

**1999 DRAFTING REQUEST**

**Bill**

Received: **01/22/99**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Schmiedicke**

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

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

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

Extra Copies: **TNF, ISR, RCT**

**Topic:**

DOA:.....Schmiedicke - DNR-DOT agreement on "construction zone" cleanups

**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 01/25/99	gilfokm 01/25/99		_____			
/P1	nilsepe 01/28/99	gilfokm 01/29/99	jfrantze 01/26/99	_____	lrb_docadmin 01/26/99		
/1			lpaasch 01/29/99	_____	lrb_docadmin 01/29/99		

FE Sent For:

<END>

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/?	nilsepe 01/25/99	gilfokm 01/25/99		_____			
/P1		1-1-99 Kang	jfrantze 01/26/99	_____	lrb_docadmin 01/26/99		

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1?	nilsepe	1/1-1-25-99 King	1/25	26/26 1/25			

FE Sent For:

<END>

-1957

**Nilsen, Paul**

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**From:** Schmiedicke, David [david.schmiedicke@doa.state.wi.us]  
**Sent:** Thursday, January 21, 1999 8:49 PM  
**To:** Nilsen, Paul  
**Cc:** Etzler, John; Miller, Steve; Tradewell, Becky; Caucutt, Dan; LaBelle, Vicky  
**Subject:** Statutory Language Request -- DOT

**Importance:** High  
**Sensitivity:** Confidential

Paul:

Please draft the following for inclusion in the Governor's budget:

Require that DOT and DNR develop a memorandum of understanding concerning cleanup requirements within and beyond "zone of construction" (see LRB 1019) on properties owned by DOT and processes for pursuing responsible parties for contamination costs on easements held by DOT. Require that the MOU include a dispute resolution process. The MOU should be completed by January 1, 2000, and be approved by the Department of Administration Secretary.

Please let me know if you have any questions. Thanks very much.

David P. Schmiedicke  
Wisconsin Department of Administration  
Voice -- (608) 266-1040  
FAX -- (608) 267-0372  
E-Mail -- david.schmiedicke@doa.state.wi.us

**Nilsen, Paul**

---

**From:** Schmiedicke, David  
**Sent:** Monday, January 25, 1999 9:26 AM  
**To:** Etzler, John  
**Cc:** Nilsen, Paul  
**Subject:** RE: MOU Between DNR/DOT

I understand that it will not change liability. The goal is to get DOT and DNR to reach agreement on those issues that can be addressed under current law (e.g., extent of cleanup, etc.). Thanks.

*David P. Schmiedicke*  
*Wisconsin Department of Administration*  
Voice -- (608) 266-1040  
FAX -- (608) 267-0372  
E-Mail -- david.schmiedicke@doa.state.wi.us

-----Original Message-----

**From:** Etzler, John  
**Sent:** Monday, January 25, 1999 9:23 AM  
**To:** Schmiedicke, David  
**Subject:** MOU Between DNR/DOT

Dave -- Paul Nilsen at the LRB just called and said the MOU being drafted will not change anything under current law (i.e. its will not change DOT's liability regarding cleanup of contamination sights). Is this O.K.? I know this was viewed as a way of formalizing some cooperative agreements between DNR/DOT pertaining to this issue but I am unsure if this is doing what you thought it would accomplish. Let me know if you have any concerns or questions. Thanks.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1957

PEN...

*King*  
*PI*

DOA:.....Schmiedicke - DNR-DOT agreement on "construction zone" cleanups

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

*d-note*

1 *Don't Gen Cat.*  
AN ACT...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**SOLID AND HAZARDOUS WASTE**

This bill requires the department of natural resources (DNR) and the department of transportation (DOT) to enter into a memorandum of understanding concerning the responsibilities of those two agencies for hazardous substances found in transportation construction zones. The bill does not modify the current responsibility of either agency for such hazardous substances.

