

2009 DRAFTING REQUEST

Bill

Received: **07/08/2009**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Sarah Barry**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Environment - recycling**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Recycling and mercury content of compact fluorescent bulbs

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 09/30/2009			_____			
/P1	rkite 10/27/2009	kfollett 11/09/2009	mduchek 11/10/2009	_____	mbarman 11/10/2009		State
/1	rkite 02/09/2010	kfollett 02/10/2010	rschluet 02/11/2010	_____	sbasford 02/11/2010		State
/2	rkite	kfollett	rschluet	_____	sbasford	cduerst	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/19/2010	02/21/2010	02/23/2010	_____	02/23/2010	03/08/2010	

FE Sent For: "12" @ intro. 3/18/10

<END>

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/1	rkite 02/09/2010	kfollett 02/10/2010	rschluet 02/11/2010	_____	sbasford 02/11/2010		

Handwritten notes:
Under /1: 12/5f, 2/21, PH, 2/23

FE Sent For:

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/?	btradewe	1P/15f 11/9		 11/9			

FE Sent For:

<END>

Tradewell, Becky

From: Barry, Sarah
Sent: Wednesday, July 08, 2009 10:48 AM
To: Tradewell, Becky
Cc: Sen.Jauch; Bier, Beth
Subject: Senator Jauch Drafting Request: CFL Recycling

Attachments: Maine CFL Recycling Law.pdf

Becky,

Senator Jauch would like to request a bill draft on the issue of CFL (fluorescent light bulb) recycling. Maine recently adopted a similar law—I am attaching the statutory language here:



Maine CFL
ecycling Law.pdf (1)

Bob would like the bill to contain the key components of the Maine law, which are:

- ✓ A requirement that the department (presumably DNR) adopt rules establishing mercury content standards for lamps (bulbs) sold after a certain date. In Maine the date is 2012, but a later date may make sense given our potential timeline.
- The requirement that DOA issue specifications on state purchases of CFLs, including allowable mercury content.
- As of a certain date, mercury containing lamp manufacturers must develop a recycling program for CFLs, either individually or collectively. The collection sites must be conveniently located for consumers, and can be municipal sites/programs. They must provide education to consumers. They are required to provide an annual report to the department on their recycling efforts. The department can determine if the recycling program(s) are in compliance. The Maine law exempts automobiles and watercraft.
- ✓ The department is required to report to the legislature on household CFL recycling efforts up to the point of the required recycling program start date in order to give an evaluation of 1) recycling efforts over the last 3 years, 2) a strategy to increase recycling rates, 3) additional legislation required, 4) availability of nonmercury lamps to replace mercury added lamps.
- ✓ The department is also required to report to the legislature on business CFL recycling efforts up to the point of the required recycling program start date in order to give an evaluation of 1) costs of manufacturer recycling programs, 2) recommendations for streamlining household recycling efforts, 3) review and assessment of education and outreach alternatives.

Please call me to discuss this further and/or if you would like to set up a time to meet.

Thank you,

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)

ch. 287

PUBLIC Law, Chapter 272

HP0675
LD 973

Signed on 2009-06-08 00:00:00.0 - First Regular Session - 124th
Maine Legislature

LR 206
Item 1

**An Act To Provide for the Safe Collection and Recycling of
Mercury-containing Lighting**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1672 is enacted to read:

§ 1672. Mercury-added lamps

✓ **1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Manufacturer" means a person who manufactures a mercury-added lamp and has a presence in the United States or a person who imports a mercury-added lamp manufactured by a person who does not have a presence in the United States.

B. "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process, including, but not limited to, linear fluorescent, compact fluorescent, black light, high-intensity discharge, ultraviolet and neon lamps.

C. "Municipal collection site" means a solid waste disposal facility, transfer station, storage facility or recycling facility at which mercury-added lamps from households are collected for recycling that is municipally owned or operated or operated by a regional association.

D. "Person" means any individual, corporation, partnership, cooperative, association, firm, sole proprietorship, government agency or other entity.

✓ **2. Mercury content standards.** The following provisions govern mercury content standards.

A. The department shall adopt rules establishing mercury content standards for lamps sold or manufactured in the State on or after January 1, 2012. The standards must be based on mercury content standards for lamps established in California. If one or more categories of lamps are not covered by the mercury content standards established in California, the department may adopt standards minimizing the mercury content of lamps within those categories, including adoption of a no-mercury standard if a nonmercury alternative is available at a cost comparable to a mercury alternative. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. } keep

B. The rules adopted under paragraph A must provide that:

(1) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall prepare and, at the request of the department, submit within 28 days of the date of the request technical documentation or other information showing that the manufacturer's mercury-added lamps sold or offered for sale in the State comply with the rules. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the documentation requested, that manufacturer may not be allowed to sell or offer for sale mercury-added lamps in the State; and

(2) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall provide upon request a certification to a person who sells or offers for sale a mercury-added lamp of that manufacturer. The certification must attest that the mercury-added lamp does not contain levels of mercury that would result in the prohibition of that lamp being sold or offered for sale in the State. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the certification requested, that manufacturer may not be allowed to sell or offer mercury-added lamps for sale in the State.

3. Mercury-added lamp purchasing. When making purchasing decisions on mercury-added lamps and ballasts, the Department of Administrative and Financial Services, in consultation with the department and the Public Utilities Commission, shall request information on mercury content, energy use, lumen output and lamp life from potential suppliers and shall issue specifications and make purchasing decisions that favor models at comparable cost with high energy efficiency, lower mercury content and longer lamp life. Information obtained on mercury content, energy use and lamp life must be made available by the Department of Administrative and Financial Services to other purchasers who purchase a large number of mercury-added lamps. This information must also be posted on the State's publicly accessible website.

