

Voluntary Party Liability Exemption

Revised Interim Eligibility Determination Process

PUB-RR-770

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BACKGROUND

Any individual, business or unit of government that conducts an environmental investigation and cleanup of a contaminated property – following the state’s Voluntary Party Liability Exemption requirements with the oversight of Department of Natural Resources (DNR) staff – can receive an exemption from environmental liability from past hazardous substance releases.

The Voluntary Party Liability Exemption (VPLE) is implemented by the DNR and described in s. 292.15 of the Wisconsin Statutes (Wis. Stats.). If you are seeking the Voluntary Party Liability Exemption (VPLE), you should read this guidance before you submit an application. In 2006, the VPLE statute, s. 292.15, Wis. Stats., was modified to allow for properties with unlicensed solid waste facilities to enter into the process to obtain a Certificate of Completion. As a result of this regulatory change, the DNR is modifying its application process for the VPLE. This document describes the interim process which all interested parties should follow.

VPLE ELIGIBILITY

The 2005 Wisconsin Act 418 modified the type of properties that can participate in the VPLE process and receive a Certificate of Completion.

Properties with the following types of waste sites or facilities are not eligible for the VPLE:

- a solid waste facility or site that was licensed under s. 289.31, Wis. Stats., or s. 144.44, 1993 Wis. Stats.;
- a hazardous waste treatment, storage or disposal facility that first began operation after the voluntary party acquired the property;
- a licensed hazardous waste treatment, storage or disposal facility operated on the property before the date on which the voluntary party acquired the property and that is operated after the date on which the voluntary party acquired the property; and
- any hazardous waste disposal facility that has been issued a license under s. 144.441 (2), 1995 Wis. Stats., or s. 289.41 (1m), Wis. Stats., or rules promulgated under those sections, for a period of long-term care following closure of the facility.

APPLICATION PROCESS

To participate in the VPLE process, you must submit the following information to the DNR regional office:

- a completed application form ([“Voluntary Party Exemption Application Form” 4400-178](#));
- an application fee of \$250;
- as indicated on the application form, the application form should be submitted with a few attached documents (fee, map, etc.); and
- The DNR now requests that each application form also include a cover letter stating why the applicant has concluded that the property does not include a waste site or facility that was ever licensed under state solid or hazardous waste laws, as specified above. The letter should describe the data sources that were searched to reach this conclusion.



Wisconsin Department of Natural Resources
P.O. Box 7921, Madison, WI 53707
<http://dnr.wi.gov/org/aw/rr/>



After the DNR receives the request, staff will verify whether the correct determination was made, and an eligibility determination letter will be sent to the applicant. Within 30 days of receiving the letter of eligibility, the voluntary party must send the DNR an advanced deposit of \$1,000 for properties less than one acre and \$3,000 for properties one acre or larger to cover DNR project oversight costs.

INFORMATION SOURCES

There are several sources of information that can be checked to determine if a site is eligible for the VPLE process. The DNR's has databases of facility and site information that may be useful to the applicants to determine if a property has a licensed solid waste facility or an ineligible hazardous waste facility.

Also, please note there are many properties where solid waste was disposed of many years ago but the waste may not be easily visible or known today to the current owner or site visitor – please check the resources described below for more information on the status of these facilities.

- **SHWIMS on the Web** – Solid and Hazardous Waste Information System
<http://sotw.dnr.state.wi.us/sotw/Welcome.do>

This database provides access to information on sites, and facilities operating at sites, that are regulated by the DNR's Waste Management program. SHWIMS has information regarding many licensed solid and hazardous waste facilities. However, there are some waste facilities which were licensed historically that may not be included in SHWIMS.

- **BRRTS on the Web** – Bureau for Remediation and Redevelopment Tracking System
<http://botw.dnr.state.wi.us/botw/Welcome.do>

This on-line database provides access to information on incidents that contaminated soil or groundwater. These incidents include spills, leaks, dumping and other incidents where environmental investigations and clean up of contamination was necessary. *BRRTS on the Web* also lists sites where environmental site assessments were conducted but no further investigation or cleanup was needed. Like SHWIMS, BRRTS should not be considered a comprehensive list of all contaminated properties.

- **EPA's Envirofacts**
<http://www.epa.gov/enviro/>

This EPA system has access to information on facilities regulated by many different EPA programs. Specifically, the system includes data from RCRAInfo database which includes information on hazardous waste facilities.

Other information Sources

- **Currently Licensed Solid Waste Landfills in Wisconsin** – This list is available on the Internet: http://dnr.wi.gov/org/aw/wm/faclists/WisLic_SWLandfills.pdf This list does not include closed facilities that were historically licensed.
- **Registry of Waste Disposal Sites in Wisconsin** – This list includes sites where solid or hazardous waste may have been deposited and was last updated June 1999. While the list does not indicate whether a site has been licensed, it may be useful to find out if the site is on this list and then identify the Facility Identification Number (FID). If a site is identified on the Registry, please contact Department staff (see pg. 3) because staff often have more information on many sites than is available on the public list which staff can be checked when you contact Department staff (see pg. 3). The Registry is available here: <http://dnr.wi.gov/org/aw/rr/archives/pubs/RR108.pdf>

- **DNR files** – The DNR has physical files on many historic facilities. The public can work with regional staff in the Waste Management and Remediation and Redevelopment Programs to search for information in our files. Be aware that some paper files have been archived and may not be readily retrieved.
- **Historical Records** – For many dumps and landfills, the towns, cities or businesses who operated the facilities have maintained financial and other records about the facility. Other historic information about the site such as Sanborn maps, aerial photos, county property tax records, and documents recorded with the property title at the County Register of Deeds may also provide information about site operations.

PROCESS IMPROVEMENTS

As described above, this document describes an interim process. The DNR is working to produce a spreadsheet that will be available on the DNR web site, of all sites or facilities that the Department believes have ever received a solid waste license. Once this list is complete, it will enable the public to more clearly screen out landfills prior to applying for this exemption. The VPLE application form will be revised in the future so that information the DNR is now asking for in the application cover letter will be included as part of the form. Information on the eligibility criteria will be incorporated into the [VPLE Fact Sheet \(RR-506\)](#), (the primary document which describes the program requirements and procedures).

CONTACTS AND QUESTIONS

If you have questions about the VPLE process please contact Michael Prager at 608-261-4927 or michael.prager@wisconsin.gov or the regional land recycling specialist in the DNR region where your site is located. If you have questions about how to determine if your property has a licensed solid or hazardous waste facility, please contact Dan Kolberg at 608-267-7500 or dan.kolberg@wisconsin.gov.

<p>Northern Region John Sager (715) 365-8959</p>	<p>Northeast Region Annette Weissbach (920) 662-5165</p>	<p>South Central Region Linda Hanefeld (608) 275-3310</p>
<p>Southeast Region Margaret Brunette (414) 263-8557</p>	<p>West Central Region Loren Brumberg (715) 839-3770</p>	

Legal Disclaimer

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Disability Disclaimer

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This publication is available in alternative format upon request. Please call 608-267-3543 for more information.

Additional copies of this document, the application forms and other relevant publications as well as additional information on the Remediation and Redevelopment program can be obtained on our web site: <http://dnr.wi.gov/org/aw/rr/>

