

2001 DRAFTING REQUEST

Bill

Received: 09/15/2000

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: DNR

Pre Topic:

DOA:.....Wong -

Topic:

Voluntary party liability exemption for properties affected by off-site contamination

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	traderc 09/21/2000	jdyer 09/22/2000	martykr 09/25/2000	_____	lrb_docadmin 09/25/2000		S&L
/2	traderc 10/13/2000	jdyer 10/13/2000	jfrantze 10/13/2000	_____	lrb_docadmin 10/13/2000		S&L

FE Sent For:

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2001-2003 Statutory Language Proposals

Division: Air and Waste

Bureau: Remediation and Redevelopment

Issue/Topic: Voluntary Party Liability Exemption for properties impacted by off-site contamination

Proposed Change: 1999 Wisconsin Act 9, amended Ch. 292 to allow voluntary parties to obtain a full Certificate of Completion for properties impacted by off-site contamination. This change was made based upon a recommendation of the Brownfields Study Group. However, the amended statute only allows this exemption for sites with groundwater contamination migrating from off-site and does not cover situations when contamination has migrated from off-site in the soil. The Department proposes to revise s. 292.15(2)(ag) to include references to s. 292.13(1m) to insure that voluntary parties can obtain a full certificate of completion if there is soil contamination that migrated to the property from off-site.

Explanatory Note: This change would make it clear that parties who qualify for the off-site liability exemption in s. 292.13, Stats. can obtain a full certificate of completion.

Desired Effective Date: Effective Date of the Budget

Contact Person: Lance Potter, MB/5 (7-7418); Eric Ebersberger, MB/5 (6-0818); Michael Prager, RR/3, (6-4927).



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0332/1

RCT.....

SOON

JLD

DOA:.....Wong – Voluntary party liability exemption for properties affected by off-site contamination

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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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, 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, 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 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 or soil on the person's

property 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. Also, under current law, 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.

This bill expands the voluntary party exemption from liability related to groundwater contamination by an off-site discharge so that it also applies to property on which the *soil* is contaminated by an off-site discharge.

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 (2) (ag) (intro.), 1., 2. and 3. of the statutes are amended to
2 read:
3 292.15 (2) (ag) *Property affected by off-site discharge.* (intro.) Except as
4 provided in sub. (6) or (7), for a property on which there exists a hazardous substance
5 for which a voluntary party is exempt from liability under s. 292.13 (1) [✓]or (1m), a
6 voluntary party is exempt from the provisions of ss. 289.05 (1), (2), (3) and (4), 289.42
7 (1), 289.67, 291.25 (1) to (5), 291.29, 291.37, 292.11 (3), (4) and (7) (b) and (c) and
8 292.31 (8), and rules promulgated under those provisions, with respect to discharges
9 of hazardous substances on or originating from the property, if the release of those
10 hazardous substances occurred prior to the date on which the department approves
11 the environmental investigation of the property under par. (a) 1., if par. (a) 1. and 4.

1 to 6. apply and all of the following occur at any time before or after the date of
2 acquisition:

3 **History:** 1993 a. 453; 1995 a. 225; 1995 a. 227 s. 712, 714, 715; 1997 a. 27, 237; 1999 a. 9, 185.

3 1. The environment is restored to the extent practicable with respect to the
4 discharges and the harmful effects from the discharges are minimized in accordance
5 with rules promulgated by the department and any contract entered into under those
6 rules, except that this requirement does not apply with respect to the hazardous
7 substance for which the voluntary party is exempt from liability under s. 292.13 (1)
8 or (1m). ✓

9 **History:** 1993 a. 453; 1995 a. 225; 1995 a. 227 s. 712, 714, 715; 1997 a. 27, 237; 1999 a. 9, 185.

9 2. The voluntary party obtains a certificate of completion from the department
10 stating that the environment has been satisfactorily restored to the extent
11 practicable with respect to the discharges and that the harmful effects from the
12 discharges have been minimized, except with respect to the hazardous substance for
13 which the voluntary party is exempt from liability under s. 292.13 (1) or(1m). ✓
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15 under s. 292.13 (2) with respect to the hazardous substance for which the voluntary
16 party is exempt from liability under s 292.13 (1) or(1m). ✓
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(END)



DNR
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DOA:.....Wong - Voluntary party liability exemption for properties affected
by off-site contamination

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Redraft inst.
from Lance Potter, see
10/13/00 p. 3

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

Analysis by the Legislative Reference Bureau

ENVIRONMENT

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

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10 hazardous substances occurred prior to the date on which the department approves
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17 (END)

→ 4. The voluntary party continues to satisfy the
conditions under s. 292.13 (1)(d) to (g) or (1m)
(d) to (g).

(Note: 292.13 (1m)(d) to (g) contains
conditions for meeting the off-site
liability exemption for soil)



SO ON

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DOA:.....Wong - Voluntary party liability exemption for properties affected by off-site contamination

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✓
Insert 17 →
(END)

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Insert

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16 (d) to (g) or (1m) (d) to (g).

17

(END)