4. Manufacturer recycling programs for household mercury-added lamps. Effective January 1, 2011, each manufacturer of mercury-added lamps sold or distributed for household use in the State on or after January 1, 2001 shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps from households.

A. The recycling program required under this subsection must include:

(1) Convenient collection locations located throughout the State where residents can drop off their household lamps without cost, including but not limited to municipal collection sites and participating retail establishments;

(2) Handling and recycling equipment and practices in compliance with the universal waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F and all other applicable requirements;

✓ (3) Effective education and outreach, including, but not limited to, point-of-purchase signs and other materials provided to retail establishments without cost; and

✓ (4) An annual report to the department on the number of mercury-added lamps recycled under the manufacturer's program, the estimated percentage of mercury-added lamps available for recycling that were recycled under the program and the methodology for estimating the number of mercury-added lamps available for recycling, an evaluation of the effectiveness of the recycling program, recommendations for increasing the number of lamps recycled under the recycling program and an accounting of the costs associated with administering and implementing the recycling program.

✓ B. A manufacturer required to implement a recycling program under this subsection shall submit its proposed recycling program for department review and approval. The department shall solicit public comment on the proposed program before approving or denying the program.

C. Beginning April 1, 2011, a manufacturer not in compliance with this section is prohibited from offering any mercury-added lamp for final sale in the State or distributing any mercury-added lamp in the State. A manufacturer not in compliance with this section shall provide support to retailers to ensure the manufacturer's mercury-added lamps are not offered for sale, sold at final sale or distributed in the State.

✓ D. Beginning April 1, 2011, a retailer may not offer for final sale a mercury-added lamp produced by a manufacturer not in compliance with this section. The department shall notify retailers of the manufacturers of mercury-added lamps not in compliance with this section.

E. Beginning April 15, 2013, and biennially thereafter, the department shall calculate the percentage of mercury-added lamps recycled from households and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on any modifications to the manufacturer recycling programs it intends to make to improve mercury-added lamp recycling rates and any recommendations for statutory changes needed to facilitate mercury-added lamp collection and recycling.

20 F. The department may determine that a manufacturer's recycling program is in compliance with paragraph A, subparagraphs (1), (2) and (4) for the collection of compact fluorescent lamps from households if the manufacturer provides adequate financial support for the collection and recycling of such lamps to municipalities and a conservation program established pursuant to Title 35-A, section 3211-A and implemented by the Public Utilities Commission.

20 5. **Applicability.** The requirements of this section do not apply to motor vehicles as defined in Title 29-A, section 101, subsection 42 or watercraft as defined in

Title 12, section 13001, subsection 28 or their component parts.

Sec. 2. Recycling program submission date for existing manufacturers. A manufacturer subject to the Maine Revised Statutes, Title 38, section 1672 and in existence on the effective date of this Act shall submit its proposed recycling program pursuant to Title 38, section 1672, subsection 4, paragraph B by January 1, 2010.

Sec. 3. Report on recycling of mercury-added lamps from businesses. The Department of Environmental Protection shall submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from businesses, including, but not limited to, linear fluorescent lamps. The report must include:

1. An estimate of the number of mercury-added lamps recycled and the recycling rate for mercury-added lamps from businesses over each of the last 3 years;
2. A comprehensive strategy for improving lamp recycling rates;
3. Any legislation necessary to implement the strategy proposed in the report; and
4. The availability of nonmercury lamps to replace mercury-added lamps.

The Joint Standing Committee on Natural Resources may submit legislation to the Second Regular Session of the 124th Legislature to implement recommendations included in the report.

Sec. 4. Report on recycling of mercury-added lamps from households. The Department of Environmental Protection shall submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from households pursuant to the Maine Revised Statutes, Title 38, section 1672. The report must include, but is not limited to:

1. An assessment of the costs of the manufacturer recycling programs for mercury-added lamps to manufacturers, consumers, municipalities and others;
2. After consultation with manufacturers of mercury-added lamps, recommendations for streamlining the recycling of mercury-added lamps from households; and
3. A review and assessment of education and outreach alternatives.

The Joint Standing Committee on Natural Resources may submit legislation to the Second Regular Session of the 124th Legislature to implement recommendations included in the report.

Effective 90 days following adjournment of the 124th Legislature, First Regular Session, unless otherwise indicated.

Related Pages

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Kite, Robin

From: Barry, Sarah
Sent: Friday, October 16, 2009 2:35 PM
To: Kite, Robin
Cc: Moore, Cynthia G - DNR; Bangert, Suzanne A - DNR; Sen. Jauch
Subject: CFL Recycling Bill

Robin,

I met with DNR officials yesterday to discuss the CFL recycling bill. I am including here some decisions we made, which you can incorporate into the draft. Please call me if you have any questions. DNR is going to do some further research, so we may have additional modifications as we move forward. Please let me know when you think you might have a draft ready. Thank you.

- ✓ • **Do not** include the provision to require the department to adopt rules establishing mercury content standards.
- ✓ • **Do not** include a requirement that DOA issue specifications on state purchases of CFLs, including mercury content.
- ✓ • **Include** a landfill ban on disposal of CFLs (not all mercury containing products, just CFLs). The ban would prohibit landfill managers from **knowingly** allowing CFLs into the landfill. The states with recycling programs like this have landfill bans on the products.
- ✓ • Please draft the language in such a way as to give manufacturers maximum flexibility to work together and with municipalities to provide recycling options.
- ✓ • **Include** language that requires CFLs be placed in DNR approved containers for shipment to the recycling location. Right now, some of the bulbs break on the way to the facility releasing mercury vapor. I don't think we want this to be too prescriptive, as the packaging technology could change over time. *many requirements*
- ✓ • At this point, the bill will not include recycling quotas for manufacturers (must collect x% of amount sold that year).
 - Manufacturers will be required to pay an annual fee to the state to manage this program @ DNR. We do not know at this point how much that should be, but the e-waste bill requires \$5,000.
 - In order to ensure access in rural areas, we would like to develop language something like this: If the population density is less than XX people per square mile, manufacturers must make recycling available within xx square miles. This could be the sale of mail in household packs, or containers for collection at hardware stores—something along these lines. Coverage will be part of the DNR annual review of manufacturer reports.

