

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:

Topic:

DOA:.....Wong - Natural attenuation at voluntary party sites

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>
/?	traderc 01/7/99	wjackson 01/8/99		_____			S&L
/1			martykr 01/11/99	_____	lrb_docadmin 01/11/99		S&L
/2	traderc 01/25/99	wjackson 01/25/99	lpaasch 01/26/99	_____	lrb_docadmin 01/26/99		S&L
/3	traderc 02/3/99	wjackson 02/3/99	hhagen 02/3/99	_____	lrb_docadmin 02/3/99		

FE Sent For:

<END>

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FE Sent For:

13 2/3 jlg 2/3 2/3

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1?	traderc	11 wlj 1/8 1 jly 1/8	dm 11	HA dm 11			

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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

Issue: Use of Natural Attenuation at Voluntary Party Sites

Background

Over the past few months, DNR has received a number of inquiries about whether a participant in the "Voluntary Party Liability Exemption" (VPLE) program, s.292.15, Wis. Stats., could receive the exemption (a Certificate of Completion), before Ch. NR 140 groundwater standards are met, at sites where natural attenuation of groundwater is proposed as a final remedy.

The DNR believes that it does not have the authority under s.292.15, Wis. Stats., to issue Certificates of Completion before Ch. NR 140 groundwater standards are met. The only authority it presently has is to issue a letter of assurance to the voluntary party clarifying that it will receive the Certificate of Completion when the natural attenuation remedy succeeds in bringing the groundwater back into compliance with Ch. NR 140.

The issuance of Certificates of Completion before Ch. NR 140 standards are met at sites

Proposal

Amend s.292.15, Wis. Stats., to allow Certificates of Completion to be issued before Ch. NR 140 standards are met at sites where natural attenuation is used as a final remedy, consistent with Ch. NR 726, Wis. Admin. Code, conditional closure requirements. In addition, create a provision that requires a voluntary party to obtain insurance that would cover the costs of remediation in the event that the natural attenuation remedy fails.

The DNR will work with the Department of Administration and interested parties to develop rules that specify the type of insurance that would be most feasible. The two most likely methods of insuring the success of natural attenuation remedies at VPLE sites are:

1. **Privately obtained insurance:** The voluntary party would have to obtain insurance to cover the costs of any failures of the natural attenuation remedy and present proof of insurance with the request for the Certificate of Completion.
2. **State-sponsored insurance:** The state would negotiate a master contract with an insurer to cover all natural attenuation remedies at VPLE sites and issue the Certificate

where natural attenuation will bring groundwater into compliance with Ch. NR 140 standards within a reasonable period of time will promote the redevelopment objectives that the VPLE was intended to achieve.

However, the statute does not currently address the issue of how cleanups of sites with failed natural attenuation remedies would be funded. This concern is especially compelling because the use of natural attenuation as a remedy, unlike conventional environmental remedies, is a relatively new provision in the Ch. NR 700 administrative rule series.

This raises the concern that the state may take on a potentially expensive responsibility to clean up groundwater at those sites where natural attenuation fails after a Certificate of Completion is issued.

of Completion only after the voluntary party has paid the premium for coverage under that policy for the VPLE site.

The advantages and disadvantages of these options would be assessed during the rule-making process and the most appropriate, cost effective, and feasible option would be codified and implemented. In order to accomplish this effort in a timely manner, the DNR should also be authorized in the budget bill to develop these rules under its emergency rule-making authority.

Comments

Type of Change: Statutory, including authorization to develop rules under emergency rule-making authority.

Resources: DNR staffing needs will be dependent upon the insurance option selected.



State of Wisconsin
1999 - 2000 LEGISLATURE

-1423/1
LRB-0617/1
RCT:wlj&jlg:jf

5000

Natural attenuation at voluntary party sites

DOA:.....Wong - Certificates of completion for groundwater

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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. 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. Also, under current law, a person is exempt from the requirements to restore the environment and minimize the effects of the discharge of a hazardous substance on the environment with respect to the existence of a hazardous substance in groundwater on property

✓
Analysis
insert

substance for which DNR approves natural attenuation

possessed or controlled by the person if the discharge originated from a source off of the property, the person agrees to allow access to the property so that someone else can conduct a cleanup and the person agrees to any other condition necessary to ensure that an adequate cleanup can be conducted.

Under this bill, for a property affected by an off-site discharge that has contaminated the groundwater and by discharges of other hazardous substances, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharges, 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, except with respect to the discharge that originated off-site; DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, except with respect to the discharge that originated off-site; DNR determines in writing that the voluntary party qualifies for the off-site exemption; and the voluntary party maintains and monitors the property as required by DNR; and the voluntary party obtains insurance to cover the cost of a cleanup in case natural attenuation fails

For further information see the **state and local** 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:

Insert 2-1

1 SECTION 1. 292.15 (2) ^{ae} of the statutes is created to read:

2 292.15 (2) ^{ae} Except as provided in sub. (6) or (7), for a property on which

3 ^{if} there exists a hazardous substance ^{Insert 2-2} for which a voluntary party is exempt from

4 liability under s. 292.13 (1), a voluntary party is exempt from the provisions of ss.

