

Report on Impact of Exemptions from Liability

Department of Natural Resources

PUB-RR-929 September 15, 2022

Wis. Stat. § 292.25 requires the Department of Natural Resources (DNR) to prepare a biennial report that provides an update on the status of the Voluntary Party Liability Exemption. This report is required to be submitted to the Legislature, the Governor and the Department of Administration.

Any individual, business or unit of government that conducts an environmental investigation and cleanup of a contaminated property – following state requirements and with the oversight of DNR staff – can receive an exemption from future environmental liability. The Voluntary Party Liability Exemption (VPLE) is implemented by the DNR and described in Wis. Stat. § 292.15.

A. Sites Seeking Liability Exemption

From its inception in 1994, until September 15, 2022, 413 properties have applied to enter the Voluntary Party Liability Exemption (VPLE) process. Eleven properties were determined to be ineligible for VPLE and 151 properties withdrew from the program. As of September 15, 2022, 51 parties continue to participate in the VPLE process and are undergoing an investigation and cleanup.

B. Certificates of Completion

DNR has issued a Certificate of Completion for 203 sites that completed the VPLE process.

C. Sites with additional contamination discovered after Certificate of Completion was issued

One site, for which a Certificate of Completion was issued, discovered that additional hazardous substances existed. In this case, the owner chose to remove the contaminated material with DNR approval.

D. Use of Environmental Fund money on remedial actions and estimated costs at sites where a Certificate of Completion was issued

In 2020, DNR conducted action using state funds at any one site that received a Certificate of Completion. Because of a concern about possible vapor intrusion, the DNR conducted a vapor assessment at the site. The DNR concluded that vapors were not a concern and no mitigation was needed. The DNR paid \$18,279 to an environmental consultant to conduct this work.

E. Claims for VPLE sites that obtained insurance - natural attenuation

As of September 2022, there were 69 sites where the voluntary party paid the natural attenuation insurance fee to receive a Certificate of Completion, as offered in Wis. Stat. § 292.15(2)(ae) and Wis. Admin. Code ch. NR 754. This environmental insurance policy covers the state of Wisconsin in the event that natural attenuation of groundwater fails. There have been no claims against the insurance policy for any of these sites.

F. Claims for VPLE sites that obtained insurance – contaminated sediment

As of September 2022, there were no contaminated sediment sites where the voluntary party obtained insurance, as required by Wis. Stat. § 292.15(2)(af). The DNR promulgated new permanent administrative rules, which took effect in 2021, pertaining to insurance at VPLE sediment sites. These new rules are found in Wis. Admin. Code ch. NR 758. No insurance claims have been made for any sediment site.

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