

## 2011 DRAFTING REQUEST

### Bill

Received: **08/30/2011**

Received By: **btradewe**

Wanted: **As time permits**

Companion to LRB:

For: **Jerry Petrowski (608) 266-1182**

By/Representing: **Derek Punches**

May Contact:

Drafter: **btradewe**

Subject: **Environment - env. cleanup**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Petrowski@legis.wisconsin.gov**

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Landfills and the voluntary party liability exemption

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### Instructions:

See attached

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### 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>
/?				_____			State
/P1	btradewe 09/28/2011	mduchek 10/05/2011	jfrantze 10/05/2011	_____	lparisi 10/05/2011		State
/1	btradewe 10/18/2011	mduchek 10/18/2011	rschluet 10/18/2011	_____	lparisi 10/18/2011	ggodwin 10/18/2011	

FE Sent For:

*at intro 10/20/11*

<END>

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/?	btradewe	1/ND 10/4/11	26 10/5	19 JH/Ph			

FE Sent For:

<END>

CS-1287/2

**Tradewell, Becky**

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**From:** Kite, Robin  
**Sent:** Tuesday, August 30, 2011 3:16 PM  
**To:** Tradewell, Becky  
**Subject:** FW: Legislation Draft Request - Landfill Liability

This is a new drafting request. Are you interested in taking this one? I probably wouldn't be able to get to it for awhile. But if you are really busy too, I can certainly take it.

Robin

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**From:** Punches, Derek  
**Sent:** Tuesday, August 30, 2011 3:07 PM  
**To:** Kite, Robin  
**Subject:** Legislation Draft Request - Landfill Liability

Dear Ms. Kite,

Representative Petrowski would like to request a preliminary draft regarding changes to statutes on landfill liability. These changes include the following:

- ✓ 1. Amend s. 292.15(7)(d)  
Under current law, all licensed solid waste facilities are not eligible for the Voluntary Party Liability Exemption. Amend the statutes so that "approved facilities," as defined in s. 289.01(3), are not eligible to participate in the VPLE program.
- ✓ 2. Amend s. 292.15(7)(e)  
This statutory exclusion is still important because it would not be appropriate to grant the liability exemption to a landfill where it is still necessary to pump leachate, treat groundwater, etc in order to maintain standards and compliance with environmental laws. The language governing methane systems may be removed, so as to read "solid waste facility or waste site at which active remedial action operation or treatment is required, including a site or facility where methane or groundwater monitoring or gas leachate, soil, or groundwater collection or treatment is required."
- ✓ 3. Make appropriate modifications to s. 289.31 and 289.46  
In order to make it clear that once a site receives a voluntary party liability exemption that the solid waste license is terminated for the landfill or waste area that was the focus of the remedial action. In addition, future owners will need to comply with the continuing obligations in the Certificate of Completion, rather than the solid waste plan of operation or closure agreement.  
  
*Note: Perhaps one way to clearly make this change would be to add a new s. 289.31(10) that says that once a site has obtained liability exemption per 292.15, that the license would be terminated for the area subject to the remedial action. The property may need a solid waste license for another purpose, such as a transfer station, so not all licenses at the site would be terminated.*
4. Clarify that the current requirement to obtain approval before building on a solid waste facility would apply to a site after a voluntary party liability exemption is obtained.  
  
*Note: Currently the DNR requires parties who wish to do any construction on a landfill to obtain an exemption from the prohibitions in s. 289.46(2), Wis. Stats, and NR 506 Wis. Administrative Code. Appropriate statutory changes should be made to clarify that after a site receives the liability exemption under VPLE, they are still required to obtain the building on abandoned landfill approval if they want to change the land-use and build something new on the landfill that was not already approved.*
- ✓ 5. Eliminate s. 292.15(4)
- ✓ 6. Create new section in s. 292.15 to remove inactive parties from the VPLE  
Any time after an application is submitted to the department, if an applicant fails to make reasonable progress towards completion of the site investigation and remediation of the property, the department may withdraw the voluntary party from the process to obtain the liability exemption. If the voluntary party fails to provide requested reports or updates on the

status of the investigation and remedial action to the department for 1 year or longer, the department may request for a written progress update from the applicant. If the progress update is not received within 60 days or does not show reasonable progress is being made, the department may withdraw the applicant from the process to obtain the liability exemption. The department shall provide a written determination to the applicant confirming withdrawal from the program. The department shall return any unused deposit, unless otherwise directed by the voluntary party. To re-enter the process, the voluntary party would need to pay the appropriate fees, and make a request to and to enter into an agreement with the department, in accordance with s. 292.11(7)(d), Wis. Stats.