5 289.05 (1), (2), (3) and (4), 289.42 (1), 289.67, 291.25 (1) to (5), 291.29, 291.37, 292.11

6 (3), (4) and (7) (b) and (c) and 292.31 (8), and rules promulgated under those

7 provisions, with respect to the existence of hazardous substances on the property, if

8 all of the following occur at any time before or after the date of acquisition:

9 1. An environmental investigation of the property is conducted that is approved

10 by the department.

11 2. The property is cleaned up by restoring the environment to the extent

12 practicable and minimizing the harmful effects from a discharge ^s of ~~the~~ hazardous

13 substances on the property in accordance with rules promulgated by the department

1 and any contract entered into under those rules, except that this requirement does
 2 not apply with respect to the hazardous substance for which the voluntary party is
 3 exempt from liability under s. 292.13 (1).

Insert 3-2 ✓

4 3. The voluntary party obtains a certificate of completion from the department
 5 stating that the property has been satisfactorily restored to the extent practicable
 6 and that the harmful effects from discharge of hazardous substance have been
 7 minimized, except with respect to the hazardous substance for which the voluntary
 8 party is exempt from liability under s. 292.13 (1).

Insert 3-2 ✓

Insert
3-8

9 3g. The voluntary party obtains a written determination from the department
 10 under s. 292.13 (2) with respect to the hazardous substance for which the voluntary
 11 party is exempt from liability under s 292.13 (1).

12 3r. The voluntary party continues to satisfy the conditions under s. 292.13 (1)
 13 (d) to (g).

14 4. The voluntary party maintains and monitors the property as required under
 15 rules promulgated by the department and any contract entered into under those
 16 rules.

17 5. The voluntary party does not engage in activities that are inconsistent with
 18 the maintenance of the property.

19 6. The voluntary party has not obtained the certification under subd. 3. by
 20 fraud or misrepresentation, by the knowing failure to disclose material information
 21 or under circumstances in which the voluntary party knew or should have known
 22 about more discharges of hazardous substances than were revealed by the
 23 investigation conducted under subd. 1.

✓
Insert
24
3-23

SECTION 2. 292.15 (2) (b) of the statutes is amended to read:

I Extent of exemptions. ✓

1 292.15 (2) (b) ^{ae} / ~~(ag)~~ The exemptions provided in pars. (a), ~~(ag)~~ and (am) continue to
2 apply after the date of certification by the department under par. (a) 3. ^{ae} or ~~(ag)~~ 3., or
3 approval by the department under par. (am), notwithstanding the occurrence of any
4 of the following:

5 1. Statutes, rules or regulations are created or amended that would impose
6 greater responsibilities on the voluntary party than those imposed under par. (a) 2.
7 or ^{ae} ~~(ag)~~ 2.

8 2. The voluntary party fully complies with the rules promulgated by the
9 department and any contract entered into under those rules under par. (a) 2. ^{ae} or ~~(ag)~~
10 2. but it is discovered that the cleanup fails to fully restore the environment and
11 minimize the effects from a discharge of a hazardous substance.

12 3. The contamination from a hazardous substance that is the subject of the
13 cleanup under par. (a) 2. ^{ae} or ~~(ag)~~ 2. is discovered to be more extensive than anticipated
14 by the voluntary party and the department.

Insert
4-145 →

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

16 292.15 (3) SUCCESSORS AND ASSIGNS. The An exemption provided in sub. (2)
17 applies to any successor or assignee of the voluntary party who qualifies as a

18 voluntary party and who complies with the provisions of sub. (2) (a) 4. and 5. ^{ae} or ~~(ag)~~

19 ^{3m.} ~~(ag)~~ 4. and 5., whichever is applicable, unless the successor or assignee knows that
20 a certificate under sub. (2) (a) 3., ^{ae} ~~(ag)~~ 3. or (am) was obtained by any of the means or

21 under any of the circumstances specified in sub. (2) (a) 6. ^{ae} or ~~(ag)~~ 6.