I cc'd both Cynthia Moore and Sue Bangert at DNR and I have asked them to reply to all if they have any additional suggestions or modifications to the above.

Thank you,

Sarah Barry
Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

→ O.K. to call her

6-0014



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Tr
10/27

D-Note

Gen

1 AN ACT ...; **relating to:** the sale, disposal, collection, and recycling of
2 mercury-added lamps, granting rule-making authority, and making an
3 appropriation.

Analysis by the Legislative Reference Bureau

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

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

4 SECTION 1. 20.370 (2) (hs) of the statutes is created to read:
5 20.370 (2) (hs) *Mercury-added lamp recycling.* From the recycling and
6 renewable energy fund, all moneys received under s. 287.16 (6) for administration
7 of the mercury-added lamp recycling program under s. 287.16.

8 SECTION 2. 25.49 (1g) of the statutes is created to read:
9 25.49 (1g) The moneys received under s. 287.16 (6).

10 SECTION 3. 287.03 (1) (g) of the statutes is created to read:

1

287.03 (1) (g) Maintain a[^] updated list of manufacturers that have fully implemented an approved recycling plan under s. 287.16 (4).

3

SECTION 4. 287.07 (4m) of the statutes is created to read:

4

287.07 (4m) MERCURY-ADDED LAMPS. (a) In this subsection, "mercury-added lamp" has the meaning given in s. 287.16 (1) (b).

6

(b) Beginning on July 1, 2013, no person may knowingly do any of the following:

7

1. Dispose of a mercury-added lamp in a solid waste disposal facility.

8

2. Burn a mercury-added lamp in a solid waste treatment facility.

9

3. Place a mercury-added lamp in a container the contents of which will be

10

disposed of in a solid waste disposal facility or burned in a solid waste treatment facility.

12

SECTION 5. 287.16 of the statutes is created to read:

13

287.16 Mercury-added lamp recycling. (1) DEFINITIONS. In this section:

14

(a) "Manufacturer" means any person who manufactures mercury-added lamps in the United States or imports mercury-added lamps manufactured outside of the United States.

17

(b) "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process.

19

(c) "Recycler" means a person who accepts mercury-added lamps for recycling.

20

(d) "Recycling" means processing and converting mercury-added lamps into useable materials or products.

21

22

(e) "Retailer" means any person engaged in the retail sale of mercury-added

23

lamps to persons in this state.

1 (2) PLAN SUBMISSION. (a) Not later than July 1, 2011, a manufacturer whose
2 mercury-added lamps are sold in this state shall submit a recycling plan to the
3 department that does all of the following:

4 1. Establishes a method for recycling, or arranging for recycling,
5 mercury-added lamps.

6 2. Establishes sufficient collection locations throughout this state at which
7 mercury-added lamps may be deposited without cost.

8 3. Includes alternative methods for delivering mercury-added lamps for
9 collection and recycling in areas with a low population density, as determined by the
10 department by rule.

11 4. Includes a public education component to provide information about the
12 reasons to recycle and local opportunities for recycling.

13 5. Establishes a procedure for the delivery of mercury-added lamps, in
14 containers approved by the department, from collection locations to a recycler.

15 (b) A manufacturer may establish a recycling program under this subsection
16 jointly with other manufacturers and may participate with other manufacturers in
17 creating an entity to collect and recycle mercury-added lamps.

18 (3) PLAN REVIEW. The department shall review a plan submitted under sub. (2)
19 within 3 months of its submission to determine whether the plan complies with the
20 requirements of that subsection. Within 30 days after completing its review, the
21 department shall notify a manufacturer of any deficiencies in the manufacturer's
22 plan. The department shall solicit public comment before approving or disapproving
23 the plan. If an original or modified plan complies with the requirements of sub. (2),
24 the department shall approve the plan. If a manufacturer fails to remedy
25 deficiencies in the manufacturer's plan by a deadline set by the department, the

1 department shall disapprove the plan and no person may sell the manufacturer's
2 mercury-added lamps in this state until all of the following occur:

3 (a) The manufacturer submits a new plan.

4 (b) The manufacturer pays a fee in the amount specified under sub. (6) for
5 submitting an original plan.

6 (c) The department approves the plan.

7 (4) PLAN IMPLEMENTATION. Upon approval under under sub. (3) of a
8 manufacturer's plan, the manufacturer shall implement the plan. A manufacturer
9 shall fully implement its plan no more than 12 months after the department
10 approves the plan under sub. (3).

11 (5) REPORT. Within 12 months of approval of its plan and annually thereafter,
12 a manufacturer shall submit a report to the department that includes all of the
13 following:

14 (1.) The number of the mercury-added lamps that the manufacturer recycled
15 under the plan in the previous year.

16 (2) The estimated number of the manufacturer's mercury-added lamps that
17 were recycled under the plan in the previous year and the methodology used for
18 estimating that number.

19 (c) An evaluation of the effectiveness of the manufacturer's plan.

20 (d) Recommendations for increasing the number of mercury-added lamps
21 recycled under the plan.

22 (e) An accounting of the costs associated with administering the plan in the
23 previous year.

1 (6) FEE. Upon submission of a plan under sub. (2), and annually after
2 implementation of a plan under sub. (4), a manufacturer shall pay a recycling
3 administration fee to the department of \$5,000.