Best regards,  
Derek

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**Derek Panches**  
**Office of Representative Jerry Petrowski**  
**86th Assembly District**  
**(608) 266-1182**

**Tradewell, Becky**

---

**From:** PUNCHES, DEREK  
**Sent:** Monday, September 19, 2011 4:44 PM  
**To:** Tradewell, Becky  
**Subject:** Information re: landfill liability drafting

Ms. Tradewell,

Per our conversation this afternoon, I have provided further information below on the background and intent of the drafting instructions sent August 30, 2011, regarding changes to landfill liability law. Please do not hesitate to contact me if you have any questions. We would like to circulate this bill as soon as possible. Thank you in advance for your time!

Best regards,  
Derek

**Statutory Changes to Voluntary Party Liability Exemption law**

Intent: to promote the clean-up and reuse of certain licensed landfill sites

Many communities and developers would like to properly clean up and reuse many of the former landfill sites in this state. Many communities are "land-locked" and the only growth potential is to reuse these licensed and unlicensed landfill sites.

Presently, the DNR's Remediation and Redevelopment (RR) program has a brownfields incentive that offers an exemption from the Spill and Solid Waste laws if a person fully investigates and cleans up property which was never licensed under the state's Solid Waste law. This is commonly known as Voluntary Party Liability Exemption (VPLE), and found in s. 292.15, Wis. Stats. If a person receives this exemption, they are protected if additional, pre-existing contamination is found on the property that requires action, if standards change, or if the remedy fails. The person who owns the property is required to maintain any land use or continuing obligations (engineering controls, etc) even if they have the exemption. Many developers and lenders want this exemption, as it provides certain assurances that they find helpful to investors and future property owners.

The current law allows sites that have never been licensed under solid waste law to enter the VPLE program. The Brownfields Study Group and DNR are recommending broadening the universe of sites eligible to enter the VPLE program to include a category of licensed solid waste sites. It has become evident that there are licensed solid waste sites that could easily and safely be cleaned up under the VPLE program. The presence of a solid waste license generally is not indicative of the type, volume, and degree of toxicity concerning the solid waste at the site.

Therefore, we are proposing that the VPLE law be amended to allow some licensed waste sites into the VPLE program, except that those that have been "licensed and approved" waste sites (approximately 250 sites), as that term is defined in s. 289.01(3) Wis. Stats. The DNR has a list of the sites not eligible for the VPLE that would make determining eligibility much more clear. As currently required in the VPLE statute, only waste sites that could obtain ch. NR 726 "closure", and not require active groundwater systems, leachate collection, etc. to maintain compliance with environmental laws, would be eligible for the VPLE. Even though this proposal would allow a greater universe of waste sites to enter the program, it does not mean they could necessarily meet the technical conditions to receive the exemption.

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**Derek PUNCHES**  
**Office of Representative Jerry Petrowski**  
**86th Assembly District**  
**(608) 266-1182**



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-2768/P1

RCT:.....

~~5001~~ (in 9/28)  
Fri 10/7

med

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Note

1 AN ACT <sup>(Gen)</sup> relating to: the liability of certain persons for environmental  
2 contamination on property on which a cleanup has been conducted.

**Analysis by the Legislative Reference Bureau**

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Under current law, a person, called a voluntary party, who applies for a liability exemption may be exempt from absolute \* liability to restore the environment and minimize the harmful effects of a discharge, and from the requirements of other laws relating to hazardous substances, even if a cleanup of the discharge is not completely successful. To qualify for this exemption, an environmental investigation of the contaminated property must be conducted, a cleanup performed, and a certificate obtained from the Department of Natural \* Resources (DNR) stating that the cleanup <sup>has</sup> restored the environment and minimized the harmful effects of the discharge. In addition, if the voluntary party owns or controls the property, the voluntary party must maintain and monitor the property as required by DNR.

Under current law, the voluntary party liability exemption is not available for a landfill that was licensed by DNR. This bill <sup>expands the voluntary liability exempt,</sup> narrows that provision so that the \* liability exemption is available for a landfill unless the landfill was licensed by DNR and had a plan of operation approved by DNR under current law or was initially licensed on or after May 21, 1975, and the owner successfully applied for a determination by DNR that the landfill's design and plan of operation complied

progress

substantially with the requirements necessary for approval of a plan of operation under current law.

This bill also authorizes DNR to remove a voluntary party from the process of obtaining the voluntary party liability exemption if the voluntary party fails to make reasonable process toward completing the environmental investigation or the cleanup or fails to provide DNR with information that DNR requests.

if the voluntary party

Under current law, in limited circumstances, DNR may agree to limit the monetary amount that a voluntary party may be required to spend on a cleanup if the voluntary party ceases the cleanup after the cost exceeds 125 percent of the anticipated cost of the cleanup and the voluntary party makes reasonable efforts to sell the property. The bill eliminates this provision.

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

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

1 SECTION 1. 20.370 (2) (dh) of the statutes is amended to read:  
2 20.370 (2) (dh) *Solid waste management — remediated property.* All moneys  
3 received under ss. 292.11 (7) (d) 2., 292.13 (3), 292.15 (5), 292.21 (1) (c) 1. d., 292.35  
4 (13), 292.55 (2), 292.57 (2), and 292.94 for the department's activities related to the  
5 issuance of determinations under s. 292.13 (2), remedial action cost recovery under  
6 s. 292.35, remediation of property under ss. 292.11 (7) (d), 292.15 (2) and (4), 292.55  
7 (1), and 292.57 and conducting reviews described in s. 292.94.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22m to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 178, 276, 365, 373; 2011 a. 32.

8 SECTION 2. 289.31 (10) of the statutes is created to read:  
9 289.31 (10) VOLUNTARY PARTY CERTIFICATE OF COMPLETION. When the  
10 department issues a certificate of completion under s. 292.15 (2) (a) 3., (ae) 3., or (ag)  
11 3. for a portion of a solid waste facility with an operating license under this section,

1 the operating license for the portion of the solid waste facility covered by the  
2 certificate of completion is terminated.

3 **SECTION 3.** 292.15 (2) (a) 2. of the statutes is amended to read:

4 292.15 (2) (a) 2. ~~Except as provided in sub. (4), the~~ The environment is restored  
5 to the extent practicable with respect to the discharges and the harmful effects from  
6 the discharges are minimized in accordance with rules promulgated by the  
7 department and any contract entered into under those rules.

8 History: 1993 a. 453; 1995 a. 225; 1995 a. 27 s. 712, 714, 715; 1997 a. 27, 237; 1999 a. 9, 185; 2001 a. 16; 2005 a. 418; 2007 a. 96.

8 **SECTION 4.** 292.15 (2) (av) of the statutes is created to read:

9 292.15 (2) (av) *Withdrawal by department.* 1. If <sup>at</sup> any time after a voluntary  
10 party submits an application to obtain an exemption under this section the voluntary  
11 party fails to make reasonable progress toward completion of an environmental  
12 investigation and environmental restoration of the property identified in the  
13 application, the department may withdraw the voluntary party from the process of  
14 obtaining an exemption under this section.

15 2. If a voluntary party fails to provide to the department requested reports or  
16 updates on the status <sup>of</sup> an environmental investigation and environmental  
17 restoration of the property identified in the voluntary party's application for one year  
18 or longer, the department may request a written status update from the applicant.  
19 If the voluntary party does not submit the status update within 60 days or submits  
20 a status update update that does not show that reasonable progress is being made,  
21 the department may withdraw the voluntary party from the process of obtaining an  
22 exemption under this section.

23 3. If the department decides to withdraw a voluntary party under this  
24 paragraph, the department shall provide a written notice of its decision to the

1 voluntary party and shall return any unused portion of any advance deposit made  
2 by the voluntary party, unless otherwise directed by the voluntary party.

3 4. A voluntary party may not reenter the process of obtaining an exemption  
4 under this section after being withdrawn under this paragraph unless the voluntary  
5 party pays the fees under sub. (5) and enters into an agreement with the department  
6 containing a schedule for conducting the environmental investigation and  
7 environmental restoration of the property identified in the voluntary party's  
8 application.

\*\*\*\*NOTE: Please review this provision carefully. I am not certain that I fully  
understood the intent.

9 SECTION 5. 292.15 (4) of the statutes is repealed.

10 SECTION 6. 292.15 (5) of the statutes is amended to read:

11 292.15 (5) FEES. The department may, in accordance with rules that it  
12 promulgates, assess and collect fees from a voluntary party to offset the cost of the  
13 department's activities under ~~subs.~~ sub. (2) and (4). The fees may include an advance  
14 deposit, from which the department shall return the amount in excess of the cost of  
15 the department's activities under ~~subs.~~ sub. (2) and (4).

History: 1993 a. 453; 1995 a. 225; 1995 a. 227 s. 712, 714, 715; 1997 a. 27, 237; 1999 a. 9, 185; 2001 a. 16; 2005 a. 418; 2007 a. 96.

16 SECTION 7. 292.15 (7) (d) of the statutes is amended to read:

17 292.15 (7) (d) A solid waste facility that ~~was licensed under s. 144.44, 1993~~  
18 ~~stats., or s. 289.31~~ is an approved facility.