22 SECTION 4. 292.15 (6) ✓ of the statutes is amended to read:

1 292.15 (6) LIENS. This section does not exempt property from any lien filed
2 under s. 292.81 (3) for costs incurred by the department prior to the date that
3 certification is issued under sub. (2) (a) 3. or ^{2e}~~(a) 3.~~

4

(END)

no ff **Analysis insert** ✓ *DNR*

Under DNR's rules, a person may be allowed to use natural attenuation to clean up a hazardous substance in groundwater if the department determines that natural attenuation will bring the groundwater into compliance with groundwater standards within a reasonable period. "Natural attenuation" means the reduction in the amount and concentration of a substance in the environment that occurs because of natural processes.

no ff Under this bill, if groundwater on a property is contaminated by a hazardous substance in a concentration that exceeds a groundwater standard and DNR determines that natural attenuation will bring the groundwater into compliance with groundwater standards within a reasonable time, *(no ff)*

Insert 2-1 ✓

*** SECTION *#* 292.15 (1) (a) ✓ of the statutes is created to read:

*** 292.15 (1) (a) "Groundwater standard" ✓ means a preventive action limit, as defined in s. 160.01 (6) ✓, or an enforcement standard, as defined in s. 160.01 (2) ✓.

*** SECTION *#* 292.15 (1) (am) ✓ of the statutes is created to read:

292.15 (1) (am) "Natural attenuation" means the reduction in the mass and concentration of a substance due to naturally occurring physical, chemical and biological processes.

*** SECTION *#* 292.15 (2) (a) (title) of the statutes is created to read:

292.15 (2) (a) (title) *General* ✓.

Insert 2-2 ✓

no ff in groundwater on a property in a concentration that exceeds a groundwater standard and the department ✓ determines that natural attention will bring the concentration of the hazardous substance into compliance with the groundwater standard within a reasonable period, *(no ff)*

Inserts 3-2[✓] and 3-7[✓] (use twice)

No 47

that the department has determined will be brought into compliance with a groundwater standard by natural attenuation

Insert 3-8[✓]

3m. If required by the department, the voluntary party obtains and maintains insurance to cover the costs of complying with s. 292.11 (3)[✓] with respect to the hazardous substance that the department has determined will be brought into compliance with a groundwater standard by natural attenuation, in case natural attenuation fails, and the insurance complies with rules promulgated by the department and names the voluntary party and this state as insureds.

Insert 3-23[✓]

SECTION 292.15 (2) (am) (title)[✓] of the statutes is created to read:

292.15 (2) (am) (title)[✓] *Partial cleanup.*

SECTION 292.15 (2) (ar) (title)[✓] of the statutes is created to read:

292.15 (2) (ar) (title)[✓] *Condition.*

Insert 4-14

SECTION 292.15 (2) (c) (title)[✓] of the statutes is created to read:

292.15 (2) (c) (title)[✓] *Prohibition on action.*

SECTION 292.15 (2) (d) (title)[✓] of the statutes is created to read:

292.15 (2) (d) (title)[✓] *Exception.*

SECTION 292.15 (2) (e)[✓] of the statutes is created to read:

292.15 (2) (e) *Department authority.* If the department requires insurance under par. (ae) 3m., the department may contract with an insurer to provide

insurance required under par. (ae) 3m.[✓] and may require voluntary parties to obtain coverage under the contract.

Tradewell, Becky

From: Wong, Manyee
Sent: Sunday, January 24, 1999 7:52 PM
To: Tradewell, Becky
Subject: LRB drafts 0958,1423,1421,1422

Hi Becky,

I have gotten responses for the above drafts from DNR and have ran them through Dave. Except for draft 1423, they are all fine so you could incorporate all their comments. For draft 1423, we do not concur with DNR's comment that insurance must be required in order to obtain the certificate of completion for the use natural attenuation. You may leave that as is. I will fax their comments to you today. Thanks.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: January 21, 1999

FILE REF: LRB-1423/1

TO: Brian Dranzik - MB/5

FROM: Darsi Foss - RRA

SUBJECT: Comments on drafter's note LRB-1423 re: natural attenuation and insurance at VPLE sites.

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

1. We recommend that you either amend the definition of natural attenuation in s. 292.15(1)(am) or not define it. If you choose to amend the definition, it should read: "Natural attenuation" means the reduction in the concentration and mass of a substance and its breakdown products in groundwater, due to naturally occurring physical, chemical, and biological processes without human intervention or enhancement." We ask for this change because the definition, as written, appears too narrow with regard to its potential exclusion of potentially hazardous breakdown products not "discovered" in the course of conducting the VPLE cleanup. This definition comes from s. NR 700.03(38m), Wis. Adm. Code. If this approach is objectionable (because the rule may change, or there is some other reason for not using rule language in statute), then allowing the department the opportunity to define natural attenuation by not defining the term in this draft is, in the department's opinion, preferable to including a definition that is not complete and may, as a result, later prove troublesome in application.
2. Likewise, could you amend s. 292.15(2)(ae) as follows: " . . . in a concentration that exceeds an enforcement standard and the department determines that natural attenuation will restore groundwater quality in accordance with rules promulgated by the department, a voluntary party is exempt . . . with respect to the existence of hazardous substances on or originating from the property which occurred prior to the department's approval of the investigation under subd. 1., if all of the following occur at any time before or after the date of acquisition:"

