

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3058/P2ins
RCT.....

l b j k

Insert 2-12

4 (dm) A digital video player that does not use a disc and that is not a camera, as defined in s. 287.17 (1) (a).

Insert 2-13

4 (em) A video recorder that does not use a cassette and that is not a camera, as defined in s. 287.17 (1) (a).

Insert 2-20

4 (a) "Camera" means a device that records images and that is designed to be hand-held.

Insert 3-19

4 4m. A digital video player that does not use a disc and that is not a camera.

Insert 3-20

4 5m. A video recorder that does not use a cassette and that is not a camera.

Insert 3-21

4 7. Another kind of electronic device identified by the department under sub. (10) (i).

Insert 4-3

4 (gm) "Electronic device" means a device that requires electric current or electromagnetic fields to function and that contains a circuit board.

Insert 4-9

4 3. Licenses the person's brand for manufacture and sale of video display devices by others.

Insert 4-12



Insert 4-12

(j)

(im) "Program quarter" means a 3-month period ending on March 31, June 30, September 30, or December 31.

Insert 4-24

(nm) "Rural county" means a county that is not an urban county.

Insert 5-4

(pm) "Urban county" means Brown County, Calumet County, Dane County, Eau Claire County, Fond du Lac County, Jefferson County, Kenosha County, Manitowoc County, Milwaukee County, Outagamie County, Ozaukee County, Racine County, Rock County, Sheboygan County, Walworth County, Washington County, Waukesha County, or Winnebago County.

Insert 9-19

(f) *Weight recycled.* The weight of covered electronic devices recycled by or on behalf of a manufacturer for a program year is the weight reported under sub. (5) (b) for that program year, except that if the manufacturer reports separately the weight of covered electronic devices collected from households in rural counties and from households in urban counties for a program year, the weight is determined by adding the weight collected from households in urban counties in that program year and 1.5 times the weight collected from households in rural counties in that program year.

→ *

Insert 9-21

December 1, March 1, June 1, and September 1

Insert 10-8

December 1, March 1, June 1, and September 1

Insert 10-11

A manufacturer may report separately the weight of covered electronic devices collected from households in rural counties and from households in urban counties

for the purpose of obtaining the weight adjustment under sub. (4) (f) for covered electronic devices collected from households in rural counties.

Insert 11-13

No 4 November 1, February 1, May 1, and August 1

Insert 12-3

No 4 November 1, February 1, May 1, and August 1

Insert 12-9

4 3. A recycler may not export covered electronic devices to any country that is not a member of the Organization for Economic Cooperation and Development except for covered electronic devices that are in working order and destined for direct reuse.

Insert 12-20

* 4 5. Do not export covered electronic devices to any country that is not a member of the Organization for Economic Cooperation and Development except for covered electronic devices are in working order and destined for direct reuse.

Insert 13-1

that

November 1, February 1, May 1, and August 1

Insert 14-12

4 d. The multiplier for the weight of covered electronic devices collected from households in rural counties under sub. (4) (f).

Insert 15-24

4 (i) *Additional covered electronic devices.* The department may promulgate a rule specifying that a kind of electronic device not listed in sub. (1) (f) is a covered electronic device.

9 (j) *Audits*. The department may perform or contract for the performance of an audit of the activities of a collector or recycler. If the department performs or contracts for the performance an audit of a collector or recycler during the first 3 years in which the collector or recycler is registered under sub. (7) or (8), the collector or recycler shall pay 25 percent of the cost of the audit. If the department performs or contracts for the performance of an audit of a collector or recycler after the first 3 years in which the collector or recycler is registered, the collector or recycler shall pay 50 percent of the cost of the audit.

Insert 16-13

SECTION 4. Nonstatutory provisions.

(1) PERMANENT POSITION AUTHORIZATION. The authorized FTE positions for the department of natural resources are increased by 2.0 SEG positions, to be funded from the appropriation under section 20.370 (2) (hr) of the statutes, as created by this act, to administer the electronic waste recycling program.

(2) PROJECT POSITION AUTHORIZATION. The authorized FTE positions for the department of natural resources are increased by 2.0 SEG 2-year project positions, to be funded from the appropriation under section 20.370 (2) (hr) of the statutes, for start up of the electronic waste recycling program.

end of inserts

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3058/P2dn

RCT:.....

Lbjk

Date

Senator Miller:

I decided to do another preliminary version of the electronic waste draft to allow time for review of the changes that I have made so far, while I work on the rest of the requested changes and write an analysis. The draft does not yet provide the option for a quarterly payment by manufacturers.

Under the /P1 draft, reporting is required each year for the last program year. The first annual report would provide information for the program year beginning on July 1, 2008. The first annual report for manufacturers would be due September 1, 2009. To have quarterly reporting that provides information beginning on July 1, 2008, the reporting must begin earlier. Thus, for manufacturers, for example, the first report must be due on December 1, 2008. I made the necessary changes in the draft.

Because of the way the new appropriation is drafted, no change needed to be made to the draft to allow DNR to expend the funds collected under the draft to administer the program. I did not realize until doing this redraft, but because s. 287.17 is in subchapter II of chapter 287, DNR may use funds appropriated under an existing recycling fund appropriation, s. 20.370 (2) (hq), for the administration of the program. However, if you wish to provide DNR with additional funds for that purpose, I will need to know how much to increase that appropriation.

* Position authorizations must specify an appropriation as the source of funding. The draft authorizes two positions for DNR from the new appropriations, but, of course, DNR will not be able to fill those positions until it receives fees. To give DNR the ability to have positions before sufficient fees are collected, I included two project (temporary) positions funded from the existing recycling fund appropriation. Provisions authorizing project positions must specify a term of years or an end date. This draft provides two-year project positions.

I made the requested change relating to small manufacturers. However, I wonder whether what is intended is that the manufacturer itself sells fewer than 100 devices in this state (which is what the requested language provides) or whether fewer than 100 of the manufacturer's devices are sold in this state, without regard to who sells them.

