

1999 DRAFTING REQUEST

Bill

Received: **11/18/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

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

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies: **PEN**

Topic:

DOA:.....Wong - Voluntary party definition

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>
/?	nilsepe 12/9/98			_____			State
/1	traderc 12/28/98	ygeller 12/28/98	hhagen 12/29/98	_____	lrb_docadmin 12/29/98		State
/2	traderc 01/13/99	ygeller 01/13/99	martykr 01/14/99	_____	lrb_docadmin 01/14/99		State
/3	traderc 01/25/99	ygeller 01/25/99	lpaasch 01/25/99	_____	lrb_docadmin 01/25/99		State
/4	traderc 02/3/99	ygeller 02/3/99	hhagen 02/3/99	_____	lrb_docadmin 02/3/99		State
/5	traderc	ygeller	martykr	_____	gretskl		

2/4/99 3:30:00 PM
Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typist</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/4/99	02/4/99	02/4/99	_____	02/4/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **11/18/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

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

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies: **PEN**

Topic:

DOA:.....Wong - Voluntary party definition

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>
/?	nilsepe 12/9/98			_____			State
/1	traderc 12/28/98	ygeller 12/28/98	hhagen 12/29/98	_____	lrb_docadmin 12/29/98		State
/2	traderc 01/13/99	ygeller 01/13/99	martykr 01/14/99	_____	lrb_docadmin 01/14/99		State
/3	traderc 01/25/99	ygeller 01/25/99	lpaasch 01/25/99	_____	lrb_docadmin 01/25/99		State
/4	traderc 02/3/99	ygeller 02/3/99	hhagen 02/3/99	_____	lrb_docadmin 02/3/99		

15 2/4 jlg km 2/4

2/3/99 12:20:13 PM
Page 2

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **11/18/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

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

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies: **PEN**

Topic:

DOA:.....Wong - Voluntary party definition

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>
/?	nilsepe 12/9/98			_____			State
/1	traderc 12/28/98	ygeller 12/28/98	hhagen 12/29/98	_____	lrb_docadmin 12/29/98		State
/2	traderc 01/13/99	ygeller 01/13/99	martykr 01/14/99	_____	lrb_docadmin 01/14/99		State
/3	traderc 01/25/99	ygeller 01/25/99	lpaasch 01/25/99	_____	lrb_docadmin 01/25/99		

FE Sent For:

14 3/3 jlg #2/3 out/w 2/3

<END>

1999 DRAFTING REQUEST

Bill

Received: **11/18/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

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

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies: **PEN**

Topic:

DOA:.....Wong - Voluntary party definition

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>
/?	nilsepe 12/9/98			_____			State
/1	traderc 12/28/98	ygeller 12/28/98	hhagen 12/29/98	_____	lrb_docadmin 12/29/98		State
/2	traderc 01/13/99	ygeller 01/13/99	martykr 01/14/99	_____	lrb_docadmin 01/14/99		

FE Sent For:

13/25/99

*1-25
LP.*

*1-25/2
KM*

<END>

1999 DRAFTING REQUEST

Bill

Received: **11/18/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

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

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies: **PEN**

Topic:

DOA:.....Wong - Voluntary party definition

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>
/?	nilsepe 12/9/98			_____			State
/1	traderc 12/28/98	ygeller 12/28/98	hhagen 12/29/98	_____	lrb_docadmin 12/29/98		

km/13 *km/14*

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 11/18/98

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

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

Drafter: ~~nilsepe~~ **RCT**

May Contact:

Alt. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies: **RCT PEN**

Topic:

DOA:.....Wong - voluntary party definition

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>
1?	nilsepe	11/28 jlg	12/29	12/29			

FE Sent For:

<END>

CORRESPONDENCE MEMORANDUMSTATE OF WISCONSIN
Department of Administration

Date: November 13, 1998

To: Steve Miller, Chief
Legislative Reference Bureau

From: Manyee Wong *mw*
State Budget Analyst

Subject: Drafting Instructions for 1999-01 Budget

Please draft the following for the Governor's 1999-01 budget. Excerpts from the pending Brownfields Study Group report related to the requested items are attached.

- *Allow Transfer of Tax Delinquent Brownfields Properties to Cities*

PROP
LOI

Provide cities with greater flexibility in acquiring tax delinquent properties from county governments. If a county does not take a tax deed to a property that is subject to a tax certificate after two years, the county must take a tax deed on the property and transfer ownership of that property to the municipality where the property is located within 9 months after receiving a written request from that municipality.

- *Modify Land Recycling Loan Program*

RCT

Amend the Land Recycling Loan Program to expand the definition of local units to include redevelopment authorities and housing authorities and reduce the interest rate to 0%.

- *Strengthen Ability of Municipality to Recover Environmental Costs*

RCT?

Provide local governments with a tool to recover investigation and remediation costs of brownfield properties. Under this statute, local governments may initiate a civil action to recover damages from responsible parties for environmental remediation activities.

- *Clarify Blight Elimination And Slum Clearance Authority*

ME S

Provide local governments more authority and protection in dealing with blighted brownfields properties. The Blight Area Law and the Blight Elimination and Slum Clearance Act should be amended to include "environmental pollution" in the definition of blighted area and blighted property.

- *Modify Environmental Remediation Tax Incremental Financing (ER TIF) District - s. 66.462, Wis. Stats.*

MES
Changes include: 1) expanding the definition eligible costs to include demolition and other costs specific to remediation but exclude costs related to delinquent taxes, penalties, and special assessment and property acquisition, 2) modifying the period of certification, 3) modifying the use of environmental remediation tax increments, and 4) requiring the recipient of ER TIF to reduce their eligible costs if they receive remediation funds from other federal, state, or local sources, and 5) modifying ER TIF to allow for TIF to apply to multiple properties within one taxing jurisdiction.

- *Definition of "Voluntary Party"*

100
-0929
Expand the definition of "Voluntary Party" to include anyone who thoroughly investigates and remediates the contaminated property since current language has the potential to hinder the goal of maximizing remediation and redevelopment of brownfields. Eliminate the language "reckless" and "intentional" under section 292.15(1)(f) but state explicitly that parties cannot escape enforcement under the Spill Law by entering into the Voluntary Party Liability Exemption process.

- *Create Interim Liability Protections during the Voluntary Party Liability Exemption Process*

RCT
Provide voluntary parties with interim liability protection during the period between the approval of the investigation and remediation plan to remove impediments toward the redevelopment of brownfields. Interim liability protection is available to parties that have DNR's approval of their site investigations and have entered into agreement with DNR to remediate their sites.

- *Ensure availability of a Full Certificate of Completion For Properties Impacted with Off-site Groundwater Contamination*

0614
To provide a more valuable incentive for parties to purchase and redevelop brownfields, a full Certificate of Completion rather than a partial Certificate of Completion will be issued to voluntary parties who cleaned up all groundwater contamination coming from on-site sources but not off-site sources. Voluntary parties must meet the conditions of the off-site exemption and continue to comply with all of its requirements.

- *Create Financial Incentives for Cleaning up and Redeveloping Areawide Brownfields Contamination*

?
Create a Wisconsin Economic Revitalization Zone Program (WERZ) to promote the cleanup of areawide contamination. Financial incentives will be used to promote the cleanup of blighted areas in a community rather than a specific property.

➤DNR may enter into a “negotiated agreement” with a local unit of government (LUG) on behalf of other property owners within the WERZ or a Business Improvement District (BID) to establish a schedule for the investigation and cleanup of non-emergency actions.

➤Allow LUGs to use negotiation and the cost recovery process to obtain agreement from multiple parties on area-wide groundwater cleanup.

Issue: Study the Definition of “Voluntary Party”

Background

The Legislature requested the Study Group to study the definition of “voluntary party” under section 292.15(1)(f). Over the last several years, Wisconsin has taken significant strides to implement an expansive program to clarify, and in some cases limit, the liability of certain persons. In 1994, the Legislature created a process where a purchaser - a person that did not cause the discharge - could elect to investigate and cleanup a property, and at the conclusion of the process, receive a Certificate of Completion.

The Certificate provides liability relief if future problems arise concerning the pre-existing contamination on the property. In an effort to make the Certificate available to more parties willing to clean up, the Legislature expanded the eligibility for the Certificate of Completion in the 1997-99 Budget to include “voluntary parties”.

A voluntary party includes any person, as long as they can demonstrate to the DNR that they did not “recklessly” or

“intentionally” cause the release of the hazardous substance.

While the “reckless and intentional” eligibility was well intended, it has the potential to create problems, including:

- **Discouraging participation:** To avoid being labeled “reckless” or “intentional,” some property owners may not participate in the certification process.
- **Workload concerns:** Determining if the contamination was intentional or reckless is a time-consuming and difficult process for the DNR.
- **Legal challenges:** Persons found to have “recklessly or intentionally” caused a release will likely challenge the determination in a contested case proceeding, which will use up valuable time and resources.

Proposal

The Brownfields initiative should maximize the remediation and reuse of property to generate new jobs, increase property tax and revitalize neighborhoods. To further this goal, the “reckless” and “intentional” provisions should be removed. Anyone who thoroughly investigates and remediates contaminated property should be eligible to obtain the Certificate of Completion under the Voluntary Party process and move forward with redevelopment.

Comments

DNR Staff Comments:

- In general, DNR staff agree that the “reckless and intentional” eligibility criteria will:
 - ◇ discourage persons from participating in the Voluntary Party process;
 - ◇ will result in an increased workload for staff; and

◇ may lead to legal challenges by persons whom DNR determines to be ineligible for the program.

- The DNR staff wants to make it clear that parties can not escape enforcement under the Spill Law by entering into the Voluntary Party Liability Exemption (VPLE) process. The DNR staff believe that if the “reckless and intentional” language is removed, the statute should be amended to explicitly state that the DNR retains its authority to use its current enforcement authorities, at VPLE sites.

Study Group Comments:

- One concern raised about expanding the eligibility provision is the granting of liability exemptions to “bad actors.”
- A related concern is that the state, using the Environmental Fund, will have to address remediation if additional contamination is discovered and no responsible parties are available to pay.
- The Study Group recognizes these concerns, however, they feel that this cost is offset by the increased property and income taxes, as well as the social benefits.

Type of Change: Statutory

Resources: If the “reckless and intentional” eligibility criteria were eliminated, more parties would be likely to enter properties into the liability exemption process. The DNR would need authorization to hire 3 new regional project managers to review these reports.



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

December 9, 1998

MEMORANDUM

To: Darci Foss, DNR

From: Becky Tradewell, 266-7290

Subject: Voluntary Party Definition

We have received from DOA a request to draft a proposal that would change the definition of "voluntary party" in s. 292.15 of the statutes. The proposal is from the draft report of the Brownfields Study Committee. I have some questions about the proposal.

Under the spills law, s. 292.11, a person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance is generally required to take the actions necessary to restore the environment and minimize the harmful effect of the discharge on the environment. This requirement applies to a person who owns the property on which the discharge occurred.

The voluntary party statute, s. 292.15, provides an exemption from the spills law, and from the requirements of other environmental laws, for a "voluntary party" if certain conditions are satisfied. The main requirements for qualifying for the exemption are the following:

1. An investigation of the property is conducted and is approved by DNR.
2. The property is cleaned up and DNR certifies that the property has been satisfactorily restored.

To oversimplify a bit, the statute protects a voluntary party from responsibility for hazardous substances that are discovered on a property after a cleanup is completed and for known hazardous substances that, unbeknownst to the department, had not been cleaned up by the cleanup.

Under current law, a voluntary party is a person who did not intentionally or recklessly cause the release of a hazardous substance. The person does not have to own the property at any time and does not have to conduct either the investigation or the cleanup of the property.

The proposal says to remove the "reckless" and "intentional" provisions from the definition of "voluntary party". If this is done, there is nothing left of the definition. Is there something that should replace the current definition of "voluntary party"? If not, I will need to repeal the definition and remove "voluntary party" from each place in which it appears in the statute and replace it with "person". Please consider how s. 292.15 (3) should be changed if there is no longer a definition of

“voluntary party”. Also, note that s.292.15 (5m) seems to become meaningless if there is no limit on who can qualify for the exemption. Please consider whether any other changes should be made in the statute.

The draft report states : “Anyone who thoroughly investigates and remediates contaminated property should be eligible to obtain the Certificate of Completion under the Voluntary Party process and move forward with redevelopment.” The statute does not currently require the person seeking the certificate of completion to conduct the investigation or the cleanup. Should this draft change that?

The drafting instructions from DOA indicate that the draft should state explicitly that parties cannot escape enforcement under the spills law by entering into the voluntary party liability exemption process. This appears to come from the DNR staff concerns expressed in the draft report. I am confused by this instruction. Clearly, once a person qualifies for the exemption, DNR may not use the spills law enforcement process. If the person does not qualify, the spills law applies. That is current law. Please let me know what DNR intends by this portion of the proposal.

Please feel to contact me with any questions about this matter.

cc. Manyee Wong

Rec'd 12/22

DATE: December 17, 1998

FILE REF:

TO: Brian Dranzik - MB/5

FROM: Bill Ramsey - RR/3 

SUBJECT: Voluntary Party Definition - Dec. 9, 1998, LRB memo

The following comments are in response to a Dec. 9, 1998, memo from Becky Tradewell of the LRB to Darsi Foss concerning a proposal in the Draft Brownfields Study Group Report concerning the removal of the "reckless or intentional" language from the Voluntary Party Liability Exemption statute, s. 292.15, Stats.

1. We would like to create a new definition of "voluntary party" in s. 292.15(1)(f), Stats., because the confusion created by changing the name of the program from "purchaser" liability to "voluntary party" liability will only be exacerbated by another name change. Could we replace the definition of voluntary party contained in s. 292.15(1)(f)1m., Stats, with the following or something similar:

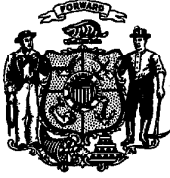
"Voluntary party" means any person who submits a complete application for participation in the Voluntary Party Liability Exemption Program to the Department of Natural Resources and all fees and deposits required by statute or rule.

2. We have considered how s. 292.15(3), Stats., should be changed and suggest that the section be amended in the following ways:

(3) Successors and Assigns. The exemption provided in sub. (2) applies to any successor or assignee of the voluntary party . . . who complies with the provisions of sub. (2)(a)4. and 5. *and, if applicable, sub. 2(am)*, unless the successor or assignee knows that a certificate under sub. (2)(a)3. Or (am) was obtained by any of the means or under any of the circumstances specified in sub. (2)(a)6.

These suggested revisions are intended to: (1) remove the requirement that the successor or assignee "qualifies as a voluntary party," because there would be no requirement that the successor or assignee file an application or pay fees, and (2) clarify that the requirements for obtaining a partial certificate, most importantly the access provision of sub. (2)(am)3., remain in force after the certificate of completion has been assigned or taken by a successor. The above language is intended only to convey to you our concerns. Please call Bill Ramsey at 4-6007 with any concerns or questions.

3. With respect to the third paragraph on page 2 of the memo, we did not intend the draft report impose a requirement that the voluntary party investigate and remediate contaminated property. Please do not include that requirement in the draft.
4. We concur with your reading of the statute with respect to the Department's continued ability to pursue enforcement under the spill law up to the time that the voluntary party obtains the certificate of completion. Our attorneys initially felt that clarification of this point would be advisable, but after further consideration we now wish to withdraw the request that the statute explicitly state that parties cannot escape enforcement under the spills law by entering the voluntary party liability exemption process. We have amended the Study Group Report to remove that comment from the final Study Group proposal.
5. Lastly, we agree that s. 292.15(5m), Stats., would become meaningless and should be removed if there is no limit on who can qualify for the exemption.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0929/1

RCT: A:...

SOON

Jig

DOA:.....Wong - Voluntary party definition

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

Note

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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 who did not intentionally or recklessly cause the original discharge of a hazardous substance on a property, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, the department of natural resources (DNR) certifies that the cleanup restored the environment and minimized the harmful effects of the discharge and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

This bill changes the definition of "voluntary party" so that a person who intentionally or recklessly caused the discharge of a hazardous substance may obtain the voluntary party exemption from environmental cleanup requirements and

from the ~~other~~ requirements of other laws relating to hazardous substances

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

LRB-0929/1dn

RCT. n:....

JLg

Manyee:

The definition of "voluntary party" is based on proposed language in a memo from Bill Ramsey of DNR dated December 17. If you do not have a copy of that memo, let me know and I will send you one.

Rebecca C. Tradewell
Managing Attorney
266-7290

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

LRB-0929/1dn
RCT:jlg:hmh

Tuesday, December 29, 1998

Manyee:

The definition of "voluntary party" is based on proposed language in a memo from Bill Ramsey of DNR dated December 17. If you do not have a copy of that memo, let me know and I will send you one.

Rebecca C. Tradewell
Managing Attorney
266-7290

2. Create Interim Liability Protections during the Voluntary Party Liability Exemption Process (Reference: LRB 0937)

- Modify previous request to specify that information on the number of sites where additional contamination was discovered during the end of a site investigation and the start of remediation activities must be provided in the biennial report as discussed in numeral 1.
- Modify previous request to authorize DNR to require that voluntary parties acquire insurance to cover liability for the interim period naming the voluntary party and the State of Wisconsin as the insured. The policy will name both voluntary party and the State of Wisconsin as the insured.

3. Expand the Voluntary Party Liability Exemption and Liability Protections for Local Units of Government

- Exempt voluntary parties from environmental liability if contamination migrates to an off-site property after the Certificate of Completion has been issued.
- Exempt local units of government from environmental liability if contamination migrates off site and impacts another property.
- Require that information on the number of sites where contamination migrated off sites after a Certification of Completion has been issued be provided in the biennial report as discussed in numeral 1.
- Authorize DNR to require the voluntary party and local units of government to obtain insurance to cover liability due to migration of contamination off site after a Certificate of Completion is issued. The policy will name both voluntary party and the State of Wisconsin as the insured.

4. Natural Attenuation at Voluntary Party Sites

- Allow Certificates of Completion to be issued before ch. NR 140 standards are met for sites where natural attenuation is used as a final remedy.
- Require that information on the number of sites where the use of natural attenuation as a final remedy failed after the Certification of Completion has been issued be provided in the biennial report as discussed in numeral 1.
- Authorize DNR to require voluntary party to obtain insurance that would cover the costs of remediation in the event that the natural attenuation remedy fails. Insurance may be obtained privately or from a state sponsored insurance pool. The policy will name both voluntary party and the State of Wisconsin as the insured.

5. Definition of "Voluntary Party" (Reference: LRB 0929)

- Modify previous request to require that information on the number of sites where additional contamination was discovered after a Certificate of Completion has been issued be provided in the biennial report as discussed in numeral 1.
- Modify previous request to authorize DNR to require the voluntary party to obtain a private standard insurance policy or participate in a state insurance pool to cover liability for contamination found after a Certificate of Completion

is issued. The policy will name both voluntary party and the State of Wisconsin as the insured.

Area-wide Groundwater Issues

1. Financial Incentives for Area-wide Brownfields Cleanup
 - Withdraw previous request to create a Wisconsin Economic Revitalization Zone Program (WERZ).
 - Withdraw previous request to expand the ER TIF certification period.
 - Allow the political subdivision to create TIF once the Department of Natural Resources has approved the NR 716 site investigation report.
 - Modify previous request from "allow ER TIF to be used on multiple properties" to "allow ER TIF to be used on *contiguous* multiple properties".

Public Outreach and Education

1. Provide Grants to Establish Nonprofits/Quasi-Governmental Entities in Brownfields Redevelopment
 - Authorize Commerce to provide up to \$100,000 from Brownfields grants to match an equal amount from the nonprofit to establish a non-profit center.

DNR Requests

1. Delinquent Property Taxes (See Attachment B)
 - Authorize a county to charge this cost to underlying jurisdictions when a property has been remediated or redeveloped by the local government.

PECFA

1. Annual Report that Lists Sites in Remediation
 - Require the submission of a joint DNR/Commerce annual report to the Governor and appropriate standing committees of the Legislature each year on July 1. First report will be due July 1, 2000. The report should consist of the following information for all open sites in the program:
 1. Site investigation receipt date.
 2. Risk factors identified at each site.
 3. Expected year for closure.
2. Revenue Bond Authority
 - Authorize \$150 million in bonding.
 - Require that debt service be paid from a sum-sufficient appropriation from the Petroleum Inspection Fund.



State of Wisconsin
1999 - 2000 LEGISLATURE

SOON

LRB-0929# 2
RCT:jlg:hmh redjett
make
run

DOA:.....Wong - Voluntary party definition

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ONote

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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 who did not intentionally or recklessly cause the original discharge of a hazardous substance on a property, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, the department of natural resources (DNR) certifies that the cleanup restored the environment and minimized the harmful effects of the discharge and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

This bill changes the definition of "voluntary party" so that a person who intentionally or recklessly caused the discharge of a hazardous substance may obtain the voluntary party exemption from environmental cleanup requirements and from the requirements of other laws relating to hazardous substances. The bill also

*

authorizes DNR to require a voluntary party to obtain insurance to cover the cost of a cleanup in case the initial cleanup fails.

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.** 292.15 (1) (f) of the statutes is repealed and recreated to read:

2 292.15 (1) (f) "Voluntary party" means a person who submits an application to
3 obtain an exemption under this section and pays any fees required under sub. (5).

✓
Insert
2-3 →

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

5 292.15 (3) SUCCESSORS AND ASSIGNS. The exemption provided in sub. (2) applies
6 to any successor or assignee of the voluntary party who ~~qualifies as a voluntary party~~
7 ~~and who~~ complies with the provisions of sub. (2) (a) 4. and 5. and, if applicable, sub.
8 (2) (am) unless the successor or assignee knows that a certificate under sub. (2) (a)
9 3. or (am) was obtained by any of the means or under any of the circumstances
10 specified in sub. (2) (a) 6.

11 **SECTION 3.** 292.15 (5m) of the statutes is repealed.

~~Insert~~
~~2-11~~

(END)

Section #. CR; 292.15 (2) (a) ? ^x

292.15 (2) (a) ? ^③ If required by the department, the

voluntary party obtains and maintains insurance to cover the costs of complying with s. 292.11 (3) [✓] in case

it is discovered, after ^{the department issues} a certificate ^{of completion} ~~issued~~ under ~~part (a)~~ ^{subd.}

3., that the cleanup ^{under} fails to fully restore the environment

or to minimize the effects ~~of~~ from a discharge or that

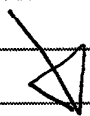
the hazardous substance that is the subject of the cleanup is more extensive than known before the

department issues the certificate of completion, and the

insurance complies with rules promulgated by the

department and names the voluntary party and this

state as insureds.



Insert 2-11

1 2. The voluntary party fully complies with the rules promulgated by the
2 department and any contract entered into under those rules under par. (a) 2. or (ae)
3 2. but it is discovered that the cleanup fails to fully restore the environment and
4 minimize the effects from a discharge of a hazardous substance.

5 3. The contamination from a hazardous substance that is the subject of the
6 cleanup under par. (a) 2. or (ae) 2. is discovered to be more extensive than anticipated
7 by the voluntary party and the department.

8 **SECTION 8.** 292.15 (2) (c) (title) of the statutes is created to read:
9 292.15 (2) (c) (title) *Prohibition on action.*

10 **SECTION 9.** 292.15 (2) (d) (title) of the statutes is created to read:
11 292.15 (2) (d) (title) *Exception.*

12 **SECTION 10.** 292.15 (2) (e) ^x of the statutes is created to read:

13 292.15 (2) (e) *Department authority.* [✓] If the department requires insurance
14 under par. [✓] (a) 7, ~~(ae) 3m~~, the department may contract with an insurer to provide
15 insurance required under par. [✓] (a) 7, ~~(ae) 3m~~ and may require voluntary parties to obtain
16 coverage under the contract.

Insert
2-3
with
cont

17 **SECTION 11.** 292.15 (3) of the statutes is amended to read:

18 292.15 (3) SUCCESSORS AND ASSIGNS. The An exemption provided in sub. (2)
19 applies to any successor or assignee of the voluntary party who qualifies as a
20 voluntary party and who complies with the provisions of sub. (2) (a) 4. and 5. or (ae)
21 3m., 4. and 5., whichever is applicable. unless the successor or assignee knows that
22 a certificate under sub. (2) (a) 3. (ae) 3. or (am) was obtained by any of the means or
23 under any of the circumstances specified in sub. (2) (a) 6. or (ae) 6.

24 **SECTION 12.** 292.15 (6) of the statutes is amended to read:

(end ins)

DNste

-0929/2dn

Manuel:

¶ This redraft authorizes DNRL to require any voluntary party to obtain insurance in case the initial cleanup fails. The insurance language is based on language in LRB-1423 (the natural attenuation draft).

RIT

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

LRB-0929/2dn
RCT:jlg:km

January 13, 1999

Manye:

This redraft authorizes DNR to require any voluntary party to obtain insurance in case the initial cleanup fails. The insurance language is based on language in LRB-1423 (the natural attenuation draft).

Rebecca C. Tradewell
Managing Attorney
266-7290



State of Wisconsin
1999 - 2000 LEGISLATURE

5000

LRB-0929/23

RCT:jlg:km

redraft
maker
run

DOA:.....Wong - Voluntary party definition

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

DNote

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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 who did not intentionally or recklessly cause the original discharge of a hazardous substance on a property, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, the department of natural resources (DNR) certifies that the cleanup restored the environment and minimized the harmful effects of the discharge and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

This bill changes the definition of "voluntary party" so that a person who intentionally or recklessly caused the discharge of a hazardous substance may obtain the voluntary party exemption from environmental cleanup requirements and from

the requirements of other laws relating to hazardous substances. The bill also authorizes DNR to require a voluntary party to obtain insurance to cover the cost of a cleanup in case the initial cleanup fails.

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.** 292.15 (1) (f) of the statutes is repealed and recreated to read:

2 292.15 (1) (f) “Voluntary party” means a person who submits an application to
3 obtain an exemption under this section and pays any fees required under sub. (5).

4 **SECTION 2.** 292.15 (2) (a) 7. of the statutes is created to read:

5 292.15 (2) (a) 7. If required by the department, the voluntary party obtains and
6 maintains insurance to cover the costs of complying with s. 292.11 (3) in case it is
7 discovered, after the department issues a certificate of completion under subd. 3.,
8 that the cleanup under subd. 2. fails to fully restore the environment or to minimize
9 the effects from a discharge or that the hazardous substance that is the subject of the
10 cleanup is more extensive than known before the department issues the certificate
11 of completion, and the insurance complies with rules promulgated by the department
12 and names the voluntary party and this state as insureds.

13 **SECTION 3.** 292.15 (2) (e) of the statutes is created to read:

14 292.15 (2) (e) If the department requires insurance under par. (a) 7., the
15 department may contract with an insurer to provide insurance required under par.
16 (a) 7. and may require voluntary parties to obtain coverage under the contract.

17 **SECTION 4.** 292.15 (3) of the statutes is amended to read:

18 292.15 (3) SUCCESSORS AND ASSIGNS. The exemption provided in sub. (2) applies
19 to any successor or assignee of the voluntary party ~~who qualifies as a voluntary party~~

if the successor or assignee

~~unless~~

- 1 and who complies with the provisions of sub. (2) (a) 4. and 5. ~~and, if applicable, sub.~~
- 2 (2) (am) ~~unless the successor or assignee knows that a certificate under sub. (2) (a)~~
~~as though the successor or assignee were the voluntary party.~~
- 3 3. or (am) was obtained by any of the means or under any of the circumstances
- 4 specified in sub. (2) (a) 6.

SECTION 5. 292.15 (5m) of the statutes is repealed.

(END)

except that the exemption ^{in sub. (2)} does not apply if

DN Note

-0929/3dn
RET:

Manjee:

Upon further thought, I decided that it would be best to clarify s. 292.15⁵(3).

RET

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

LRB-0929/3dn
RCT:jlg:lp

January 25, 1999

Manyee:

Upon further thought, I decided that it would be best to clarify s. 292.15 (3).

Rebecca C. Tradewell
Managing Attorney
266-7290



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-09297 4
RCT:jlg:lp
redraft
run

Today

DOA:.....Wong - Voluntary party definition

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

Note

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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 who did not intentionally or recklessly cause the original discharge of a hazardous substance on a property, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, the department of natural resources (DNR) certifies that the cleanup restored the environment and minimized the harmful effects of the discharge and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

This bill changes the definition of "voluntary party" so that a person who intentionally or recklessly caused the discharge of a hazardous substance may obtain the voluntary party exemption from environmental cleanup requirements and from

the requirements of other laws relating to hazardous substances. The bill also authorizes DNR to require a voluntary party to obtain insurance to cover the cost of a cleanup in case the initial cleanup fails.

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.** 292.15 (1) (f) of the statutes is repealed and recreated to read:

2 292.15 (1) (f) "Voluntary party" means a person who submits an application to
3 obtain an exemption under this section and pays any fees required under sub. (5).

4 **SECTION 2.** 292.15 (2) (a) 7. of the statutes is created to read:

5 292.15 (2) (a) 7. If required by the department, the voluntary party obtains and
6 maintains insurance to cover the costs of complying with s. 292.11 (3) in case it is
7 discovered, after the department issues a certificate of completion under subd. 3.,
8 that the cleanup under subd. 2. fails to fully restore the environment or to minimize
9 the effects from a discharge or that the hazardous substance that is the subject of the
10 cleanup is more extensive than known before the department issues the certificate
11 of completion, and the insurance complies with rules promulgated by the department
12 and names the voluntary party and this state as insureds.

✓
Insert
A

or (ae) 3m.

13 **SECTION 3.** 292.15 (2) (e) of the statutes is created to read:

14 292.15 (2) (e) If the department requires insurance under par. (a) 7, the
15 department may contract with an insurer to provide insurance required under par.

✓
Insert
B

(a) 7, and may require voluntary parties to obtain coverage under the contract.

17 **SECTION 4.** 292.15 (3) of the statutes is amended to read:

18 292.15 (3) SUCCESSORS AND ASSIGNS. ^{An}The exemption provided in sub. (2) applies

19 to any successor or assignee of the voluntary party who qualifies as a voluntary party

1 and who ~~if the successor or assignee~~ ^{or (ae) 3m, 4, and 5. ✓} complies with the provisions of sub. (2) (a) 4. and
 2 5. unless ~~and, if applicable, sub. (2) (am)~~ ^{(ag) 4. or ✓} as though the successor or assignee were
 3 the voluntary party except that the exemption in sub. (2) does not apply if the
 4 successor or assignee knows that a certificate under sub. (2) (a) 3. ^{(ae) 3, (ag) 2.} or (am) was
 5 obtained by any of the means or under any of the circumstances specified in sub. (2)

6 (a) 6.
 7
 8

SECTION 5. 292.15 (5m) of the statutes is repealed.

(END)

✓
 Insert →
 C

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0929/4
.....

Insert
A

292.15(2)(a)? ✓

***NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers: -0929 and -1422

Insert
B

292.15(2)(c)

***NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers: -0929, -1422 and -1423. ✓

Insert
C

292.15(3) ✓

***NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers: -0614, -0929 and -1423.

~~***NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers:~~

~~***NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers:~~

~~***NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers:~~

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

LRB-0929/4dn

.....

RET:jlg

Manager:

0614

0929 J, LRB-1422

1423

This draft reconciles LRB-~~XXXX~~, LRB-~~XXXX~~ and LRB-~~XXXX~~. All of these drafts should continue to appear in the compiled bill. ~~All of these drafts, except LRB-XXXX, should continue to appear in the compiled bill. LRB-XXXX should be dropped from the compile.~~

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: Becky.Tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0929/4dn
RCT:jlg:hmh

Wednesday, February 3, 1999

Manyee:

This draft reconciles LRB-0614, LRB-0929, LRB-1422 and LRB-1423. All of these drafts should continue to appear in the compiled bill.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: Becky.Tradewell@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

Today

LRB-0929/5

RCTjlg:hmh redraft
run

DOA:.....Wong - Voluntary party definition

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

Note

do not gen

1

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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 who did not intentionally or recklessly cause the original discharge of a hazardous substance on a property, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, the department of natural resources (DNR) certifies that the cleanup restored the environment and minimized the harmful effects of the discharge and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

This bill changes the definition of "voluntary party" so that a person who intentionally or recklessly caused the discharge of a hazardous substance may obtain the voluntary party exemption from environmental cleanup requirements and from

the requirements of other laws relating to hazardous substances. The bill also authorizes DNR to require a voluntary party to obtain insurance to cover the cost of a cleanup in case the initial cleanup fails.

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.** 292.15 (1) (f) of the statutes is repealed and recreated to read:

2 292.15 (1) (f) “Voluntary party” means a person who submits an application to
3 obtain an exemption under this section and pays any fees required under sub. (5).

4 **SECTION 2.** 292.15 (2) (a) 7. of the statutes is created to read:

5 292.15 (2) (a) 7. If required by the department, the voluntary party obtains and
6 maintains insurance to cover the costs of complying with s. 292.11 (3) in case it is
7 discovered, after the department issues a certificate of completion under subd. 3.,
8 that the cleanup under subd. 2. fails to fully restore the environment or to minimize
9 the effects from a discharge or that the hazardous substance that is the subject of the
10 cleanup is more extensive than known before the department issues the certificate
11 of completion, and the insurance complies with rules promulgated by the department
12 and names the voluntary party and this state as insureds.

 ****NOTE: This is reconciled s. 292.15 (2) (a) 7. This SECTION has been affected by
drafts with the following LRB numbers: -0929 and -1422.

13 **SECTION 3.** 292.15 (2) (e) of the statutes is created to read:

14 ① Contract with insurer.
292.15 (2) (e) If the department requires insurance under par. (a) 7. or (ae) 3m.,
15 the department may contract with an insurer to provide insurance required under
16 par. (a) 7. or (ae) 3m. and may require voluntary parties to obtain coverage under the
17 contract.

 ****NOTE: This is reconciled s. 292.15 (2) (e). This SECTION has been affected by
drafts with the following LRB numbers: -0929, -1422 and -1423.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0929/5dn
RCT:jlg:hmh

Wednesday, February 3, 1999 } new date

Manye: P This redraft (15) adds a title to s. 292.15(2)(c). ✓

This draft reconciles LRB-0614, LRB-0929, LRB-1422 and LRB-1423. All of these drafts should continue to appear in the compiled bill.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: Becky.Tradewell@legis.state.wi.us

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

LRB-0929/5dn
RCT:jljg:km

February 4, 1999

Manyee:

This redraft (15) adds a title to s. 292.15 (2) (e).

This draft reconciles LRB-0614, LRB-0929, LRB-1422 and LRB-1423. All of these drafts should continue to appear in the compiled bill.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: Becky.Tradewell@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0929/5
RCT:jlg:km

DOA:.....Wong – Voluntary party definition

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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 who did not intentionally or recklessly cause the original discharge of a hazardous substance on a property, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, the department of natural resources (DNR) certifies that the cleanup restored the environment and minimized the harmful effects of the discharge and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

This bill changes the definition of “voluntary party” so that a person who intentionally or recklessly caused the discharge of a hazardous substance may obtain the voluntary party exemption from environmental cleanup requirements and from

the requirements of other laws relating to hazardous substances. The bill also authorizes DNR to require a voluntary party to obtain insurance to cover the cost of a cleanup in case the initial cleanup fails.

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.** 292.15 (1) (f) of the statutes is repealed and recreated to read:

2 292.15 (1) (f) “Voluntary party” means a person who submits an application to
3 obtain an exemption under this section and pays any fees required under sub. (5).

4 **SECTION 2.** 292.15 (2) (a) 7. of the statutes is created to read:

5 292.15 (2) (a) 7. If required by the department, the voluntary party obtains and
6 maintains insurance to cover the costs of complying with s. 292.11 (3) in case it is
7 discovered, after the department issues a certificate of completion under subd. 3.,
8 that the cleanup under subd. 2. fails to fully restore the environment or to minimize
9 the effects from a discharge or that the hazardous substance that is the subject of the
10 cleanup is more extensive than known before the department issues the certificate
11 of completion, and the insurance complies with rules promulgated by the department
12 and names the voluntary party and this state as insureds.

 ****NOTE: This is reconciled s. 292.15 (2) (a) 7. This SECTION has been affected by
drafts with the following LRB numbers: –0929 and –1422.

13 **SECTION 3.** 292.15 (2) (e) of the statutes is created to read:

14 292.15 (2) (e) *Contract with insurer.* If the department requires insurance
15 under par. (a) 7. or (ae) 3m., the department may contract with an insurer to provide
16 insurance required under par. (a) 7. or (ae) 3m. and may require voluntary parties
17 to obtain coverage under the contract.

 ****NOTE: This is reconciled s. 292.15 (2) (e). This SECTION has been affected by
drafts with the following LRB numbers: –0929, –1422 and –1423.