We ask that the generic term "groundwater standard" be removed and replaced with the following language because, when used in the first instance, it unnecessarily includes sites which may very well be closed out with PAL exceedances, but no enforcement standard exceedances (the department is flexible in this regard, especially with PAL exemptions provided for in NR 140.28). In the second instance, a site may very well be shown to have met groundwater standards (PAL exemption, for instance) without groundwater concentrations all below the applicable PALs. Requiring the voluntary party to maintain insurance until all PALs are met may be unduly burdensome in this instance. (these changes would render the definition of "groundwater standards in s. 292.15(1)(a) unnecessary).

The "on or originating from" language is recommended so that this section is consistent with recommendations made on other drafts.

3. Could you amend s. 292.15(2)(ae)2. as follows: " . . . hazardous substances on the property (delete - consistent with (2)(a)) . . . apply with respect to hazardous substances in groundwater that the department has determined will be brought into compliance with rules promulgated by the department by the use of natural attenuation. . . ."

We ask for these changes for the same reasons identified above.

4. Likewise, could you amend s. 292.15(2)(ae)3. as follows for the same reasons identified above: " . . . with respect to hazardous substances in groundwater that the department has determined will be



brought into compliance with rules promulgated by the department by the use of natural attenuation.

5. The department feels very strongly that the insurance referenced in s. 292.15(2)(ae)3m. should be mandatory. The department's support of this proposal is very much contingent on this requirement. Therefore, could you eliminate the phrase "[i]f required by the department . . ."

If this change is made, could you also amend s. 292.15(2)(e) to reflect that change.

Could you also further amend subd. 292.15(2)(ae)3m. by replacing the term "groundwater standard" with the following: "rules promulgated by the department"

6. Lastly, we would like authorization to implement this statute with emergency rule-making authority, as was requested in the study group report.



State of Wisconsin
1999 - 2000 LEGISLATURE

SOA

LRB-1423/2

RCT:wlj&jlg:km

redraft
make
run

DOA:.....Wong - Natural attenuation at voluntary party sites

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

Note

1

*Don't
Gen Cat*
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. Under DNR's rules, a person may be allowed to use natural attenuation to clean up a hazardous substance in groundwater if DNR determines that natural attenuation will bring the groundwater into compliance with groundwater standards within a reasonable

period. "Natural attenuation" means the reduction in the amount and concentration of a substance in ~~the environment~~ ^{groundwater} that occurs because of natural processes.

Under this bill, if groundwater on a property is contaminated by a hazardous substance in a concentration that exceeds a groundwater standard and DNR determines that natural attenuation will ~~bring the groundwater into compliance with groundwater standards within a reasonable time~~, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharges, and from the requirements of other laws relating to hazardous substances, if: 1) an environmental investigation of the property is conducted; 2) the property is cleaned up, except with respect to the substance for which DNR approves natural attenuation; 3) DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, except with respect to the substance for which DNR approves natural attenuation; the voluntary party maintains and monitors the property as required by DNR; and 4) if required by DNR, the voluntary party obtains insurance to cover the cost of a cleanup in case natural attenuation fails.

restore
quality in accordance with its rules

For further information see the *state and local* 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) (a) of the statutes is created to read:

2 292.15 (1) (a) ^{Enforcement} "Groundwater standard" means a preventive action limit, as
3 defined in s. 160.01 (6), or an enforcement standard, as defined in s. 160.01 (2). ^{has the meaning given}

4 SECTION 2. 292.15 (1) (am) of the statutes is created to read:

5 292.15 (1) (am) "Natural attenuation" means the reduction in the mass and
6 concentration ^{in groundwater} of a substance, ^{and the products into which the substance breaks down,} due to naturally occurring physical, chemical and
7 biological processes, ^{without human intervention}

8 SECTION 3. 292.15 (2) (a) (title) of the statutes is created to read:

9 292.15 (2) (a) (title) *General*.

10 SECTION 4. 292.15 (2) (ae) of the statutes is created to read:

11 292.15 (2) (ae) *Natural attenuation*. Except as provided in sub. (6) or (7), if
12 there exists a hazardous substance in groundwater on a property in a concentration