History: 1993 a. 453; 1995 a. 225; 1995 a. 227 s. 712, 714, 715; 1997 a. 27, 237; 1999 a. 9, 185; 2001 a. 16; 2005 a. 418; 2007 a. 96.

\*\*\*\*NOTE: A cross reference to the definition of "approved facility" is not necessary  
because of s. 292.01 (1).

19 SECTION 8. 292.15 (7) (e) of the statutes is amended to read:

20 292.15 (7) (e) A solid waste facility or waste site at which active remedial  
21 ~~operation or treatment action~~ action is required, including a site or facility where ~~methane~~

1 or groundwater monitoring or gas, leachate, or groundwater collection or treatment  
2 is required.

History: 1993 a. 453; 1995 a. 225; 1995 a. 227 s. 712, 714, 715; 1997 a. 27, 237; 1999 a. 9, 185; 2001 a. 16; 2005 a. 418; 2007 a. 96.

stet. <sup>3</sup> ~~that~~ ~~this~~ ~~makes~~ ~~any~~ ~~substantive~~ ~~change~~. If methane monitoring is "remedial action,"  
3 deleting the reference to methane in the list following "including" does not make a legal  
difference. Please let me know whether any legal change is intended here.

leave as typed

(END)

Note

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

*Date*

LRB-2768/P1dn

RCT.:j:....

*med*

Derek P<sup>✓</sup>unches:

This is a preliminary version of the proposal on changing the voluntary party liability statute. Please note that the draft itself contains some notes about specific provisions.

The instructions indicated that the requirement to obtain approval before building on land where a solid waste facility was formerly located (s. 289.46 (2)) should be amended to clarify that the requirement continues to apply after the land receives the voluntary party liability exemption. It is unnecessary to amend s. 289.46 (2) because it clearly \* applies without regard to whether land receives that or any other exemption. *and without regard to any other circumstance*

Please contact me with any questions or redraft instructions.

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-2768/P1dn  
RCT:med:jf

October 5, 2011

Derek PUNCHES:

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The instructions indicated that the requirement to obtain approval before building on land where a solid waste facility was formerly located (s. 289.46 (2)) should be amended to clarify that the requirement continues to apply after the land receives the voluntary party liability exemption. It is unnecessary to amend s. 289.46 (2) because it clearly applies without regard to whether land receives that exemption and without regard to any other circumstance.

Please contact me with any questions or redraft instructions.

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

**Tradewell, Becky**

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**From:** Punches, Derek  
**Sent:** Tuesday, October 18, 2011 8:54 AM  
**To:** Tradewell, Becky  
**Subject:** LRB-2768 Changes

Ms. Tradewell,

Please make the following changes to LRB-2768/P1.

Pg. 2 Ln 11 – “for all or a portion of a solid waste facility”

Pg. 3 Ln 1 – “the operating license for the solid waste facility or the portion”

Pg. 4 Ln 17 – 292.15 (7) (3) of the statutes is amended to read:

“A solid waste facility or waste site at which active remedial operation or treatment is required, including a site or facility where groundwater monitoring, leachate, groundwater collection or treatment, or active gas extraction is required as all or part of the remedial action.”

Best regards,  
Derek

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**Derek Punches**  
**Office of Representative Jerry Petrowski**  
**86th Assembly District**  
**(608) 266-1182**



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-2768/P1  
RCT:med:jf

Thurs, 10/20, if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

VMY  
stays

Refer

1 AN ACT *to repeal* 292.15 (4), *to amend* 20.370 (2) (dh), 292.15 (2) (a) 2., 292.15  
2 (5), 292.15 (7) (d) and 292.15 (7) (e); and *to create* 289.31 (10) and 292.15 (2)  
3 (av) of the statutes; **relating to:** the liability of certain persons for  
4 environmental contamination on property on which a cleanup has been  
5 conducted.

**Analysis by the Legislative Reference Bureau**

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Under current law, a person, called a voluntary party, who applies for a liability exemption may be exempt from absolute liability to restore the environment and to minimize the harmful effects of a discharge, and from the requirements of other laws relating to hazardous substances, even if a cleanup of the discharge is not completely successful. To qualify for this exemption, an environmental investigation of the contaminated property must be conducted, a cleanup performed, and a certificate obtained from the Department of Natural Resources (DNR) stating that the cleanup has restored the environment and minimized the harmful effects of the discharge. In addition, if the voluntary party owns or controls the property, the voluntary party must maintain and monitor the property as required by DNR.

Under current law, the voluntary party liability exemption is not available for a landfill that was licensed by DNR. This bill expands the voluntary liability

party

exemption so that the exemption is available for a landfill unless the landfill was licensed by DNR and had a plan of operation approved by DNR under current law or was initially licensed on or after May 21, 1975, and ~~the owner successfully applied for a determination by DNR that the landfill's design and plan of operation complied~~ <sup>determined</sup> substantially with the requirements necessary for approval of a plan of operation under current law.

This bill also authorizes DNR to remove a voluntary party from the process of obtaining the voluntary party liability exemption if the voluntary party fails to make reasonable progress toward completing the environmental investigation and the cleanup or if the voluntary party fails to provide DNR with information that DNR requests.

Under current law, in limited circumstances, DNR may agree to limit the monetary amount that a voluntary party may be required to spend on a cleanup if the voluntary party ceases the cleanup after the cost exceeds 125 percent of the anticipated cost of the cleanup and the voluntary party makes reasonable efforts to sell the property. The bill eliminates this provision.

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

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

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6 s. 292.35, remediation of property under ss. 292.11 (7) (d), 292.15 (2) and (4), 292.55  
7 (1), and 292.57 and conducting reviews described in s. 292.94.

8           **SECTION 2.** 289.31 (10) of the statutes is created to read:

9           289.31 (10) **VOLUNTARY PARTY CERTIFICATE OF COMPLETION.** When the  
10 department issues a certificate of completion under s. 292.15 (2) (a) 3., (ae) 3., or (ag)  
11 2. for <sup>all or</sup> a portion of a solid waste facility with an operating license under this section,

11

1 the operating license for <sup>the solid waste facility or</sup> the portion of the solid waste facility covered by the  
2 certificate of completion is terminated.

3 **SECTION 3.** 292.15 (2) (a) 2. of the statutes is amended to read:

4 292.15 (2) (a) 2. ~~Except as provided in sub. (4), the~~ The environment is restored  
5 to the extent practicable with respect to the discharges and the harmful effects from  
6 the discharges are minimized in accordance with rules promulgated by the  
7 department and any contract entered into under those rules.

8 **SECTION 4.** 292.15 (2) (av) of the statutes is created to read:

9 292.15 (2) (av) *Withdrawal by department.* 1. If at any time after a voluntary  
10 party submits an application to obtain an exemption under this section the voluntary  
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4 under this section after being withdrawn under this paragraph unless the voluntary  
5 party pays the fees under sub. (5) and enters into an agreement with the department  
6 containing a schedule for conducting the environmental investigation and  
7 environmental restoration of the property identified in the voluntary party's  
8 application.

\* **\*\*\*\*NOTE:** Please review this provision carefully. I am not certain that I fully understood the intent.

9 **SECTION 5.** 292.15 (4) of the statutes is repealed.

10 **SECTION 6.** 292.15 (5) of the statutes is amended to read:

11 292.15 (5) FEES. The department may, in accordance with rules that it  
12 promulgates, assess and collect fees from a voluntary party to offset the cost of the  
13 department's activities under ~~subs. sub. (2) and (4)~~. The fees may include an advance  
14 deposit, from which the department shall return the amount in excess of the cost of  
15 the department's activities under ~~subs. sub. (2) and (4)~~.

16 **SECTION 7.** 292.15 (7) (d) of the statutes is amended to read:

17 292.15 (7) (d) A solid waste facility that ~~was licensed under s. 144.44, 1993~~  
18 ~~stats., or s. 289.31~~ is an approved facility.

\* **\*\*\*\*NOTE:** A cross reference to the definition of "approved facility" is not necessary because of s. 292.01 (1).

19 **SECTION 8.** 292.15 (7) (e) of the statutes is amended to read:

20 292.15 (7) (e) A solid waste facility or waste site at which active remedial  
21 plan operation or treatment action is required, including a site or facility where methane

~~of gas~~ ← Strike comma too

or active gas extraction

strike comma only

1

or groundwater monitoring ~~or gas~~ <sup>or</sup> leachate ~~or~~ groundwater collection or treatment

2

is required. as all or part of the remedial action

\*\*\*\*NOTE: This is the requested change in this provision. I am uncertain, however, that this makes any substantive change. If methane monitoring is "remedial action," deleting the reference to methane in the list following "including" does not make a legal difference. Please let me know whether any legal change is intended here.

3

(END)

**Godwin, Gigi**

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**From:** Punches, Derek  
**Sent:** Tuesday, October 18, 2011 12:44 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-2768/1 Topic: Landfills and the voluntary party liability exemption

Please Jacket LRB 11-2768/1 for the ASSEMBLY.