4 (7) RETAILERS. Beginning on July 1, 2013, a retailer may not sell or offer to sell
5 a mercury-added lamp produced by a manufacturer unless, before making the first
6 offer for sale, the retailer has determined that the manufacturer is on the list
7 maintained by the department under s. 287.03 (1) (g).

8 (8) COOPERATION. The department shall encourage communication between
9 local governments, persons operating solid waste collection and recycling centers,
10 and manufacturers to promote cooperation in establishing and maintaining effective
11 methods for recycling mercury-added lamps.

12 **SECTION 6. Nonstatutory provisions.**

13 (1) On or before January 1, 2011, the department of natural resources shall
14 submit a report to the appropriate standing committees of the legislature in the
15 manner provided under s. 13.172 (3) of the statutes on the recycling of
16 mercury-added lamps. The report shall include all of the following:

17 (a) An assessment of the costs of implementing the requirements of section
18 287.16 of the statutes, as created by this act, to manufacturers, consumers, and local
19 governmental units.

20 (b) After consulting with manufacturers of mercury-added lamps,
21 recommendations for streamlining the recycling of mercury-added lamps.

22 (c) A review and assessment of education and outreach methods that, if
23 implemented by the department, would improve the rate of recycling of
24 mercury-added lamps.

25 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

PI
LRB-3096/?dn

RNK: *g.f.*

Date

This draft is in preliminary form. Please review the draft closely to determine if it meets your intent. In particular, you may wish to change the deadlines established in the draft which I have rather arbitrarily established. Also, the draft does not establish a specific penalty that would apply to manufacturers or retailers who violate the prohibitions created in the draft. If you would like to establish such a penalty, please let me know.

The draft imposes an annual \$5,000 fee on manufacturers to fund administration of the recycling program as instructed. If you decide to revise this fee or consider other funding options in the next version of the draft, I will make those changes accordingly. Also, the draft does not appropriate any funds for the initial expenses that DNR will incur before fees are paid by manufacturers. Let me know if you want to provide funding for this purpose or for any new DNR positions.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3096/P1dn
RNK:kjf:md

November 9, 2009

This draft is in preliminary form. Please review the draft closely to determine if it meets your intent. In particular, you may wish to change the deadlines established in the draft which I have rather arbitrarily established. Also, the draft does not establish a specific penalty that would apply to manufacturers or retailers who violate the prohibitions created in the draft. If you would like to establish such a penalty, please let me know.

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Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Kite, Robin

From: Barry, Sarah
Sent: Wednesday, February 03, 2010 10:27 AM
To: Kite, Robin
Subject: RE: Senator Jauch Requested Mercury Lamp Recycling Modifications LRB-3096/P1

I do want the final form—but I understand it will probably be late next week when I can actually circulate it. Thank you for working on it, just keep me posted.

Thanks again,

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)

<http://legis.wisconsin.gov/senate/sen25/news/>

From: Kite, Robin
Sent: Wednesday, February 03, 2010 10:16 AM
To: Barry, Sarah
Subject: RE: Senator Jauch Requested Mercury Lamp Recycling Modifications LRB-3096/P1

Sarah:

I just wanted to give you an update on this draft. I am still working on it and am still hoping that I might be able to get it to you by the end of the week. Do you need it to be in final form or can it still be a preliminary draft? If it is in final form, I will need to write an analysis which will take even more time.

Thanks.

Robin

From: Barry, Sarah
Sent: Wednesday, January 27, 2010 5:17 PM
To: Kite, Robin
Subject: Senator Jauch Requested Mercury Lamp Recycling Modifications LRB-3096/P1

<< File: Senator Jauch Requested Mercury Lamp Recycling Modifications 1.27.10.doc >>
Robin,

I am attaching a word document that uses track changes to show the desired modifications to LRB 3096/P1. Let me know if this is a reasonable way to communicate this request with you. Obviously the words may not be exactly right, but hopefully you can get the intent from the language I inserted. Please let me know if you want to get together or discuss this over the phone.

I am wondering if there is any way (I know you are very, very busy) to have a redraft by mid to late next week?

Please let me know what your time looks like.

Thank you very much for your assistance with this, and for the landfill ban draft on such short notice.

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)

<http://legis.wisconsin.gov/senate/sen25/news/>

Kite, Robin

From: Barry, Sarah
Sent: Monday, February 01, 2010 4:19 PM
To: Kite, Robin
Subject: RE: another question

We had extensive discussion about this question. We decided on households. The landfill ban should help encourage businesses to find alternatives to dumping them in the landfills. I believe many businesses already recycle as it is. This is one of those issues that will get a lot of discussion once we put the bill out there, but for now please use the term household.

Thank you,

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

<http://legis.wisconsin.gov/senate/sen25/news/>

From: Kite, Robin
Sent: Monday, February 01, 2010 4:16 PM
To: Barry, Sarah
Subject: another question

Sarah:

On the mercury-added lamp bill, there are references in the new language to "households" similar to the electronic waste bill. Is it your intention to limit the scope of the bill to lamps sold to and collected from only households? Or should the bill include other users, such as commercial or retail users of these bulbs?

Robin

Robin Kite, Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
1 East Main Street, Suite 200
Madison, WI 53703
(608) 266-7291

2009 – 2010 LEGISLATURE

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

AN ACT to create 20.370 (2) (hs), 25.49 (1g), 287.03 (1) (g), 287.07 (4m) and 287.16 of the statutes; relating to: the sale, disposal, collection, and recycling of mercury-added lamps, granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

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

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

Please add a recycling goal of 70% of total weight of lamps sold in a year by July 1, 2015.