The redraft instructions indicated that recyclers and collectors must certify that they meet the financial responsibility requirements of NR 666.910. The first version of this

draft required recyclers to certify that they comply with applicable financial responsibility requirements, among other applicable requirements (see proposed s. 287.17 (8) (d) 1.). I added language requiring collectors to comply with applicable financial responsibility requirements. We try to avoid including cross-references to specific administrative rules in the statutes for several reasons, including that there is no mechanism for correcting the references in the statute when agencies restructure their rules. ✓

Please let me know if you have questions or want changes in the draft. ✓

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3058/P2dn
RCT:bjk:jf

November 30, 2007

Senator Miller:

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Please let me know if you have questions or want changes in the draft.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Miller, Mark
Sent: Tuesday, November 27, 2007 3:07 PM
To: Tradewell, Becky
Cc: Anderson, John
Subject: RE: E-Waste, changes to preliminary draft

Ms Tradewell,
The urban counties under the bill are:
Brown
Calumet
Dane
Eau Claire
Fond du Lac
Jefferson
Kenosha
Manitowoc
Milwaukee
Outagamie
Ozaukee
Racine
Rock
Sheboygan
Walworth
Washington
Waukesha
Winnebago

This is more than the original instructions below, but the break in population density is much more significant below 139 per square mile than below 150 per square mile.

Recyclers and collectors must certify that they meet the financial responsibility requirements of NR666.910

Sen. Mark Miller

608-266-9170, Toll-free 877-862-4825
FAX 608-266-5087
Sen.Miller@legis.wi.gov

From: Miller, Mark
Sent: Tuesday, November 27, 2007 2:09 PM
To: Tradewell, Becky
Cc: Anderson, John
Subject: E-Waste, changes to preliminary draft

Ms Tradewell,
Thank you for redrafting the E-Waste bill to be congruent with the legislation adopted recently in Minnesota. I have reviewed the provisions of the resulting draft with a number of interested parties. You did a good job and everyone was very impressed. As a result of these conversations I request the changes outlined below. I am anxious to have the draft as soon as possible so that the bill can be circulated and introduced before the end of the year. I hope that the changes requested herein can be made and a final draft ready not later than Wednesday, December 5. I do not yet have the information needed to include a performance standard of practice for recyclers, but hope to within the next two days. If this is not ready in time, I will include it as an amendment, but I do not want to delay introduction of the bill while this information is developed.

In summary, the changes I am requesting:

In response to input from Wisconsin's recyclers, I am asking that the reconciliation of accounts (sales, collections, recycled e-waste) be done quarterly rather than annually. This should encourage more rapid development of recycling services.

Please pay careful attention to reporting dates incase I have missed any that should be changed to accomplish this. In addition, Minnesota recommends a modification of the term manufacturer to include the situation were a brandowner licenses its brand to another entity for manufacture by someone other than the brandowner. The definition of DVD is modified to include a device that performs a video playback function but without a disc, and a VCR that performs a video playback function but without a cassette. Finally, the bill includes an incentive to collect e-waste in rural counties. Rural counties are defined as counties with population density of less than 150 persons per square mile. This includes all Wisconsin counties except the fourteen most populous. The bill authorizes two FTE to administer the program.

Instructions incorporating these changes follow:

1. Page 2, line 20 add a definition for camera (records images and is designed for use as a hand held device?)
2. Page 4, line 9, add to the definition of manufacturer a person who licenses use of a brand name for display on a video display device.
3. Add to the description of electronic devices prohibited in landfills (page 2, lines 12-15) and covered electronic devices (page 3, lines 19 - 22):
 - d. digital video disc player to include digital video recorders or players other than cameras that do not use a disc.
 - e. a video cassette recorder to include video recorders or players other than cameras that do use a cassette.
 - h. Electronic equipment identified by the department by rule. (add rule-making authority, if necessary)
4. page 4, line 3, add definition for electronic equipment (equipment that requires electric current or electromagnetic fields to function and contains a circuit board)
5. Make the reconciliation of accounts a quarterly process as follows:
 - a. Program quarters begin on Jan 1, Apr 1, Jul 1, and Oct 1 of each year and end respectively on last day of Mar, Jun, Sep, and Dec.
 - b. Beginning August 1, 2009 and quarterly thereafter, retailers report sales during the previous program quarter to manufacturers in a format specified or approved by the department before the first day of the month following the of the end of each program quarter.
 - c. Beginning Sept 1, 2009 and quarterly thereafter, manufacturers report the information required in section 5.
 - d. Manufacturers pay the variable recycling fee quarterly, payable at the time their report is due to the department.
 - e.. Manufacturers may choose to report and pay the variable fee annually as indicated under the current draft except recycling cost is 55 cents for less than 50%, 44 cents for 50% to 90 % and 33 cents for greater than 90%.
 - f. Manufacturers who pay the variable fee quarterly and timely may, at the end of the program year, recalculate their variable fee based on annual performance and credit any overpayment to the final quarterly variable fee.
 - g. Page 12, lines 3-5, Beginning on August 1, and quarterly thereafter, recyclers report the total weight of devices recycled during the preceding program quarter.
 - h. Page 11, lines 13-16, beginning August 1, 2009, and quarterly thereafter, a collector reports the total weight of covered electronic devices collected during the preceding program quarter.
 - i. Page 14 line 12: add: (d) the multiplier (see (5) below) for rural counties, (e) the designation of rural counties or other underserved areas
6. I want to add a 1.5 multiplier to apply to the weight of product collected in rural counties and recycled. Rural counties are those which have a population density of less than 150 per square mile. Identify the non-rural counties by name rather than by criteria. The remaining counties are rural. This is similar to the provision in Minnesota
7. page 8, line 6 and page 8, line 10-11. replace "produces fewer than 100 video display devices annually," with "sells fewer than 100 video display devices in Wisconsin annually,"
8. Page 12, line 21, add: That covered electronic waste is not exported to any country that is not a member of the Organization for Economic Cooperation and Development unless the recycler certifies that the that the covered electronic waste is in working order and is destined for direct reuse.
9. Authorize DNR two FTE to administer the program.
10. Authorize DNR to expend the funds collected to administer the program and to use existing recycling revenue as a bridge to fund positions until sufficient fee revenue is generated.
11. Authorize DNR to perform or contract for periodic audits of recyclers and collectors with 25% cost share borne by the audited entity during the first three years of the program or for newly certified collectors and recyclers the first three years of certification. Subsequent audits are cost shared 50/50.

I am still working to develop standards for recyclers for incorporation into the bill and hope to provide those to you within a day or so. These standards will be subject to modification by rule.

In response to your question regarding banning the land filling of telephones but not including telephones in covered electronic waste, telephones are included in the landfill ban but not in the covered electronic equipment because while telephones, particularly cell phones, are a significant component of electronic waste entering landfills, the marketing of cellular phones is different than other electronic devices. There is currently a growing cell phone collection effort by retailers. It is my hope that banning phones from landfills will further encourage this collection effort.

Sen. Mark Miller

PO Box 7882, Madison, WI 53707-7882

608-266-9170, Toll-free 877-862-4825

FAX 608-266-5087

Sen.Miller@legis.wi.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3058/P2 1
RCT:jld&bk:jf

Wanted Tues 12/4

YMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT *to amend* 287.91 (2) and 287.97; and *to create* 16.71 (7), 20.370 (2) (hr),
2 25.49 (1m), 287.07 (5), 287.13 (5) (i) and 287.17 of the statutes; **relating to:** the
3 disposal, collection, and recycling of electronic devices, making an
4 appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Analysis ✓
insert →

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 16.71 (7) of the statutes is created to read:
6 16.71 (7) ^{Beginning on September 1, 2008, ✓} The department, any other designated purchasing agent under sub.
7 (1), and each authority, may not purchase a video display device, as defined in s.
8 287.17 (1) (q), unless the manufacturer of the video display device is registered with
9 the department of natural resources under s. 287.17 (3).

10 SECTION 2. 20.370 (2) (hr) of the statutes is created to read:

1 20.370 (2) (hr) *Electronic waste recycling*. From the recycling fund, all moneys
2 received under s. 287.17 (4) and (10) (j) for administration of the electronic waste
3 recycling program under s. 287.17.

4 **SECTION 3.** 25.49 (1m) of the statutes is created to read:

5 25.49 (1m) The moneys received under s. 287.17 (4) and (10) (j).

6 **SECTION 4.** 287.07 (5) of the statutes is created to read:

7 287.07 (5) ELECTRONIC DEVICES. Beginning on September 1, 2009, no person
8 may dispose of any of the following in a solid waste disposal facility:

9 (a) A computer, as defined in s. 287.17 (1) (d).

10 (b) A peripheral, as defined in s. 287.17 (1) (j).

11 (c) A facsimile machine.

12 (d) A digital video disc player.

13 (dm) A digital video player that does not use a disc and that is not a camera,
14 as defined in s. 287.17 (1) (a).

15 (e) A video cassette recorder.

16 (em) A video recorder that does not use a cassette and that is not a camera, as
17 defined in s. 287.17 (1) (a).

18 (f) A video display device, as defined in s. 287.17 (1) (q).

19 (g) A telephone with a video display.

20 → (h) *Another kind of electronic device identified by the department under s. 287.17(10)(i).* ✓

20 **SECTION 5.** 287.13 (5) (i) of the statutes is created to read:

21 287.13 (5) (i) Solid waste that consists of covered electronic devices, as defined
22 in s. 287.17 (1) (f), used by households.

23 **SECTION 6.** 287.17 of the statutes is created to read:

24 **287.17 Electronic waste recycling. (1) DEFINITIONS.** In this section:

1 (a) "Camera" means a device that records images and that is designed to be
2 hand-held.

3 (am) "Cathode-ray tube" means a vacuum tube used to convert an electronic
4 signal into a visual image.

5 (b) "Collection" means the act of receiving covered electronic devices from
6 households and delivering, or arranging for the delivery of, the covered electronic
7 devices to a recycler.

8 (c) "Collector" means a person who receives covered electronic devices from
9 households and delivers, or arranges for the delivery of, the covered electronic
10 devices to a recycler.

11 (d) "Computer" means a high-speed data processing device for performing
12 logical, arithmetic, or storage functions, except that "computer" does not include an
13 automated typewriter or typesetter, a portable hand-held calculator or device, or
14 other similar device.

15 (e) "Computer monitor" means an electronic device that is a cathode-ray tube
16 or flat panel display primarily intended to display information from a computer or
17 the Internet. "Computer monitor" includes a portable computer with a display.

18 (f) "Covered electronic device" means any of the following that is used by a
19 household primarily for personal use:

- 20 1. A computer
- 21 2. A peripheral.
- 22 3. A facsimile machine.
- 23 4. A digital video disc player.
- 24 4m. A digital video player that does not use a disc and that is not a camera.
- 25 5. A video cassette recorder.

1 5m. A video recorder that does not use a cassette and that is not a camera.

2 6. A video display device.

3 7. Another kind of electronic device identified by the department under sub.

4 (10) (i).

5 (g) "Dwelling unit" means a single unit providing complete, independent living
6 facilities for one or more persons, including permanent provisions for living,
7 sleeping, eating, cooking, and sanitation.

8 (gm) "Electronic device" means a device that requires electric current or
9 electromagnetic fields to function and that contains a circuit board.

10 (h) "Household" means one or more individuals who occupy one dwelling unit
11 in a detached or multiunit building.

12 (i) "Manufacturer" means a person who does any of the following:

13 1. Manufactures video display devices to be sold under the person's own brand.

14 2. Sells video display devices manufactured by others under the person's own
15 brand.

16 3. Licenses the person's brand for manufacture and sale of video display devices
17 by others.

18 (j) "Peripheral" means a keyboard, printer, or any other device that is sold
19 exclusively for external use with a computer and that provides input into or output
20 from a computer.

21 (jm) "Program quarter" means a 3-month period ending on March 31, June 30,
22 September 30, or December 31.

23 (k) "Program year" means the period from July 1 to the following June 30.

1 (L) "Recycler" means a person who accepts covered electronic devices from
2 households and collectors for the purpose of recycling. "Recycler" does not include
3 a manufacturer who accepts products for refurbishing or repair.