- 1 that exceeds a groundwater standard and the department determines that natural
 2 attenuation ^{restore groundwater quality in accordance with rules promulgated by} the department
 3 ~~attention will bring the concentration of the hazardous substance into compliance~~
 4 ~~with the groundwater standard within a reasonable period,~~ a voluntary party is
 5 exempt from ss. 289.05 (1), (2), (3) and (4), 289.42 (1), 289.67, 291.25 (1) to (5), 291.29,
 6 291.37, 292.11 (3), (4) and (7) (b) and (c) and 292.31 (8), and rules promulgated under
 7 those provisions, with respect to the existence of hazardous substances on the
 8 property, if all of the following occur at any time before or after the date of acquisition:
- 9 1. An environmental investigation of the property is conducted that is approved
 10 by the department.
 - 11 2. The property is cleaned up by restoring the environment to the extent
 12 practicable and minimizing the harmful effects from discharges of hazardous
 13 substances on the property in accordance with rules promulgated by the department
 14 and any contract entered into under those rules, except that this requirement does
 15 not apply with respect to the hazardous substance ^{in groundwater} that the department has
 16 determined will be brought into compliance with ^{rules promulgated by the department through} a groundwater standard by natural
 17 attenuation.
 - 18 3. The voluntary party obtains a certificate of completion from the department
 19 stating that the property has been satisfactorily restored to the extent practicable
 20 and that the harmful effects from discharges of hazardous substances have been
 21 minimized, except with respect to the hazardous substance ^{in groundwater} that the department has
 22 determined will be brought into compliance with ^{rules promulgated by the department through} a groundwater standard by natural
 23 attenuation.
 - 24 3m. If required by the department, the voluntary party obtains and maintains
 25 insurance to cover the costs of complying with s. 292.11 (3) with respect to the
 hazardous substance that the department has determined will be brought into

SECTION 4

rules promulgated by the department through

1 compliance with ~~a groundwater standard by~~ natural attenuation, in case natural
2 attenuation fails, and the insurance complies with rules promulgated by the
3 department and names the voluntary party and this state as insureds.

4 4. The voluntary party maintains and monitors the property as required under
5 rules promulgated by the department and any contract entered into under those
6 rules.

7 5. The voluntary party does not engage in activities that are inconsistent with
8 the maintenance of the property.

9 6. The voluntary party has not obtained the certification under subd. 3. by
10 fraud or misrepresentation, by the knowing failure to disclose material information
11 or under circumstances in which the voluntary party knew or should have known
12 about more discharges of hazardous substances than were revealed by the
13 investigation conducted under subd. 1.

14 **SECTION 5.** 292.15 (2) (am) (title) of the statutes is created to read:

15 292.15 (2) (am) (title) *Partial cleanup.*

16 **SECTION 6.** 292.15 (2) (ar) (title) of the statutes is created to read:

17 292.15 (2) (ar) (title) *Condition.*

18 **SECTION 7.** 292.15 (2) (b) of the statutes is amended to read:

19 292.15 (2) (b) *Extent of exemptions.* The exemptions provided in pars. (a), (ae)
20 and (am) continue to apply after the date of certification by the department under
21 par. (a) 3. or (ae) 3., or approval by the department under par. (am), notwithstanding
22 the occurrence of any of the following:

23 1. Statutes, rules or regulations are created or amended that would impose
24 greater responsibilities on the voluntary party than those imposed under par. (a) 2.
25 or (ae) 2.

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) of the statutes is created to read:

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

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:

1 292.15 (6) LIENS. This section does not exempt property from any lien filed
2 under s. 292.81 (3) for costs incurred by the department prior to the date that
3 certification is issued under sub. (2) (a) 3. or (ae) 3.

(END)

Insert 4

Insert to 1423/2 (after 6-3)

standards for determining whether the site of a discharge of a petroleum product from a petroleum storage tank is classified as high priority, medium priority or low priority.

SECTION 9. 101.144 (3m) (a) 3. of the statutes is amended to read:

101.144 (3m) (a) 3. Establishes ~~procedures, standards and schedules~~ for determining whether the site of a discharge of a petroleum product from a petroleum storage tank is classified as high priority, medium priority or low priority.

³⁶
SECTION 9110. Nonstatutory provisions; ~~commerce~~ ^{natural resources}

(1) RULES ^{concerning natural attenuation of groundwater contamination} FOR DETERMINING PRIORITY OF SITES OF PETROLEUM PRODUCT DISCHARGES ^(CS)

Using the procedure under section 227.24[✓] of the statutes, the department of ^{natural resources} ~~commerce~~ shall promulgate the rules required under section ^{292.15 (2) (ae) ✓} 101.144 (3g) of the statutes, as created by this act, for the period before the effective date of the permanent rules under that provision, but not to exceed the period authorized under section 227.24 (1) (c)[✓] and (2)[✓] of the statutes. Notwithstanding section 227.24 (1) (a),[✓] (2) (b)[✓] and (3)[✓] of the statutes, the department is not required to provide evidence that promulgating rules under this subsection is necessary for the preservation of the public peace, health, safety or welfare and is not required to provide a finding of emergency for rules promulgated under this subsection. ~~The department shall promulgate rules under this subsection no later than December 1, 1999.~~

SECTION 9310. Initial applicability; ~~commerce~~.