Please add the definitions of collection and recycling as follows (matches e-waste):
Collection means receiving the devices and delivering or arranging for the delivery to a recycling facility [s. 287.17(1)(b)]. Recycling means preparing the devices collected for use in the manufacturing process or for recovery of usable materials... [s. 287.17(1)(m)].

Formatted: Font: Not Bold, Not Italic

SECTION 1. 20.370 (2) (hs) of the statutes is created to read:
20.370 (2) (hs) *Mercury-added lamp recycling*. From the recycling and renewable energy fund, all moneys received under s. 287.16 (6) for administration of the mercury-added lamp recycling program under s. 287.16.

SECTION 2. 25.49 (1g) of the statutes is created to read:
25.49 (1g) The moneys received under s. 287.16 (6).

SECTION 3

SECTION 3. 287.03 (1) (g) of the statutes is created to read:
287.03 (1) (g) Maintain an updated list of manufacturers that have fully implemented an approved recycling plan under s. 287.16 (4).

SECTION 4. 287.07 (4m) of the statutes is created to read:
287.07 (4m) MERCURY-ADDED LAMPS. (a) In this subsection, "mercury-added lamp" has the meaning given in s. 287.16 (1) (b).
(b) Beginning on July 1, 2013, no person may knowingly do any of the following:
1. Dispose of a mercury-added lamp in a solid waste disposal facility.
2. Burn a mercury-added lamp in a solid waste treatment facility.
3. Place a mercury-added lamp in a container the contents of which will be disposed of in a solid waste disposal facility or burned in a solid waste treatment facility.

4. The operator of a solid waste disposal facility or a solid waste treatment facility shall make a reasonable effort to manually separate, and arrange to have recycled, mercury-added lamps that are readily observable in solid waste that is delivered to the facility for

①

4 disposal or burning unless the operator determines that separating the lamps is not practical or would require the operator to implement measures to protect human health or safety in addition to any measures taken in the ordinary course of business.

SECTION 5.

287.16 of the statutes is created to read:

287.16 Mercury-added lamp recycling. (1) DEFINITIONS. In this section:

- (a) "Manufacturer" means any person who manufactures mercury-added lamps in the United States or imports mercury-added lamps manufactured outside of the United States.
- (b) "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process.
- (c) "Recycler" means a person who accepts mercury-added lamps for recycling.
- (d) "Recycling" means processing and converting mercury-added lamps into usable materials or products.
- (e) "Retailer" means any person engaged in the retail sale of mercury-added lamps to persons in this state.

when pay fee - regist. submission of plan is like regist.

SECTION 5

(2) PLAN SUBMISSION. (a) Not later than July 1, 2011, a manufacturer whose mercury-added lamps are sold to Wisconsin households within the last 10 years [based on the date of registration with the state] in this state shall submit a recycling plan to the department that does all of the following:

who must register

- 1. Establishes a method for recycling, or arranging for recycling, mercury-added lamps that complies with the Wisconsin Universal Waste and the hazardous waste management standards (cross reference).
- 2. Establishes collection locations throughout this state at which mercury-added lamps may be deposited without cost. There must be at least one collection site per 10,000 residents in counties with population density less than 30,000 residents. The plan must include a list of names and addresses of collection sites and recyclers.

what about greater density

Deleted: sufficient

- 4. Includes a public education component to provide information about the reasons to recycle, local opportunities for recycling, and safe storage and handling of spent mercury added lamps.
- 5. Establishes a procedure for the delivery of mercury-added lamps from collection locations to a recycler. Mercury-added lamps shall be managed in containers designed to prevent the escape of mercury into the environment by volatilization or any other means.

Deleted: 3. Includes alternative methods for delivering mercury-added lamps for collection and recycling in areas with a low population density, as determined by the department by rule

Deleted: and

Deleted: in containers approved by the department,

(b) A manufacturer may establish a recycling program under this subsection jointly with other manufacturers and may participate with other manufacturers in creating an entity to collect and recycle mercury-added lamps.
(c) ~~Manufacturers shall cover at least 50% of collection costs as well as all recycling costs under the plan.~~

take out

(3) PLAN REVIEW. The department shall review a plan submitted under sub. (2) within 3 months of its submission to determine whether the plan complies with the requirements of that subsection. Within 30 days after completing its review, the

2

Universal Waste Management Standards NR 673

wants to require many who is no longer selling merc. lamps to participate

how? could just be website

department shall notify a manufacturer of any deficiencies in the manufacturer's plan. The department shall publicly notice plans as they are submitted and make these available on a website. If an original or modified plan complies with the requirements of sub. (2),

Deleted: solicit public comment before approving or disapproving the plan

the department shall approve the plan. If a manufacturer fails to remedy deficiencies in the manufacturer's plan by a deadline set by the department, the department shall disapprove the plan and no person may sell the manufacturer's mercury-added lamps in this state until all of the following occur:

- (a) The manufacturer submits a new plan.
- (b) The manufacturer pays a fee in the amount specified under sub. (6) for submitting an original plan.
- (c) The department approves the plan.
- (4) PLAN IMPLEMENTATION. Upon approval under sub. (3) of a manufacturer's plan, the manufacturer shall implement the plan. A manufacturer shall fully implement its plan no more than 12 months after the department approves the plan under sub. (3).

(5) REPORT. Within 12 months of approval of its plan and annually thereafter, a manufacturer shall submit a report to the department that includes all of the following:

- (a) The total weight of mercury-added lamps that the manufacturer recycled under the plan in the previous year.
- (b) The estimated total weight of the manufacturer's mercury-added lamps that were sold under the plan in the previous year and the methodology used for estimating that number.
- (c) An evaluation of the effectiveness of the manufacturer's plan.
- (d) Recommendations and implementation plan for increasing the number of mercury-added lamps recycled under the plan.
- (e) An accounting of the costs associated with administering the plan in the previous year.
- (f) the report shall include a description of significant anticipated changes to the plan for the coming year including changes in manufacturers covered under the plan, collection sites and recyclers.

