

**1999 DRAFTING REQUEST**

**Bill**

Received: **12/21/98**

Received By: **traderc**

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 - env. cleanup**

Extra Copies:

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**Topic:**

DOA:.....Wong - Bicennial report on impact of exemptions from cleanup requirements

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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>
/P1	traderc 01/13/99	wjackson 01/13/99	lpaasch 01/13/99	_____	lrb_docadmin 01/13/99		State
/1	traderc 01/25/99	ygeller 01/25/99	hhagen 01/26/99	_____	lrb_docadmin 01/26/99		State
/2	traderc 02/1/99	ygeller 02/1/99	martykr 02/1/99	_____	lrb_docadmin 02/1/99		State

FE Sent For:

<END>

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FE Sent For: *1 WLJ 1/25* *1/25* *1/25*  
*1 JLG 1/25* *1/25*  
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1/?	traderc	1/11/98 WJ	1/13 LP	1/13 LP			
		1/13 JLG	LP	IS			

FE Sent For:

<END>

- Include community development authority in the definition of local units of governments under current law.
- Exempt municipalities from federal hazardous waste requirements through an exemption from state requirements (as suggested by Becky Tradewell).
- Exempt lenders and local units of governments from the requirement to clean up federally defined underground storage tanks through an exemption from state requirements (as suggested by Becky Tradewell).

### 3. Provide Funding for Neighborhood Revitalization Brownfields Projects

- Create a biennial appropriation from the Environmental Fund with an annual amount of \$1 million to provide site assessment grants.
- Authorize DNR to administer the grants. These grants are to assist municipalities with costs related to phase I and II of the environmental assessment, demolition, and the removal of abandoned containers and asbestos.
- Limit the amount of grants that can be received by any community to 15% of the available funding.
- Require a 20% local match.
- Require that if a land recycling loan is received by the grantee to redevelop that same piece of land that the grant was used on, the municipality must repay in full the site assessment grant from the loan.
- Allow requests for land recycling loans on projects to include the amount of the assessment grant.
- Limit eligibility to local units of governments.

### Liability

1. Potential impact associated with 1) expanding the eligibility of voluntary parties, 2) exemption from liability for off-site contamination, 3) allowing the use of interim liability exemptions, and 4) issuing Certificate of Completion for sites using natural attenuation as a final remedy in their cleanup efforts.

➤ In conjunction with the biennial report, DNR must submit a status report to the Governor, the Legislature, and DOA that includes the following information:

1. Number of active sites associated with the use of each process identified above.
2. Number of Certificates of Completion issued using the first and last processes identified above.
3. Number of sites with failed remedial options **or** where additional contamination was found after the Certificate of Completion was issued.
4. Number of sites where contamination migrated to an off-site property after the Certification of Completion has been issued.
5. Number of priority sites using the Environmental Fund to conduct cleanup and costs of responding to these sites.
6. Number of sites where additional contamination was discovered between the end of a site investigation and the start of remediation activities (i.e., discuss the effectiveness of the interim liability program).

-142  
92.15(2)(cm)

1423-292.15(2)(ae)

0929

-0937

292.15(2)(at)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1421/P1

RCT./:....

Wlj

+

Jlg

SOON

DOA:.....Wong - Biennial report on impact of exemptions from cleanup requirements

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

Editor - see note at end of draft concerning proposed stat. referenced in this draft

DO NOT GEN CAT

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.

This bill creates a number of exemptions from the requirement to clean up hazardous substance spills. The bill requires the department of natural resources (DNR) to biennially report on the impacts of these new exemptions.

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:*

2 SECTION 1. 292.25 of the statutes is created to read:

3 292.25 Report on impact of exemptions from liability. (1) The

4 department shall biennially determine all of the following:

SECTION 1

292.15

1 (a) The number of sites to which the exemptions in s. 292.15 (2) (a), (ae), (at) and (cm) apply.