(1) PETROLEUM STORAGE REMEDIAL ACTION PROGRAM MAXIMUM AWARDS. The treatment of section 101.143 (4) (d) 2. a., b. and d. of the statutes first applies to a claimant whose remedial action plan is approved under section 101.143 (3) (cs) of the statutes, as created by this act, on the effective date of this subsection.

SECTION 9410. Effective dates; ~~commerce~~.

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

LRB-1423/2dn

RCT:f:....

WLJ
&
JLg

Manyee:

This redraft makes most of the changes requested by DNR in the memo dated January 21. I have changed the definition of natural attenuation although I do not think that the definition itself would have caused the problem that DNR was worried about. I am also unsure why DNR limits the definition to processes that occur in groundwater (though it does not matter in this draft). I do not believe that EPA limits the term this way.

This redraft only refers to enforcement standards. The first draft used the term groundwater standards because that was the term that the study report used.

I have not added the "originating from" language pending the finalization of LRB-1422. As you requested, I have not made the insurance mandatory.

Please contact me if you have any questions.

Rebecca C. Tradewell
Managing Attorney
266-7290

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

LRB-1423/2dn
RCT:wlj&jlg:lp

January 26, 1999

Manyee:

This redraft makes most of the changes requested by DNR in the memo dated January 21. I have changed the definition of natural attenuation although I do not think that the definition itself would have caused the problem that DNR was worried about. I am also unsure why DNR limits the definition to processes that occur in groundwater (though it does not matter in this draft). I do not believe that EPA limits the term this way.

This redraft only refers to enforcement standards. The first draft used the term groundwater standards because that was the term that the study report used.

I have not added the "originating from" language pending the finalization of LRB-1422. As you requested, I have not made the insurance mandatory.

Please contact me if you have any questions.

Rebecca C. Tradewell
Managing Attorney
266-7290



State of Wisconsin
1999 - 2000 LEGISLATURE

Today

LRB-1423/3 3
RCT:wj&jlg:lp
redraft
run

DOA:.....Wong - Natural attenuation at voluntary party sites

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

Note

1 AN ACT ^{Don't Gen Cat} 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. Under DNR's rules, a person may be allowed to use natural attenuation to clean up a hazardous substance in groundwater if DNR determines that natural attenuation will bring the groundwater into compliance with groundwater standards within a reasonable

period. "Natural attenuation" means the reduction in the amount and concentration of a substance in groundwater that occurs because of natural processes.

Under this bill, if groundwater on a property is contaminated by a hazardous substance in a concentration that exceeds a groundwater standard and DNR determines that natural attenuation will restore groundwater quality in accordance with its rules, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharges, and from the requirements of other laws relating to hazardous substances, if: 1) an environmental investigation of the property is conducted; 2) the property is cleaned up, except with respect to the substance for which DNR approves natural attenuation; 3) DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, except with respect to the substance for which DNR approves natural attenuation; the voluntary party maintains and monitors the property as required by DNR; and 4) if required by DNR, the voluntary party obtains insurance to cover the cost of a cleanup in case natural attenuation fails.

For further information see the *state and local* 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) (a) of the statutes is created to read:

2 292.15 (1) (a) "Enforcement standard" has the meaning given in s. 160.01 (2).

3 **SECTION 2.** 292.15 (1) (am) of the statutes is created to read:

4 292.15 (1) (am) "Natural attenuation" means the reduction in the mass and
5 concentration in groundwater of a substance, and the products into which the
6 substance breaks down, due to naturally occurring physical, chemical and biological
7 processes, without human intervention.

8 ~~**SECTION 3.** 292.15 (2) (a) (title) of the statutes is created to read:~~

9 ~~292.15 (2) (a) (title) *General.*~~

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

11 292.15 (2) (ae) *Natural attenuation.* Except as provided in sub. (6) or (7), if
12 there exists a hazardous substance in groundwater on a property in a concentration
13 that exceeds an enforcement standard and the department determines that natural

✓ Insert
3-5

1 attenuation will restore groundwater quality in accordance with rules promulgated
 2 by the department, a voluntary party is exempt from ss. 289.05 (1), (2), (3) and (4),
 3 289.42 (1), 289.67, 291.25 (1) to (5), 291.29, 291.37, 292.11 (3), (4) and (7) (b) and (c)
 4 and 292.31 (8), and rules promulgated under those provisions, with respect to ~~the~~
 5 ~~existence~~ of hazardous substances on ^{discharges} the property ^{or originating from} if all of the following occur at any
 6 time before or after the date of acquisition: (insert after comma)
 3-5

7 1. An environmental investigation of the property is conducted that is approved
 8 by the department.

9 2. The ~~property is cleaned up by restoring the~~ environment ^{is restored} to the extent
 10 practicable ~~and minimizing~~ ^{with respect to the discharges and} the harmful effects from ^{the} discharges of hazardous
 11 ~~substances on the property~~ ^{are minimized} in accordance with rules promulgated by the department
 12 and any contract entered into under those rules, except that this requirement does
 13 not apply with respect to the hazardous substance in groundwater that the
 14 department has determined will be brought into compliance with rules promulgated
 15 by the department through natural attenuation.

16 3. The voluntary party obtains a certificate of completion from the department
 17 stating that the ^{environment} property has been satisfactorily restored to the extent practicable
 18 ^{with respect to the discharges} and that the harmful effects from ^{the} discharges of hazardous substances have been
 19 minimized, except with respect to the hazardous substance in groundwater that the
 20 department has determined will be brought into compliance with rules promulgated
 21 by the department through natural attenuation.

22 3m. If required by the department, the voluntary party obtains and maintains
 23 insurance to cover the costs of complying with s. 292.11 (3) with respect to the
 24 hazardous substance that the department has determined will be brought into
 25 compliance with rules promulgated by the department through natural attenuation,

SECTION 4

1 in case natural attenuation fails, and the insurance complies with rules promulgated
2 by the department and names the voluntary party and this state as insureds.

3 4. The voluntary party maintains and monitors the property as required under
4 rules promulgated by the department and any contract entered into under those
5 rules.

6 5. The voluntary party does not engage in activities that are inconsistent with
7 the maintenance of the property.

8 6. The voluntary party has not obtained the certification under subd. 3. by
9 fraud or misrepresentation, by the knowing failure to disclose material information
10 or under circumstances in which the voluntary party knew or should have known
11 about more discharges of hazardous substances than were revealed by the
12 investigation conducted under subd. 1.

✓
A Inset →

~~SECTION 5. 292.15 (2) (am) (title) of the statutes is created to read:~~

~~292.15 (2) (am) (title) *Partial cleanup.*~~

~~SECTION 6. 292.15 (2) (ar) (title) of the statutes is created to read:~~

~~292.15 (2) (ar) (title) *Condition.*~~

~~SECTION 7. 292.15 (2) (b) of the statutes is amended to read:~~

~~292.15 (2) (b) *Extent of exemptions.* The exemptions provided in pars. (a), (ae)
and (am) continue to apply after the date of certification by the department under
par. (a) 3. or (ae) 3., or approval by the department under par. (am), notwithstanding
the occurrence of any of the following:~~

~~1. Statutes, rules or regulations are created or amended that would impose
greater responsibilities on the voluntary party than those imposed under par. (a) 2.
or (ae) 2.~~

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) of the statutes is created to read:

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

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:

renumbered 292.15(6)(a)^v
and

Insert 3-5 to -1423/3

1 (1) to (5), 291.29, 291.37, 292.11 (3), (4) and (7) (b) and (c) and 292.31 (8), and rules
2 promulgated under those provisions, with respect to the existence discharges of a
3 hazardous substance substances on the or originating from a property, if the release
4 of those hazardous substances occurred prior to the date on which the department
5 approves the environmental investigation of the property under subd. 1, and if all
6 of the following occur at any time before or after the date of acquisition:

begin text

****NOTE: This draft (LRB-0285/1) is reconciled with LRB-1422/P2. Both drafts should continue to appear in the compiled bill.

7

(END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1423/3
.....

Insert
A

292.15(2)(ae) ✓

****NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers: LRB-0255, LRB-1422 and LRB-1423.

Insert B

292.15(6)(a) ✓

****NOTE: This is reconciled s. 292.15(6)(a). This SECTION has been affected by drafts with the following LRB numbers: LRB-0614, LRB-0937 and LRB-1423.

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

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1423/3dn
+...f:....
RET WLJ

LRB-0937, LRB-1422

-0285

0614

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-1423/3dn
RCT:wj:hmh

Wednesday, February 3, 1999

This draft reconciles LRB-0285, LRB-0614, LRB-0937, LRB-1422 and LRB-1423.
All of these drafts should continue to appear in the compiled bill.

Rebecca C. Tradewell
Managing Attorney
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E-mail: Becky.Tradewell@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1423/3
RCT:wj&jlg:hmh

DOA:.....Wong - Natural attenuation at voluntary party sites

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. Under DNR's rules, a person may be allowed to use natural attenuation to clean up a hazardous substance in groundwater if DNR determines that natural attenuation will bring the groundwater into compliance with groundwater standards within a reasonable

period. “Natural attenuation” means the reduction in the amount and concentration of a substance in groundwater that occurs because of natural processes.