Deleted: number

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if signy changes - need to resubmit & get approval

SECTION 5

(6) FEE. Upon submission of a plan under sub. (2), and annually after implementation of a plan under sub. (4), a manufacturer shall pay a recycling administration fee of \$5,000 to the department. Manufacturers who have not sold mercury-added lamps to Wisconsin households during the past 10 years at the time the registration is due are exempted from the Plan requirement and from paying a registration fee.

add registration requirement?

(7) RETAILERS. Beginning on July 1, 2013, a retailer may not sell or offer to sell a mercury-added lamp produced by a manufacturer unless, before making the first offer for sale, the retailer has determined that the manufacturer is on the list maintained by the department under s. 287.03 (1) (g).

(8) COOPERATION. The department shall encourage communication between

3

local governments, persons operating solid waste collection and recycling centers, and manufacturers to promote cooperation in establishing and maintaining effective methods for recycling mercury-added lamps.

SECTION 6. Nonstatutory provisions.

(1) On or before July 1, 2013, the department of natural resources shall submit a report to the appropriate standing committees of the legislature in the manner provided under section 13.172 (3) of the statutes on the recycling of mercury-added lamps. The report shall include all of the following:

(a) An assessment of the costs of implementing the requirements of section 287.16 of the statutes, as created by this act, to manufacturers, consumers, and local governmental units.

(b) After consulting with manufacturers of mercury-added lamps and collection site operators,

recommendations for streamlining the recycling of mercury-added lamps.

(c) A review and assessment of education and outreach methods that, if implemented by the department, would improve the rate of recycling of mercury-added lamps.

(d) On or before July 1, 2015, the department of natural resources shall submit a report that includes (a) through (c). In addition, this report will include an evaluation of the recycling rate goal of 70% of total weight of lamps sold in a given year. The department will make recommendations if the recycling rate has not reached 70%.

Deleted: January 1, 2011

(END)

4



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2009 BILL

D-Note

1 AN ACT *to create* 20.370 (2) (hs), 25.49 (1g), 287.03 (1) (g), 287.07 (4m) and 287.16
2 of the statutes; **relating to:** the sale, disposal, collection, and recycling of
3 mercury-added lamps, ~~granting rule-making authority,~~ and making an
4 appropriation.

Analysis by the Legislative Reference Bureau

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

insert
Analysis →

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

5 SECTION 1. 20.370 (2) (hs) of the statutes is created to read:

6 20.370 (2) (hs) *Mercury-added lamp recycling.* From the recycling and
7 renewable energy fund, all moneys received under s. 287.16 (6) for administration
8 of the mercury-added lamp recycling program under s. 287.16. (7) ✓

9 SECTION 2. 25.49 (1g) of the statutes is created to read:

10 25.49 (1g) The moneys received under s. 287.16 (6). (7) ✓

1 SECTION 3. 287.03 (1) (g) of the statutes is created to read:

2 287.03 (1) (g) Maintain an updated list of manufacturers that have fully

3 implemented an approved recycling plan under s. 287.16 ~~(4)~~ ⁽⁵⁾ ✓

4 SECTION 4. 287.07 (4m) of the statutes is created to read:

5 287.07 (4m) MERCURY-ADDED LAMPS. (a) In this subsection, "mercury-added

6 lamp" has the meaning given in s. 287.16 (1) ~~(b)~~ ^(e) ✓

7 (b) Beginning on July 1, 2013, no person may knowingly do any of the following:

8 1. Dispose of a mercury-added lamp in a solid waste disposal facility.

9 2. Burn a mercury-added lamp in a solid waste treatment facility.

10 3. Place a mercury-added lamp in a container the contents of which will be

11 disposed of in a solid waste disposal facility or burned in a solid waste treatment

12 facility.

insert
2-12
13

SECTION 5. 287.16 of the statutes is created to read:

insert
2-14
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14 287.16 Mercury-added lamp recycling. (1) DEFINITIONS. In this section:

~~(b)~~ "Manufacturer" means any person who manufactures mercury-added lamps in the United States or imports mercury-added lamps manufactured outside of the United States.

~~(c)~~ ^(e) "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process.

~~(d)~~ ^(f) "Recycler" means a person who accepts mercury-added lamps for recycling.

~~(e)~~ (d) "Recycling" means ~~processing and converting mercury-added lamps into~~ usable materials or products.

insert
2-22
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~~(f)~~ ^(h) "Retailer" means any person engaged in the retail sale of mercury-added lamps to persons in this state.

24

insert
3-1

(2) PLAN SUBMISSION. (a) Not later than July 1, 2011, a manufacturer whose mercury-added lamps are sold in this state shall submit a recycling plan to the department that does all of the following:

1. Establishes a ~~method~~ ^{or program} for recycling, or arranging for recycling, mercury-added lamps.

insert
3-6

2. Establishes ~~sufficient~~ collection locations throughout this state at which mercury-added lamps may be deposited without cost.

3. Includes alternative methods for delivering mercury-added lamps for collection and recycling in areas with a low population density, as determined by the department by rule.

4. Includes a public education component to provide information about the reasons to recycle ~~and~~ local opportunities for recycling, ^{and the safe storage and handling of used mercury-added lamps}

5. Establishes a procedure for the delivery of mercury-added lamps, in containers approved by the department, from collection locations to a recycler.

insert
3-14

(c) A manufacturer may establish a recycling program under this subsection jointly with other manufacturers and may participate with other manufacturers in creating an entity to collect and recycle mercury-added lamps.

insert
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insert
3-17

(3) PLAN REVIEW. The department shall review a plan submitted under sub. (2) within 3 months of its submission to determine whether the plan complies with the requirements of ~~that subsection~~ ⁽²⁾.