4 (m) "Recycling" means preparing covered electronic devices for use in
5 manufacturing processes or for recovery of useable materials and delivering the
6 materials for use. "Recycling" does not include destruction by incineration or other
7 processes or land disposal of recyclable materials and does not include reuse, repair,
8 or any other process through which covered electronic devices are returned for use
9 by households in their original form.

10 (n) "Retailer" means a person who sells a video display device to a household
11 in this state, in person or by mail, telephone, or the Internet, for use by the household.

12 (nm) "Rural county" means a county that is not an urban county.

13 (o) "Sell" means to transfer title or right to use for consideration.

14 (p) "Television" means an electronic device, with a cathode ray-tube or flat
15 panel display, primarily intended to receive video programming via broadcast, cable,
16 or satellite transmission or to receive video images from surveillance or similar
17 cameras.

18 (pm) "Urban county" means Brown County, Calumet County, Dane County,
19 Eau Claire County, Fond du Lac County, Jefferson County, Kenosha County,
20 Manitowoc County, Milwaukee County, Outagamie County, Ozaukee County, Racine
21 County, Rock County, Sheboygan County, Walworth County, Washington County,
22 Waukesha County, or Winnebago County.

23 (q) "Video display device" means a television or computer monitor with a tube
24 or screen that is at least 9 inches in its longest diagonal measurement and that is

1 marketed by the manufacturer for use by households, except that “video display
2 device” does not include any of the following:

3 1. A television or computer monitor that is part of a motor vehicle and that is
4 incorporated into the motor vehicle by, or for, a motor vehicle manufacturer or a
5 franchised motor vehicle dealer.

6 2. A television or computer monitor that is contained within a clothes washer,
7 clothes dryer, refrigerator, freezer, microwave oven, conventional oven or stove,
8 dishwasher, room air conditioner, dehumidifier, or air purifier.

9 **(2) REQUIREMENTS FOR SALE OF VIDEO DISPLAY DEVICES. (a) *Manufacturers.***
10 Beginning on September 1, 2008, a manufacturer may not sell, offer to sell, or deliver
11 to retailers for subsequent sale a new video display device unless all of the following
12 apply:

13 1. The manufacturer permanently affixes a label to the video display device
14 that is readily visible and that shows the manufacturer’s brand.

15 2. The manufacturer is registered with the department in accordance with sub.
16 (3).

17 3. The manufacturer pays the fees under sub. (4).

18 4. The manufacturer collects and recycles or arranges for the collection and
19 recycling of covered electronic devices used by households in this state.

20 5. Individuals are not charged a fee when they relinquish covered electronic
21 devices for collection and recycling under subd. 4.

22 6. The manufacturer reports as required under sub. (5) and conducts
23 assessments as required under sub. (6).

1 (b) *Cooperation.* A manufacturer may carry out its responsibilities under par.

2 (a) 4. jointly with other manufacturers and may participate with other
3 manufacturers in creating an entity to collect and recycle covered electronic devices.

4 (c) *Retailers.* 1. Beginning on February 1, 2009, a retailer may not sell or offer
5 for sale a new video display device unless, before making the first offer for sale, the
6 retailer has reviewed the Internet site maintained by the department under sub. (10)
7 (a) and determined that the brand of the video display device is listed on the
8 department's Internet site under sub. (10) (a).

9 2. If a manufacturer's registration is revoked or expired and the retailer took
10 possession of a video display device of the manufacturer before the registration was
11 revoked or expired, the retailer may sell the video display device, but only if the sale
12 takes place fewer than 180 days after the revocation or expiration.

13 **(3) REGISTRATION OF MANUFACTURERS.** (a) To comply with sub. (2) (a) 2., a
14 manufacturer shall annually, no later than September 1, submit to the department
15 a registration that includes all of the following:

16 1. A list of the manufacturer's brands of video display devices offered for sale
17 in this state.

18 2. The name, address, and contact information of an individual responsible for
19 ensuring compliance with this section.

20 3. A certification that the manufacturer has complied, and will continue to
21 comply, with the requirements of this section.

22 (b) Beginning with the registration due by September 1, 2009, a manufacturer
23 shall include in its registration under par. (a) a statement disclosing whether any of
24 its video display devices contain lead, mercury, cadmium, hexavalent chromium,
25 polybrominated biphenyls, or polybrominated diphenyl ethers and, if so, whether the

1 amount of any of those substances exceeds a maximum concentration level provided
2 under the Annex to European Union Directive 2002/95/EC and whether there is an
3 exemption in the Annex to European Union Directive 2002/95/EC permitting those
4 substances to be used in the manner in which they are used in the manufacturer's
5 video display devices.

6 (c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling
7 video display devices after September 1, 2008, and who has not previously submitted
8 a registration under this subsection shall submit a registration to the department
9 not more than 10 days after the day on which the manufacturer begins selling or
10 offering to sell video display devices.

11 (d) If a manufacturer changes the brands that it sells or offers to sell, the
12 manufacturer shall update its registration not more than 10 days after making the
13 change.

14 (e) A registration is effective on receipt by the department and is valid until the
15 following September 1 unless revoked before that date.

16 (f) The department shall review a registration submitted under this section and
17 notify the manufacturer if the registration does not contain all of the information
18 required under this subsection. A manufacturer who receives notice under this
19 paragraph shall submit the information within 30 days after the day on which it
20 receives the notice.

21 (4) MANUFACTURER FEES; RECYCLING CREDITS. (a) *Payment.* To comply with sub.

22 (2) (a) 3., a manufacturer shall pay, with the registration that it submits under sub.

23 (3), an annual registration fee in the amount provided in this subsection.

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(b) *First year.* The registration fee due in 2008, or the first year that a manufacturer registers if later than 2008, is \$5,000, except that, if the manufacturer sells fewer than 100 video display devices in this state annually, the fee is \$1,250.

~~(c) *Subsequent years.* The registration fee due in each year after the year in which a manufacturer pays the fee under par. (b) is a base fee plus the variable fee calculated under par. (d), if the amount calculated under par. (d) is a positive number. The base fee is \$2,500, except that, if the manufacturer sells fewer than 100 video display devices in this state annually, the base fee is \$1,250.~~

(d) *Variable fee.* The variable fee for a manufacturer is calculated as follows:

1. Determine the manufacturer's target recycling weight by multiplying the number of pounds of the manufacturer's video display devices sold to households in this state during the previous program year, as reported under sub. (5) (a), by 0.6 for the program year ending on June 30, 2009, and by 0.8 for every other program year.