Under this bill, if groundwater on a property is contaminated by a hazardous substance in a concentration that exceeds a groundwater standard and DNR determines that natural attenuation will restore groundwater quality in accordance with its rules, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharges, and from the requirements of other laws relating to hazardous substances, if: 1) an environmental investigation of the property is conducted; 2) the property is cleaned up, except with respect to the substance for which DNR approves natural attenuation; 3) DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, except with respect to the substance for which DNR approves natural attenuation; the voluntary party maintains and monitors the property as required by DNR; and 4) if required by DNR, the voluntary party obtains insurance to cover the cost of a cleanup in case natural attenuation fails.

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

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1 **SECTION 1.** 292.15 (1) (a) of the statutes is created to read:

2 292.15 (1) (a) “Enforcement standard” has the meaning given in s. 160.01 (2).

3 **SECTION 2.** 292.15 (1) (am) of the statutes is created to read:

4 292.15 (1) (am) “Natural attenuation” means the reduction in the mass and
5 concentration in groundwater of a substance, and the products into which the
6 substance breaks down, due to naturally occurring physical, chemical and biological
7 processes, without human intervention.

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

9 292.15 (2) (ae) *Natural attenuation.* Except as provided in sub. (6) or (7), if
10 there exists a hazardous substance in groundwater on a property in a concentration
11 that exceeds an enforcement standard and the department determines that natural
12 attenuation will restore groundwater quality in accordance with rules promulgated
13 by the department, a voluntary party is exempt from ss. 289.05 (1), (2), (3) and (4),

1 289.42 (1), 289.67, 291.25 (1) to (5), 291.29, 291.37, 292.11 (3), (4) and (7) (b) and (c)
2 and 292.31 (8), and rules promulgated under those provisions, with respect to
3 discharges of hazardous substances on or originating from the property, if the release
4 of those hazardous substances occurred prior to the date on which the department
5 approves the environmental investigation of the property under subd. 1. and if all
6 of the following occur at any time before or after the date of acquisition:

7 1. An environmental investigation of the property is conducted that is approved
8 by the department.

9 2. The environment is restored to the extent practicable with respect to the
10 discharges and the harmful effects from the discharges are minimized in accordance
11 with rules promulgated by the department and any contract entered into under those
12 rules, except that this requirement does not apply with respect to the hazardous
13 substance in groundwater that the department has determined will be brought into
14 compliance with rules promulgated by the department through natural attenuation.

15 3. The voluntary party obtains a certificate of completion from the department
16 stating that the environment has been satisfactorily restored to the extent
17 practicable with respect to the discharges and that the harmful effects from the
18 discharges have been minimized, except with respect to the hazardous substance in
19 groundwater that the department has determined will be brought into compliance
20 with rules promulgated by the department through natural attenuation.

21 3m. If required by the department, the voluntary party obtains and maintains
22 insurance to cover the costs of complying with s. 292.11 (3) with respect to the
23 hazardous substance that the department has determined will be brought into
24 compliance with rules promulgated by the department through natural attenuation,

1 in case natural attenuation fails, and the insurance complies with rules promulgated
2 by the department and names the voluntary party and this state as insureds.

3 4. The voluntary party maintains and monitors the property as required under
4 rules promulgated by the department and any contract entered into under those
5 rules.

6 5. The voluntary party does not engage in activities that are inconsistent with
7 the maintenance of the property.

8 6. The voluntary party has not obtained the certification under subd. 3. by
9 fraud or misrepresentation, by the knowing failure to disclose material information
10 or under circumstances in which the voluntary party knew or should have known
11 about more discharges of hazardous substances than were revealed by the
12 investigation conducted under subd. 1.

****NOTE: This is reconciled s. 292.15 (2) (ac). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0285, LRB-1422 and LRB-1423.

13 **SECTION 4.** 292.15 (6) of the statutes is renumbered 292.15 (6) (a) and amended
14 to read:

15 292.15 (6) (a) This section does not exempt property from any lien filed under
16 s. 292.81 (3) for costs incurred by the department prior to the date that certification
17 is issued under sub. (2) (a) 3., (ae) 3. or (ag) 2.

****NOTE: This is reconciled s. 292.15 (6) (a). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0614, LRB-0937 and LRB-1423.

18 **SECTION 9136. Nonstatutory provisions; natural resources.**

19 (1) RULES CONCERNING NATURAL ATTENUATION OF GROUNDWATER CONTAMINATION.
20 Using the procedure under section 227.24 of the statutes, the department of natural
21 resources shall promulgate the rules required under section 292.15 (2) (ae) of the
22 statutes, as created by this act, for the period before the effective date of the

1 permanent rules under that provision, but not to exceed the period authorized under
2 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
3 (2) (b) and (3) of the statutes, the department is not required to provide evidence that
4 promulgating rules under this subsection is necessary for the preservation of the
5 public peace, health, safety or welfare and is not required to provide a finding of
6 emergency for rules promulgated under this subsection.

7

(END)