

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3058/P2dn
RCT:bjk:jf

November 30, 2007

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 appropriation, 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