2. Determine the actual recycling weight by adding the weight of covered electronic devices recycled by or on behalf of the manufacturer, as determined under par. (f), plus the number of recycling credits that a manufacturer elects to use, as reported to the department under sub. (5) (c) 3.

3. Subtract the actual recycling weight, determined under subd. 2., from the target recycling weight, determined under subd. 1.

4. Multiply the amount determined under subd. 3. by the estimated cost of recycling determined as follows:

a. Fifty-five cents per pound for a manufacturer if the weight of covered electronic devices collected by or on behalf of the manufacturer, as determined under par. (f), is less than 50 percent of the target recycling weight, determined under subd. 1.

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that chooses to pay on an annual basis

1 b. Forty-four cents per pound for a manufacturer if the weight of covered
 2 electronic devices collected by or on behalf of the manufacturer, as determined under
 3 par. (f), is at least 50 percent but not more than 90 percent of the target recycling
 4 weight, determined under subd. 1.

5 c. Thirty-three cents per pound for a manufacturer if the weight of covered
 6 electronic devices collected by or on behalf of the manufacturer, as determined under
 7 par. (f), is more than 90 percent of the target recycling weight, determined under
 8 subd. 1.

9 (e) *Recycling credits.* If, for a program year, the weight of covered electronic
 10 devices recycled by or on behalf of a manufacturer, as determined under par. (f),
 11 exceeds the target recycling weight, determined under par. (d) 1, the manufacturer
 12 has a number of recycling credits equal to the number of excess pounds. The
 13 manufacturer may use the credits for the purpose of par. (d) 2, for any of the 3
 14 succeeding program years or may sell credits to another manufacturer for use for any
 15 of the 3 succeeding program years.

16 (f) *Weight recycled.* The weight of covered electronic devices recycled by or on
 17 behalf of a manufacturer for a program year is the weight reported under sub. (5) (b)
 18 for that program year, except that if the manufacturer reports separately the weight
 19 of covered electronic devices collected from households in rural counties and from
 20 households in urban counties for a program year, the weight is determined by adding
 21 the weight collected from households in urban counties in that program year and 1.5
 22 times the weight collected from households in rural counties in that program year.

23 (5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of video display*
 24 *devices sold.* 1. No later than December 1, March 1, June 1, and September 1 of each

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1 program year, beginning with December 1, 2008, a manufacturer shall report one of
2 the following to the department:

3 a. The total weight of each model of its video display devices sold to households
4 in this state during the previous program quarter.

5 b. The total weight of all of its video display devices sold to households in this
6 state during the previous program quarter.

7 c. An estimate of the total weight of its video display devices sold to households
8 in this state during the previous program quarter based on national sales data.

9 2. A manufacturer shall include in the report required under subd. 1. a
10 description of how the manufacturer calculated the weight reported under subd. 1.

11 (b) *Weight of covered electronic devices collected and recycled.* No later than
12 December 1, March 1, June 1, and September 1 of each program year, beginning with
13 December 1, 2008, a manufacturer shall report to the department the total weight
14 of covered electronic devices that the manufacturer collected from households in this
15 state and recycled or arranged to have collected from households in this state and
16 recycled during the preceding program quarter. A manufacturer may report
17 separately the weight of covered electronic devices collected from households in rural
18 counties and from households in urban counties for the purpose of obtaining the
19 weight adjustment under sub. (4) (f) for covered electronic devices collected from
20 households in rural counties.

21 (c) *Recycling credits.* No later than September 1 of each year, beginning in
22 2009, a manufacturer shall report all of the following to the department:

23 1. The number of recycling credits that the manufacturer purchased during the
24 preceding program year.

1 2. The number of recycling credits that the manufacturer sold during the
2 preceding program year.

3 3. The number of recycling credits that the manufacturer elects to use in the
4 calculation of its variable recycling fee under sub. (4) (d) 2.

5 4. The number of recycling credits available to the manufacturer after
6 calculating its variable recycling fee under sub. (4) (d) 2.

7 **(6) MANUFACTURER ASSESSMENT REQUIREMENTS.** A manufacturer shall conduct
8 and document assessments of the performance of any collectors and recyclers with
9 whom it contracts, including assessments of whether the recyclers comply with sub.
10 (8) (c). A manufacturer shall maintain, for 3 years, documentation of its assessments
11 under this subsection.

12 **(7) COLLECTORS.** (a) *Registration.* 1. Beginning on August 1, 2008, no person
13 may operate as a collector unless the person submits to the department an annual
14 registration, using a form prescribed by the department, that includes all of the
15 following:

16 a. The name, address, and contact information of a responsible individual.

17 b. The address at which the person operates as a collector.

18 c. A certification that the person has complied, and will continue to comply, with
19 the requirements of this subsection and with application financial responsibility
20 requirements.

21 2. A registration is effective on receipt by the department and is valid until the
22 following August 1 unless revoked before that date.

23 (b) *Reporting.* No later than November 1, February 1, May 1, and August 1 of
24 each program year, beginning November 1, 2008, a collector shall report to the
25 department the total weight of covered electronic devices collected in this state

1 during the preceding program quarter and a list of all recyclers to whom the collector
2 delivered covered electronic devices.

3 (8) RECYCLERS. (a) *Registration*. 1. Beginning on August 1, 2008, no person
4 may operate as a recycler unless the person submits to the department an annual
5 registration, using a form prescribed by the department, that includes all of the
6 following:

7 a. The name, address, and contact information of a responsible individual.

8 b. The address of all facilities at which the person conducts recycling.

9 c. A certification that the person has complied, and will continue to comply, with
10 the requirements of this subsection.

11 2. A registration is effective on receipt by the department and is valid until the
12 following August 1 unless revoked before that date.

13 (b) *Reporting*. No later than November 1, February 1, May 1, and August 1 of
14 each program year, beginning with November 1, 2008, a recycler shall report to the
15 department the total weight of covered electronic devices collected in this state that
16 the recycler recycled during the preceding program year.

17 (c) *Operational requirements*. 1. A recycler shall maintain liability insurance
18 coverage in the amount of at least \$1,000,000 for environmental releases, accidents,
19 and other emergencies.

20 2. A recycler may not use prison labor to recycle covered electronic devices.

21 3. A recycler may not export covered electronic devices to any country that is
22 not a member of the Organization for Economic Cooperation and Development
23 except for covered electronic devices that are in working order and destined for direct
24 reuse.

1 (d) *Certification.* No later than August 1 of each year, beginning in 2009, a
2 recycler shall submit to the department a certification that states that the recycler,
3 and all persons who conduct recycling activities on covered electronic devices or
4 materials derived from covered electronic devices after the recycler completes its
5 recycling activities on the covered electronic devices or materials:

6 1. Comply with applicable health, environmental, safety, and financial
7 responsibility requirements;

8 2. Have all required governmental licenses or other approvals;

9 3. Possess liability insurance coverage in the amount of at least \$1,000,000 for
10 environmental releases;

11 4. Use no prison labor to recycle covered electronic devices; and

12 5. Do not export covered electronic devices to any country that is not a member
13 of the Organization for Economic Cooperation and Development except for covered
14 electronic devices that are in working order and destined for direct reuse.

15 (9) RETAILERS. (a) *Reporting to manufacturers.* No later than November 1,
16 February 1, May 1, and August 1 of each program year, beginning with November
17 1, 2008, a retailer shall report to a manufacturer, using a format specified or
18 approved by the department, the number of video display devices, by model, labeled
19 with the manufacturer's brand that the retailer sold to households in this state
20 during the previous program quarter.

21 (b) *Providing information to purchasers.* A retailer who sells new video display
22 devices for use by households shall provide to purchasers information describing how
23 video display devices can be collected and recycled and a description of the
24 prohibitions in s. 287.07 (5). A retailer may satisfy this requirement by providing a
25 toll-free number for receiving the information and a description of how to access the

1 department's Internet site under sub. (10) (a). A retailer who sells through a catalog
2 may provide the information in the catalog. A retailer who sells through the Internet
3 may provide the information on its Internet site.

4 (10) POWERS AND DUTIES OF THE DEPARTMENT. (a) *Internet site.* The department
5 shall maintain an Internet site on which the department lists the names of
6 manufacturers who are registered under sub. (3) and the names of the brands listed
7 in the manufacturers' registrations. The department shall update the information
8 on the Internet site promptly upon receipt of a new or revised registration. The
9 department shall include on the Internet site a statement that this section applies
10 only to video display devices sold for household use and that the list of manufacturers
11 is not a list of manufacturers qualified to sell video display devices for industrial,
12 commercial, or other nonhousehold uses. The department shall also include on the
13 Internet site the contact information provided by manufacturers under sub. (3) (a)
14 2.

15 (b) *Providing information.* The department shall make the information
16 provided in registration statements and reports under subs. (3), (5), (7), and (8)
17 available to manufacturers, retailers, and the public.

18 (c) *Review of formula.* 1. The department shall annually review all of the
19 following:

20 a. The number by which the weight of video display devices sold is multiplied
21 under sub. (4) (d) 1. to determine target recycling weight.

22 b. The estimated cost of recycling under sub. (4) (d) 4.

23 c. The base registration fee under sub. (4) (c).

24 d. The multiplier for the weight of covered electronic devices collected from
25 households in rural counties under sub. (4) (f).

1 2. If the department determines that any of the values under subd. 1. a. to d.
2 should be changed in order to improve the effectiveness of the program under this
3 section or to provide more recycling opportunities to rural areas of this state, the
4 department shall report its recommendations for changes under s. 13.172 (3) to the
5 committee of each house of the legislature with jurisdiction over solid waste policy.

6 (d) *Annual report.* Before December 1 of each year, beginning in 2011, the
7 department shall provide a report on the program under this section to the
8 legislature under s. 13.172 (2) and to the governor. The department shall include all
9 of the following in the report:

10 1. The total weight of covered electronic devices recycled.

11 2. A summary of the information provided by manufacturers and recyclers
12 under subs. (5) and (8).

13 3. Information concerning the collection programs used by manufacturers to
14 collect covered electronic devices.

15 4. Information concerning the collection of covered electronic devices by
16 persons other than registered manufacturers, collectors, and recyclers.

17 5. Information about any disposal of covered electronic devices in landfills in
18 this state.

19 6. A description of any actions taken to enforce the requirements of this section.

20 (e) *Report concerning federal legislation.* If a federal law relating to the
21 collection and recycling of video display devices sold in the United States is enacted,
22 the department shall prepare a report describing the effect of the federal law and
23 shall submit the report under s. 13.172 (3) to the committee of each house of the
24 legislature with jurisdiction over solid waste policy.

1 (f) *Outreach and communication.* The department shall promote public
2 participation in the collection and recycling of covered electronic devices by and on
3 behalf of manufacturers through education and outreach activities. The department
4 shall facilitate communications between local governments, persons operating solid
5 waste collection and recycling centers, and manufacturers to ensure that
6 manufacturers are aware of covered electronic devices that are available for
7 recycling.

8 (g) *Cooperation with other states.* The department may cooperate with other
9 states to effectuate the program under this section.

10 (h) *Revocation.* The department shall revoke the registration of a
11 manufacturer who violates sub. (2) (a), (3), (4), (5), or (6). The department may
12 revoke the registration of a collector or recycler who violates sub. (7) or (8) (a).

13 (i) *Additional covered electronic devices.* ^{Insert 17-13 ✓} The department may promulgate a
14 rule specifying that ^{the} a kind of electronic device ~~not listed in sub. (1) (f)~~ ^{is} is a covered
15 electronic device. ^{and is subject to s. 287.07 (5)}

16 (j) *Audits.* The department may perform or contract for the performance of an
17 audit of the activities of a collector or recycler. If the department performs or
18 contracts for the performance an audit of a collector or recycler during the first 3
19 years in which the collector or recycler is registered under sub. (7) or (8) (a), the
20 collector or recycler shall pay 25 percent of the cost of the audit. If the department
21 performs or contracts for the performance of an audit of a collector or recycler after
22 the first 3 years in which the collector or recycler is registered, the collector or
23 recycler shall pay 50 percent of the cost of the audit.

24 (11) PENALTIES. (a) *Manufacturer.* Any manufacturer who violates this section
25 may be required to forfeit not more than \$10,000 for each violation.

1 (b) *Others*. Any person, other than a manufacturer, who violates this section
2 may be required to forfeit not more than \$1,000 for each violation.

3 **SECTION 7.** 287.91 (2) of the statutes is amended to read:

4 287.91 (2) Notwithstanding sub. (1) and s. 287.95 (3) (a), the attorney general
5 may enforce s. 287.07 (3) and, (4), and (5) by seeking injunctive relief against any
6 person violating those provisions.

7 **SECTION 8.** 287.97 of the statutes is amended to read:

8 **287.97 Penalties.** Any person who violates this chapter, except s. 287.07,
9 287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under
10 s. 287.07, 287.08 or 287.81, may be required to forfeit not less than \$10 nor more than
11 \$1,000 for each violation.

12 **SECTION 9. Nonstatutory provisions.**

13 (1) PERMANENT POSITION AUTHORIZATION. The authorized FTE positions for the
14 department of natural resources are increased by 2.0 SEG positions, to be funded
15 from the appropriation under section 20.370 (2) (hr) of the statutes, as created by this
16 act, to administer the electronic waste recycling program.

17 (2) PROJECT POSITION AUTHORIZATION. The authorized FTE positions for the
18 department of natural resources are increased by 2.0 SEG 2-year project positions,
19 to be funded from the appropriation under section 20.370 (2) (hq) of the statutes, for
20 start up of the electronic waste recycling program.

21 (END)

Analysis insert

This bill relates to the collection, recycling, and disposal of certain electronic devices.

MANUFACTURERS OF VIDEO DISPLAY DEVICES ✓

In general ✓

* This bill imposes a number of requirements on manufacturers of video display devices. A video display device is a television or a computer monitor with a tube or screen that is at least ~~9~~^{7.9} inches in the longest diagonal dimension.

Under the bill, beginning on September 1, 2008, a manufacturer may not sell a video display device at retail, or to a retailer for resale, unless the manufacturer registers with the Department of Natural Resources (DNR), collects and recycles or arranges for the collection and recycling of certain electronic devices, makes required reports, and pays certain fees.

The bill also, beginning on February 1, 2009, prohibits a retailer from selling a video display device unless the retailer determines, using an Internet site maintained by DNR, that the manufacturer is registered with DNR.

Registration of manufacturers ✓

The bill requires a manufacturer to register annually with DNR. The registration must include a list of the manufacturer's brands that are sold in this state, contact information, and a certification that the manufacturer complies with the requirements in the bill. Beginning in 2009, the bill requires a manufacturer to disclose, when it registers, whether its video display devices contain certain hazardous substances, including lead and mercury.

The bill requires DNR to revoke the registration of a manufacturer that violates the requirements in the bill.

Collection and recycling ✓

The bill requires a manufacturer of video display devices to collect and recycle or arrange for the collection and recycling of certain electronic devices that were used by individuals. Collecting more electronic devices, by weight, lowers the fees that a manufacturer is required to pay, as described below. A manufacturer is not limited to collecting electronic devices made by the manufacturer and is not limited to collecting video display devices. The electronic devices that are counted as satisfying a manufacturer's obligation to collect and recycle (covered electronic devices) include, in addition to video display devices, computers, computer peripherals, digital video players, and video recorders. Electronic devices used by businesses do not count toward a manufacturer's obligation to collect and recycle.

Under the bill, a manufacturer may not charge an individual a fee when the individual relinquishes a covered electronic device for collection and recycling.

Reporting and assessments ✓

The bill requires a manufacturer to make quarterly reports to DNR of the weight of its video display devices sold to individuals in this state and of the weight

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of covered electronic devices collected by or on behalf of the manufacturer. The bill also requires a manufacturer to conduct assessments of any collectors and recyclers with whom it contracts.

Fees

The bill requires each manufacturer to pay a base fee annually. The fee is generally \$5,000 in 2008 and \$2,500 after 2008.

The bill provides for a variable fee, in addition to the base fee. The amount of the variable fee is based on the weight of a manufacturer's video display devices sold and the weight of covered electronic devices recycled by or on behalf of the manufacturer and on whether the manufacturer pays the variable fee annually or quarterly. The fee is lower if the manufacturer pays quarterly. Manufacturers are allowed to count covered electronic devices collected from individuals in rural counties (identified in the bill) as weighing 1.5 times their actual weight.

If a manufacturer meets its target recycling weight, which is 0.6 times the weight of its video display devices sold the first year and 0.8 times the weight of its video display devices sold after the first year, it is not required to pay a variable fee. If a manufacturer exceeds its target recycling weight, it receives credits, which it may use to meet its target recycling weight in any of the next three years or which it may sell to other manufacturers for that purpose.

Penalties

* *than* A manufacturer may be required to pay a forfeiture (a civil monetary penalty) of not more than \$10,000 for each violation of the requirements in the bill. The maximum forfeiture for a violation by any person other than a manufacturer is \$1,000. *(forfeiture)*

COLLECTORS

The bill requires collectors to register annually with DNR. A collector receives covered electronic devices from individuals and delivers them to recyclers. The bill requires a collector to certify annually that it complies with the requirements in the bill and with applicable financial responsibility requirements. The bill also requires a collector to report to DNR on a quarterly basis the total weight of covered electronic devices collected and the names of recyclers to whom the collector delivered covered electronic devices.

RECYCLERS

The bill requires recyclers to register annually with DNR. A recycler accepts covered electronic devices from individuals and collectors and prepares the devices for use in manufacturing or recovers useable materials from the devices. The bill requires a recycler to certify annually that it complies with the requirements in the bill and with applicable health, environmental, safety, and financial responsibility requirements.

The bill requires a recycler to maintain liability insurance. It prohibits a recycler from using prison labor to recycle and prohibits a recycler from exporting covered electronic devices to countries that are not members of the Organization for Economic Cooperation and Development. *

The bill requires a recycler to report to DNR on a quarterly basis the total weight of covered electronic devices collected in this state that it recycles.



RETAILERS

The bill requires a retailer to report to a manufacturer, on a quarterly basis, the number of the manufacturer's video display devices, by model, that the retailer sold to individuals in this state.

The bill also requires a retailer to provide information to purchasers describing how video display devices can be collected and recycled and describing the prohibitions on disposing of video display devices in landfills, described below.

OTHER PROVISIONS

05

Landfill ban

Current law prohibits various items, including lead acid batteries and major appliances, from being disposed of in landfills. This bill prohibits the disposal in landfills of televisions, computer monitors, computers, computer peripherals, facsimile machines, digital video players, video recorders, and telephones with video displays. The prohibition takes effect on September 1, 2009. The bill authorizes DNR to expand the prohibition to other kinds of electronic devices if disposing of the electronic devices in landfills may be harmful to human health or the environment.

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Audits

This bill authorizes DNR to perform or contract for the performance of an audit of the activities of a collector or a recycler. The bill requires the collector or recycler to pay a portion of the cost of the audit.

State purchasing

This bill prohibits a state agency from purchasing a television or a computer monitor unless the manufacturer is registered with DNR, as required by the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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(end analysis insert)

Insert 9-3

A manufacturer shall pay the fee under this paragraph with the registration that it submits under sub. (3).

Insert 9-8

(c) *Subsequent years.* In each year after the year in which a manufacturer pays the fee under par. (b), the manufacturer shall pay, with the registration that it submits under sub. (3), a base fee of \$2,500, except that, if the manufacturer sells fewer than 100 video display devices in this state annually, the base fee is \$1,250. In addition to the base fee, a manufacturer shall pay variable fees under par. (d) or (dm) if the amount calculated under par. (d) or (dm) is a positive number. With each



registration that a manufacturer submits under sub. (3),[✓] the manufacturer shall state whether it will calculate and pay variable fees on an annual basis under par. (d)[✓] or on a quarterly basis under par. (dm).[✓]

Insert 9-9

~~#3~~ If a manufacturer calculates variable fees on an annual basis, the manufacturer shall pay the fees with the registration that it submits under sub. (3).[✓]

Insert 10-8

(dm) *Quarterly fee.*[✓] 1. If a manufacturer calculates variable fees on a quarterly basis, the manufacturer shall pay the fees with the reports that it submits under sub. (5) (a),[✓] beginning with the report that is due no later than December 1, 2008.[✓]

2. The quarterly variable fee[✓] for a manufacturer for the first 3[✓] quarters of a program year is calculated as follows:

a. Determine the manufacturer's target recycling weight by multiplying the number of pounds of the manufacturer's video display devices sold to households in this state during the previous program quarter, as reported under sub. (5) (a),[✓] by 0.6[✓] for program quarters in the program year ending on June 30, 2009,[✓] and by 0.8 for program quarters in every other program year.[✓]

b. Determine the actual recycling weight under par. (f) 2.[✓]

c. Subtract the actual recycling weight, determined under subd. 2.b.,[✓] from the target recycling weight, determined under subd. 2.a.[✓]

d. Multiply the amount determined under subd. 3.c.[✓] by the estimated cost of recycling determined under subd. 5.[✓]

3. The quarterly variable fee for a manufacturer for the last quarter of a program year is calculated as follows:



a. Determine the manufacturer's target recycling weight by multiplying the number of pounds of the manufacturer's video display devices sold to households in this state during the previous program year, as reported under sub. (5) (a), by 0.6 for the program year ending on June 30, 2009, and by 0.8 for every other program year.

b. Determine the actual recycling weight by adding the weight of covered electronic devices recycled by or on behalf of the manufacturer, as determined under par. (f) 1., plus the number of recycling credits that a manufacturer elects to use, as reported to the department under sub. (5) (c) 3.

c. Subtract the actual recycling weight, determined under subd. 3.b., from the target recycling weight, determined under subd. 3.a.

d. Multiply the amount determined under subd. 3.c. by the estimated cost of recycling determined under subd. 5.

e. Determine the total amount of the quarterly fees paid for the first three quarters of the program year.

f. If the amount determined under subd. 3.d. is greater than the amount determined under subd. 3.e., the fee for the last quarter equals the difference. If the amount determined under subd. 3.d. is equal to or less than the amount determined under subd. 3.e., the manufacturer is not required to pay a fee for the last quarter.

4. If the amount determined under subd. 3.d. is less than the amount determined under subd. 3.e., the department shall refund the difference to the manufacturer.

5. The estimated cost of recycling is determined as follows:

a. Fifty cents per pound for a manufacturer if the number of pounds of covered electronic devices collected by or on behalf of the manufacturer, as determined under

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par. (f) 1. or 2., is less than 50 percent of the target recycling weight, determined under subd. 2.a. or 3.a.

b. Forty cents per pound for a manufacturer if the number of pounds of covered electronic devices collected by or on behalf of the manufacturer, as determined under par. (f) 1. or 2., is at least 50 percent but not more than 90 percent of the target recycling weight, determined under subd. 2.a. or 3.a.

c. Thirty cents per pound for a manufacturer if the number of pounds of covered electronic devices collected by or on behalf of the manufacturer, as determined under par. (f) 1. or 2., is more than 90 percent of the target recycling weight, determined under subd. 2.a. or 3.a.

Insert 10-22

2. The weight of covered electronic devices recycled by or on behalf of a manufacturer for a program quarter is the weight reported under sub. (5) (b) for that program quarter, except that if the manufacturer reports separately the weight of covered electronic devices collected from households in rural counties and from households in urban counties for a program quarter the weight is determined by adding the weight collected from households in urban counties in that program quarter and 1.5 times the weight collected from households in rural counties in that program quarter.

Insert 17-13

~~NO~~ If the department determines that the disposal of a kind of electronic device that is not listed in sub. (1) (f) in a solid waste disposal facility may be harmful to human health or the environment, ~~NO~~