling of toxic mercury in fluorescent lamps.

- Strikes the law's requirement that "<u>every producer of mercury-containing lights</u> sold in or into Washington state for residential use <u>must fully finance and participate in a product stewardship program</u>…"(70.275.030). Strikes language in multiple sections throughout the statute that hold lighting producers responsible for financing and providing a statewide mercury lamps recycling program. Deletes all definitions related to product stewardship.
- Underfunds the recycling program by limiting responsibilities of lighting producers. Producers' fees to the state will provide less than 1/3 of the projected costs of a sufficient statewide program - less than $290,000 towards a projected $1.1 million cost.
- Increases state agency overhead costs by shifting responsibility for providing the recycling program from lighting producers and stewardship organization(s) to WA Ecology.
- Increases costs to schools, small businesses, and non-profits by striking provision in law that allows access to the fluorescent lamp recycling program by small quantity generators of burned out lamps.
- Strikes large portions of the statute including requirements that lighting producers fund other critical parts of the recycling program, including collection costs and consumer education.
- Delays producers' financial responsibilities until 2014 and terminates producers' responsibility in 2025 while mercury lights will still be on the market and in use in people's homes.
- Strikes requirements that collected mercury lamps must be packaged properly to prevent release of toxic mercury when collected in mail-back or curbside collection programs.

SB 5658 is a different approach than HB 1444; however both bills from the manufacturer's association would remove and reduce the responsibilities of lighting producers for providing an adequate statewide recycling program. Either approach will leave the state's mercury light recycling program underfunded.

Detailed analysis of HB 5658's proposed changes to 70.275 Mercury- Containing Lights Recycling Law

<u>**Section 1: changes/deletions in definitions section:**</u>

- **"covered entities" is limited to single-family or multi-family households.** Deletes provision allowing access to the program for anyone delivering no more than 15 mercury lamps in a 90 day period.
    - *Impact:* **prevents schools, small businesses, and non-profits who have small numbers of spent lamps from using recycling program**. These entities are still required to recycle their mercury lights, but now at their own cost.
- **Deletes definitions of "product stewardship", "product stewardship plan", "product stewardship program", and "product stewardship organization" entirely.** Deletes use of "product stewardship" in 2 other definitions.

<u>**Section 2: adds new section defining fees lighting producers pay to the state; payments stop in 2025.**</u>

- Each producer pays a "registration fee" up to $10,000 annually until Dec. 31, 2025 to Ecology to reimburse documented costs of recycling and transportation of Hg lights from residents.

- Each producer pays an "administration fee" up to $5,000 annually until Dec.31, 2025 to Ecology for administration and enforcement costs.
    - *Impact:* **statewide recycling program is significantly underfunded and lighting producers are not required to provide full financing.** Likely revenues from 29 producers are less than $290,000 annually when WA's approved stewardship plan projects need for $1.1 to $1.2 million annually.
    - *Impact:* producer fees are designated only for transportation, recycling, administration, and enforcement. **Provisions in the statute requiring producers to pay for collection costs and consumer education are struck.**
    - *Impact:* **Increases Ecology's overhead costs** by requiring the state to reimburse "documented costs" of mercury light recycling.
    - *Impact:* Producer payments will not start until 2014 (per Section 5) and will stop in 2025 resulting in **premature termination of any producer financing for recycling** while mercury lights are still for sale in stores, and still in use in resident's homes.
        - Mercury lamps sold today have long lifetimes and spent mercury bulbs will be generated by WA residents for far longer than 10 years. Average lifespan of a CFL today is 10,000 hours = 15 year lifespan at average use of 700 hours per year (2010 U.S. DOE projection). Extra long life fluorescent tubes last 30, 000 to 40,000 hours according to manufacturers, such as Phillips. The lighting market is transitioning from CFLs and fluorescent tubes to LEDs and other technologies, however mercury lamps will be a significant part of the market for many more years. In 2020, LEDs are projected to have achieved 59% market share.

<u>Section 3: Changes to 70.275.060</u> language on "product stewardship programs" is deleted in statute's requirement that all mercury lamps in the state must be recycled.

<u>Section 4: Changes to 70.275.070 on Collector Duties</u>

- Removes reference to collectors receiving funding from "product stewardship program" in the statute's section on Collectors and substitutes "from the department".
- **Removes requirement that operators of curbside recycling programs or mail-back programs must use mercury vapor barrier packaging to prevent release of toxic mercury from broken lamps.**
- Removes requirement that mail-back program operators must register with state as collectors.

<u>Section 5 & 6: Changes to 70.275.090 on Producer Participation Requirements & 70.275.100 on Enforcement</u>

- **Delays requirement that lighting producers comply with the law by one year to 2014.**
- Removes requirement that all lighting producers must participate in an approved product stewardship program and replaces that language with requirement that producers pay fees to state per Section 2.
- Removes language on product stewardship programs.
- Removes penalties on producers for failure to submit a product stewardship plan.

<u>Section 7: Changes to 70.275.110 on Enforcement & Retailer Responsibilities</u>

- Removes language on product stewardship plans and programs.
- Retailers selling mercury lamps may post a defined notice on presence of mercury in lamps and need for proper recycling.

<u>Section 8: Changes to 70.275.140 on Ecology Rule-making</u>

- Authorizes Ecology to scale the producer fees defined in Section 2 based on each producer's estimated sales of mercury lamps in Washington, through rule-making.
- **Strikes provisions authorizing Ecology to:**
    - **adopt recycling performance standards,**
    - **provide reports on mercury lamp recycling programs to the Legislature,**

- **solicit public comments on mercury lamp recycling from stakeholders, including citizens, local governments, and community members, and**
- **prohibit use of packaging materials for mercury lamps that have not been demonstrated to contain mercury vapor.**

Section 9: repeals 5 sections of the statute entirely to remove requirements that lighting producers are responsible for financing the statewide mercury lights recycling program.

- Deletes 70.275.030 which requires every lighting producer to fully finance and participate in a product stewardship program. This section also defines responsibilities of product stewardship programs for paying for all costs of collection, transportation and recycling throughout the entire state.
- Deletes 70.275.040 which requires producers to submit product stewardship plans.
- Deletes 70.275.050 which states that producers are responsible for financing the mercury-containing light recycling program under the chapter.
- Deletes 70.275.120 which requires producers to pay annual fees to Ecology for the costs of administration and enforcement.
- Deletes 70.275.130 which establishes a "product stewardship programs account" for the state. Section 2 establishes a "mercury-containing light recycling account" instead.

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