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

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

3 (1) MEMORANDUM OF UNDERSTANDING FOR CONTAMINATED TRANSPORTATION  
4 CONSTRUCTION ZONES. Not later than January 1, 2000, the secretary of natural  
5 resources and the secretary of transportation jointly shall submit to the secretary of

**SECTION 9136**

1 administration a memorandum of understanding between the department of  
2 natural resources and the department of transportation. The memorandum of  
3 understanding shall establish the respective responsibilities of the department of  
4 natural resources and the department of transportation for hazardous substances  
5 discovered in ~~the~~ <sup>any</sup> area in which soil is intentionally disturbed in the course of  
6 constructing or maintaining a transportation facility, as defined in section 84.185 (1)  
7 (d) of the statutes. The memorandum of understanding shall establish a means of  
8 resolving disputes between the agencies arising under the memorandum of  
9 understanding. The memorandum of understanding does not take effect unless the  
10 secretary of administration approves of it in writing to the secretary of natural  
11 resources and the secretary of transportation.

12 (END)

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

LRB-1957/1dn <sup>PI</sup>  
PEN... King

January 25, 1999

David Schmiedicke:

This draft does not change the applicability of the spills law to DOT, nor does it allow DNR to waive liability under the spills law for DOT. Under this draft, DOT will remain liable for discharges of hazardous substances as provided in current law.

This draft does not do anything that cannot already be done under current law.

Paul E. Nilsen  
Legislative Attorney  
261-6926



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

LRB-1957/P1dn  
PEN:kmg:jf

January 25, 1999

David Schmiedicke:

This draft does not change the applicability of the spills law to DOT, nor does it allow DNR to waive liability under the spills law for DOT. Under this draft, DOT will remain liable for discharges of hazardous substances as provided in current law.

This draft does not do anything that cannot already be done under current law.

Paul E. Nilsen  
Legislative Attorney  
261-6926



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1957/B1

PEN:kmg:jf

DOA:.....Schmiedicke - DNR-DOT agreement on "construction zone" cleanups

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

The memorandum shall require <sup>that</sup> any actions to remedy the hazardous substances <sup>on</sup> the risk to human health or the environment and <sup>that</sup> processes of natural attenuation be be based <sup>relied upon</sup> whenever practicable.

about  
the act.

1 AN ACT; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

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on property that is under the jurisdiction of the department of

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 8 resolving disputes between the agencies arising under the memorandum of  
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 10 secretary of administration approves of it in writing to the secretary of natural  
 11 resources and the secretary of transportation.

(END)

Any actions to restore the environment or to minimize the harmful effects of the hazardous substances on the property shall be based upon the risk to public health and the environment and shall,

to the greatest extent practicable, rely on natural processes of attenuation without human intervention.

## Nilsen, Paul

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**From:** Schmiedicke, David  
**Sent:** Tuesday, January 26, 1999 5:40 PM  
**To:** Nilsen, Paul  
**Subject:** FW: LRB Draft: 99-1957/P1

Paul: The MOU may be too narrow. Please expand to all DOT rights of way, including processes and procedures to address cleanup requirements within and outside the "zone of construction". Also include a requirement that these processes should assess risk to public health and the environment and rely on natural attenuation of contamination to the greatest the extent practicable.

Thanks.

*David P. Schmiedicke*  
*Wisconsin Department of Administration*  
Voice -- (608) 266-1040  
FAX -- (608) 267-0372  
E-Mail -- david.schmiedicke@doa.state.wi.us

-----Original Message-----

**From:** Frantzen, Jean  
**Sent:** Tuesday, January 26, 1999 8:33 AM  
**To:** Schmiedicke, David  
**Cc:** LaBelle, Vicky; Hubli, Scott; Haugen, Caroline  
**Subject:** LRB Draft: 99-1957/P1

include cleanup standards  
base response on risk  
natural attenuation

Following is the PDF version of draft 99-1957/P1.



99-1957/P1



99-1957/P1dn



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1957/1

PEN:kmg:lp

DOA:.....Schmiedicke - DNR-DOT agreement on "construction zone"  
cleanups

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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

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*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**SOLID AND HAZARDOUS WASTE**

This bill requires the department of natural resources (DNR) and the department of transportation (DOT) to enter into a memorandum of understanding concerning the responsibilities of those two agencies for hazardous substances found on property that is under the jurisdiction of the department of transportation. The memorandum shall require that any actions to remedy the hazardous substances be based on the risk to human health or the environment and that processes of natural attenuation be relied upon whenever practicable. The bill does not modify the current responsibility of either agency for such hazardous substances.

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10 on natural processes of attenuation without human intervention. The memorandum  
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12 arising under the memorandum of understanding. The memorandum of  
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15 transportation.

16 (END)