Within 30 days after completing its review, the department shall notify a manufacturer of any deficiencies in the manufacturer's plan. The department shall solicit public comment before approving or disapproving

the plan. If an original or modified plan complies with the requirements of sub. (2), the department shall approve the plan. If a manufacturer fails to remedy deficiencies in the manufacturer's plan by a deadline set by the department, the

1 department shall disapprove the plan and no person may sell the manufacturer's
2 mercury-added lamps ^{to households} in this state until all of the following occur:

3 (a) The manufacturer submits a new plan.

4 (b) The manufacturer pays a fee in the amount specified under sub. (6) for
5 submitting an original plan.

6 (c) The department approves the plan.

insert
4-6

7 (4) PLAN IMPLEMENTATION. Upon approval under sub. (3) of a manufacturer's
8 plan, the manufacturer shall implement the plan. A manufacturer shall fully
9 implement its plan no more than 12 months after the department approves the plan
10 under sub. (3).

11 (5) ANNUAL REPORT. Within 12 months of approval of its plan and annually thereafter,
12 a manufacturer shall submit a report to the department that includes all of the
13 following:

14 (a) The ~~number~~ ^{total weight} of mercury-added lamps that the manufacturer recycled under
15 the plan in the previous year.

16 (b) The estimated ~~number~~ ^{total weight} of the manufacturer's mercury-added lamps that
17 were ~~recycled under the plan~~ ^{sold} in the previous year and the methodology used for
18 estimating that number.

19 (c) An evaluation of the effectiveness of the manufacturer's plan.

20 (d) ^{Any} Recommendations for increasing the ~~number~~ of mercury-added lamps
21 recycled under the plan. ^{that the manufacturer has} ~~the total weight~~

22 (e) An accounting of the costs associated with administering the plan in the
23 previous year.

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~~(6)~~ FEE. Upon submission of a plan under sub. (2), and annually after implementation of a plan under sub. ~~(4)~~ ⁽⁵⁾, a manufacturer shall pay a recycling administration fee of \$5,000 to the department. [↑]

~~(7)~~ ⁽⁸⁾ RETAILERS. Beginning on July 1, 2013, a retailer may not sell or offer to sell a mercury-added lamp produced by a manufacturer unless, before making the first offer for sale, the retailer has determined that the manufacturer is on the list maintained by the department under s. 287.03 (1) (g).

~~(8)~~ ⁽⁹⁾ COOPERATION. The department shall encourage communication between local governments, persons operating solid waste collection and recycling centers, and manufacturers to promote cooperation in establishing and maintaining effective methods for recycling mercury-added lamps.

SECTION 6. Nonstatutory provisions.

^{← create auto ref}
^{← create auto ref}
(1) On or before January 1, ~~2011~~ ²⁰¹³, the department of natural resources shall submit a report to the appropriate standing committees of the legislature in the manner provided under section 13.172 (3) of the statutes on the recycling of mercury-added lamps. The report shall include all of the following:

(a) An assessment of the costs of implementing the requirements of section 287.16 of the statutes, as created by this act, to manufacturers, consumers, and local governmental units.

(b) After consulting with manufacturers of mercury-added lamps, recommendations for streamlining the recycling of mercury-added lamps.

(c) A review and assessment of education and outreach methods that, if implemented by the department, would improve the rate of recycling of mercury-added lamps.

(END)

D-Note

insert 5-3

insert 5-11

insert 5-19

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LREB096/PB
RNK:.....

INSERT ANALYSIS

x This bill requires a manufacturer who sells, or has previously sold, mercury-added lamps to households in this state, to submit a recycling plan to the Department of Natural Resources (DNR). A manufacturer must submit the plan not later than July 1, 2011, or prior to the first sale of mercury-added lamps in this state if the first sale is after July 1, 2011. A mercury-added lamp is an electric lamp to which mercury is intentionally added during the manufacturing process. The manufacturer must also submit an annual report and pay an annual recycling administration fee to DNR. A manufacturer that has not sold mercury-added lamps to households in this state for a period of 10 consecutive years and that does not resume such sales after that period, is not required to comply with these requirements.

Under the bill, a recycling plan submitted to DNR must establish collection locations at which mercury-added lamps may be deposited without cost, must include a public education component to provide information about recycling and the safe storage and handling of used mercury-added lamps, and must establish a procedure for the delivery of mercury-added lamps from collection locations to a recycler. The bill authorizes manufacturers to establish joint recycling programs or to participate in the creation of an entity to collect and recycle mercury-added lamps.

x The bill requires DNR to review a manufacturer's recycling plan within 3 months of its submission. Within 30 days after completing its review, DNR must notify the manufacturer of any deficiencies in the manufacturer's plan. If DNR determines that an original or modified plan complies with the plan requirements established in the bill, DNR must approve the plan. If the plan is deficient and the manufacturer fails to remedy the plan, DNR must disapprove the plan. In that instance, no person may sell the manufacturer's mercury-added lamps to households in this state until the manufacturer submits a new plan and that plan is approved by DNR. The bill requires a manufacturer to fully implement an approved plan no more than 12 months after DNR approves the plan. The bill requires DNR, in approving recycling plans, to establish a goal of achieving by January 1, 2015, an average yearly recycling rate of 70% of the total weight of mercury-added lamps sold to households in this state.

The bill also requires each manufacturer to submit an annual report to DNR that includes information about the total weight of mercury-added lamps recycled by the manufacturer in the previous year, an evaluation of the effectiveness of the manufacturer's plan, and any recommendations for increasing the total weight of mercury-added lamps recycled under the plan. The bill requires a manufacturer upon submission of a plan, and annually after implementation of the plan, to pay a recycling administration fee to DNR of \$5,000.