3 (b) An estimate of the amount by which of the number of certificates of completion that have been issued under s. 292.15 (2) (a) 3. has increased because of the change in s. 292.15 (1) (f) made by 1999 Wisconsin Act ... (this act).

6 (c) The number of certificates of completion that have been issued under s. 292.15 (2) (ae) 3.

8 (d) The number of sites for which a certificate of completion was issued under s. 292.15 (2) (a) 3. or (ae) 3. at which it is discovered that the cleanup failed or at which additional hazardous substances are found after the certificate of completion was issued.

13 (e) The number of sites to which s. 292.15 (2) (cm) applies at which a hazardous substance has migrated onto another property after a certificate of completion was issued.

16 (f) The number of sites to which s. 292.15 (2) (at) applies at which hazardous substances described in s. 292.15 (2) (at) 5. have been discovered.

18 (g) The number of sites described in par. (a) at which the department has determined that it is necessary to conduct remedial action using moneys from the environmental fund and the estimated costs of performing that remedial action.

20 (2) No later than September 15 of each even numbered year, the department shall submit a report describing its determinations under sub. (1) to the legislature under s. 13.172 (2), to the governor and to the department of administration.

23 (3) The department may require a person to provide information necessary for the department to make the determinations under sub. (1).

\*

5,  
\*\*\*\*NOTE: The expansion of the definition of voluntary party (292.15 (1) (f)) is in LRB-0929. The exemption for off-site contamination is in LRB-1422 (s. 292.15 (2) (cm))  
the interim liability exemption (s. 292.15 (2) (at)) is in LRB-0937. The natural attenuation provision (s. 292.15 (2) (ae)) is in LRB-1423. If one of those drafts is not included in the budget bill, this section will have to be modified.

insert  
2nd paren.

1

(END) ✓



## CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: January 20, 1999

FILE REF: LRB-1421/P1

TO: Brian Dranzik - MS/5

FROM: Darsi Foss - RB/3

SUBJECT: Comments on drafter's note LRB-1421/P1 re: biennial report on impacts of new brownfields exemptions

We have reviewed the above referenced draft and have the following comments:

1. Is it the intent of s. 292.15(1)(a) to require the department to determine the number of sites that are actively participating in the various liability exemption processes provided for in s. 292.15? (as was recommended in the first bullet in the Brownfield study group proposal). If so, could this be more clearly stated in the draft? If not, and the intent is to require the department to determine the number of certificates of completion that are issued during each biennium, then section 292.25(1)(c) is redundant. Moreover, if the latter is the case, then please accept the following comment:

As noted in the "note" at the bottom of page one, if our comments on previous drafter's notes and discussions with DOA are incorporated into the final drafts, sections 292.15(2)(ae) (natural attenuation (LRB-1423)), 292.15(2)(at) ("interim" liability protection (LRB-0937)), and 292.15(2)(cm) (LRB-1422) may not exist. Would it be preferable, given the evolving nature of s. 292.15, to simply require the DNR to determine the number of sites to which the various exemptions in s. 292.15, Stats., have been issued? Section 292.25(1)(a) could further require the DNR to categorize these exemptions by type if you believe that is necessary (It would be prudent, of course, for the DNR to provide useful, categorized information to the governor, Legislature, and DOA even without explicit direction).

2. Please delete s. 292.25(1)(b). Any attempt to segregate the increase in participation in this program attributable to the change in the voluntary party definition from any increase attributable to more familiarity with the program and other factors would be resource intensive and of questionable accuracy. Moreover, the attempt would only be feasible after the first biennium. Lastly, the study group and DNR both generally supported this change in the voluntary party definition and no mention of reporting on the effects of this change is contained in the report.
3. Please see item #1 above. Section 292.25(1)(c) is either redundant or underinclusive. If s. 292.25(1)(a) is intended to track active sites, then this section should include all certificates of completion issued under s. 292.15 and any other exemptions or assurances provided for in that section. If s. 292.25(1)(a) is intended to track all certificates of completion that are issued, then this subd. is redundant.
4. With regards to s. 292.25(1)(d), is it necessary to enumerate the various ways a party could obtain a certificate of completion or, given the evolving nature of the s. 292.15, would it be easier to generically require the department to report on all sites where a certificate of completion was issued and it was later discovered that a remedy failed.
5. With regard to subd. (e), we believe that s. 292.15(2)(cm), as drafted in LRB-1422, should be dropped. (please see attached memo).
6. Subd. (f) is fine. However, if department comments are accepted, the "interim liability" assurance may not exist as subd. (at) (see comments to draft LRB - 0937).





State of Wisconsin  
1999 - 2000 LEGISLATURE

SOON

LRB-1421/1  
RCT:wlj&jlg:lp

redraft  
make  
run

DOA:.....Wong - Biennial report on impact of exemptions from cleanup requirements

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

ONote

1 AN ACT <sup>Don't  
Gen Cat</sup> 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.

This bill creates a number of exemptions from the requirement to clean up hazardous substance spills. The bill requires the department of natural resources (DNR) to biennially report on the impacts of these new exemptions, and the existing,

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3 (b) An estimate of the amount by which the number of certificates of completion  
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 5 (f) made by 1999 Wisconsin Act .... (this act).

6 (b) ~~(c)~~ The number of <sup>sites for which</sup> certificates of completion <sup>has been</sup> issued under s. 292.15 (2) (a) 3.

7 (c) ~~(d)~~ The number of sites for which a certificate of completion was issued under  
 8 s. 292.15 (2) (a) 3 or (ae) 3, at which it is discovered that the cleanup failed or at which  
 9 additional hazardous substances are found after the certificate of completion was  
 10 issued.

11 (e) ~~The number of sites to which s. 292.15 (2) (cm) applies at which a hazardous~~  
 12 ~~substance has migrated onto another property after a certificate of completion was~~  
 13 ~~issued.~~

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16 (d) ~~(g)~~ The number of sites described in <sup>in (b)</sup> par. ~~var~~ at which the department has  
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attenuation provision (s. 292.15 (2) (ae)) is in LRB-1423. If one of those drafts is not included in the budget bill, this section will have to be modified.

1

(END)

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

LRB-1421/1dn

RCT./:....

Wlj  
+  
Jlg

Manye:

I am uncertain about how to describe the sites about which DNR must report. I do not think that it is sufficiently clear to refer to sites "that are actively participating" in a liability exemption process. Please let me know if I have not captured your intent.

Rebecca C. Tradewell  
Managing Attorney  
266-7290

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

LRB-1421/1dn  
RCT:wlj&jlg:hmh

Tuesday, January 26, 1999

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Rebecca C. Tradewell  
Managing Attorney  
266-7290

## **Tradewell, Becky**

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**From:** Wong, Manyee  
**Sent:** Monday, February 01, 1999 11:22 AM  
**To:** Tradewell, Becky  
**Subject:** draft 1421

Hi Becky,

Please include in draft 1421 (biennial report on impact of exemptions from cleanup requirement), the number of sites where claims were made against insurance policies required under s.292.15 as one of the reporting requirements.  
Thanks!



State of Wisconsin  
1999 - 2000 LEGISLATURE

today

LRB-1421/2  
RCT:wlj&jlg:hmh  
redraft  
run

DOA:.....Wong - Biennial report on impact of exemptions from cleanup requirements

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 *do not gen*  
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16 (END)

(e) The number of sites for which a claim was made against an insurance policy required under s. 292.15. ✓

LRB-0929,  
\*\*\*\*Note: Insurance policies may be required under LRB-0937, LRB-1423 and possibly other drafts. If all of the drafts requiring insurance under s. 292.15 are removed from the budget, this provision must be modified.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1421/2  
RCT:wlj&jlg:km

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18 **(END)**