Beginning on July 1, 2013, the bill prohibits a retailer from selling a mercury-added lamp unless the retailer determines that the manufacturer is on a list, maintained by DNR, of manufacturers that have fully implemented an approved recycling plan.

ten

percent

three

ins.

Current law prohibits various items, including lead acid batteries and major appliances, from being disposed of in landfills and from being incinerated. This bill prohibits the disposal in landfills and the incineration of mercury-added lamps. The prohibition takes effect on July 1, 2013.

FE-S

INSERT 2-12

1 (c) The operator of a solid waste disposal facility or a solid waste treatment
 2 facility shall make a reasonable effort to manually separate, and arrange to have
 3 recycled, a mercury-added lamp, as defined in s. 287.16 (1) (e), that is readily
 4 observable in solid waste that is delivered to the facility for disposal or burning
 5 unless the operator determines that separating the mercury-added lamp is not
 6 practical or would require the operator to implement measures to protect human
 7 health or safety in addition to any measures taken in the ordinary course of business.

INSERT 2-14

8 (a) "Collection" means the act of receiving mercury-added lamps from
 9 households and delivering, or arranging for the delivery of, the mercury-added
 10 lamps to a recycler.

11 (b) "Dwelling unit" means a single unit providing complete, independent living
 12 facilities for one or more persons, including permanent provisions for living,
 13 sleeping, eating, cooking, and sanitation.

14 (c) "Household" means one or more individuals who occupy one dwelling unit
 15 in a detached or multiunit building.

16 (d) "Manufacturer" means a person who does, or who previously has done, any
 17 of the following:

- 18 1. Manufacture mercury-added lamps to be sold under the person's own brand.
- 19 2. Sell mercury-added lamps manufactured by others under the person's own
 20 brand.

1 3. License the person's brand for manufacture and sale of mercury-added
2 lamps by others.

INSERT 2-22

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

INSERT 3-1

9 ~~no #~~ (a) Except as provided in par. (b), not later than July 1, 2011, a manufacturer
10 whose mercury-added lamps are or were sold in this state, shall submit a recycling
11 plan to the department that establishes a program for recycling, or arranging for
12 recycling, mercury-added lamps. The plan shall do all of the following:

INSERT 3-6

13 ~~no #~~ The plan shall provide that the manufacturer shall establish at least one
14 collection site for each 10,000 residents in each county that has a population of fewer
15 than 30,000 residents.

INSERT 3-14

16 ~~no #~~ The department may not approve a container under this subdivision unless the
17 container is designed to prevent the escape of mercury into the environment by
18 volatilization or other means.

INSERT 3-15

1 (b) 1. A manufacturer whose first sales of mercury-added lamps to households
 2 in this state occurs on or after July 1, 2011, shall submit a recycling plan under this
 3 subsection to the department before the manufacturer sells any mercury-added
 4 lamps to households in this state.

5 2. Paragraph (a) does not apply to a manufacturer if the manufacturer has not
 6 sold mercury-added lamps to households in this state for ten consecutive years and
 7 does not resume such sales upon expiration of that ten-year period.

INSERT 3-17

8 (d) The department may require a manufacturer to submit a revised plan under
 9 this subsection consistent with any recommendations contained in the
 10 manufacturer's report under sub. (6) for increasing the weight of mercury-added
 11 lamps recycled under the manufacturer's plan.

12 (e) The department shall publish each plan submitted under this subsection
 13 as a class I notice under ch. 985 and shall make the plan available on the
 14 department's Internet Web site.

INSERT 4-6

15 (5) GOAL. The department shall approve plans under sub. (3) with a goal of
 16 achieving by January 1, 2015, an average yearly recycling rate of 70% of the total
 17 weight of mercury-added lamps sold to households in this state.

INSERT 4-23

18 (f) A description of any proposed changes to the manufacturer's plan including
 19 changes to collection site locations and recyclers to whom the manufacturer delivers,
 20 or has delivered, mercury-added lamps for recycling.

INSERT 5-3

10

not This subsection does not apply to a manufacturer if the manufacturer has not sold mercury-added lamps to households in this state for ten consecutive years and does not resume such sales upon expiration of that ten-year period.

INSERT 5-11

10

On or before January 1, 2015, the department shall submit a report to the appropriate standing committees of the legislature under s. 13.172 (3) of the statutes on the recycling of mercury-added lamps for the period beginning immediately after the date of submission of the report under 2009 Wisconsin Act ... (this act), section

(6) (1). The report shall include the information required for the report specified under 2009 Wisconsin Act ... (this act), section (6) (1). The report shall also contain an assessment of whether the goal under sub. (5) has been met. If the assessment in the report provides that the goal has not been met, the report shall include recommendations for revising mercury-added lamp collection and recycling procedures to achieve that goal.

INSERT 5-19

and with persons who receive mercury-added lamps from households and deliver, or arrange for the delivery of, those lamps to a recycler

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3096/1dn

RNK:...

gf

Date

Please review all of the changes made in this version of the draft to ensure that they meet your intent.

The draft does not include the language that you requested with regard to “universal waste” because I was unable to obtain an explanation of this requested change from DNR. If, after review of this draft, you want to pursue this issue, please let me know and I will redraft accordingly.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3096/1dn
RNK:kjf:rs

February 11, 2010

Please review all of the changes made in this version of the draft to ensure that they meet your intent.

The draft does not include the language that you requested with regard to “universal waste” because I was unable to obtain an explanation of this requested change from DNR. If, after review of this draft, you want to pursue this issue, please let me know and I will redraft accordingly.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov