VOLUNTARY PARTY LIABILITY EXEMPTION (VPLE)

Brownfields Study Group

Overview

July 2018

Wis. Stats. § 292.15.
VPLE:

- Overview
- Who can be a Voluntary Party
- Why be a Voluntary Party
- Future Liability
- Fees
- Basic Steps
- Helpful Hints
Who can enter the VPLE Process?

- Any person who submits application and pays fees.
- A person may be an individual, business, developers, or government unit
- Voluntary Party doesn’t need to own property
- A contaminant release must be documented on the property
Which sites are not eligible?

- Site on or proposed for Superfund NPL
- Most Haz Waste treatment, storage and disposal facilities
- Landfills that are licensed and approved facilities
- Solid waste facility that still needs active treatment or collection system for GW, leachate or gas
Why enter the VPLE Process?

- Provides active project management
- Deals with the entire property
- Addresses past and present contamination
- Limits *future* liability for past contamination
- Is *transferable*
- Is a real PLUS+ for future development
- Required by some buyers & lenders
What must a VP do?

VP is required to:

- Phase I and Phase II
- Investigate property & discharges that migrate off-site
- Remediate discharges
- Maintain property as required
What is reward at end of VPLE process?

Certificate of Completion:
- Awarded once DNR approves site investigation and cleanup.
- Provides “finality” to person’s liability.
- Exempt from spill law and certain provisions in solid and hazardous waste laws.
- Exemption still applies if:
  - Standards change
  - Additional contamination is found (that was discharged before SI approval; not for new discharges)
  - The remedy failed
Fees

- Application - $250/property
- VP is charge hourly ($105/ hr) for DNR time
- Advance deposit:
  - $2000 for parcels 1 acre or less
  - $4000 for parcels greater than 1 acre
- VP will be billed or receive refund at end if costs are more or less than deposit
Helpful Hints

- Needs to be a release to the environment, may have been addressed in the past
- Need to investigate release, even if it migrated off the property
- Submit one application per legally described property
- Request a kick-off meeting with DNR
- Keep reminding yourself: “it isn’t quick, but it is worth it”
VPLE - By the Numbers

- First Certificate of Completion - 1996
- Active sites in program = 100
- Certificates of Completion = 185
- Average number of new applications per year (recent yrs) - 15
- Average number of Certificates (recent yrs) - 10
Recent Program Updates

► Most licensed landfills now eligible
► Guidance on importing soil or other materials to VPLE site
► New definition of “property”
► VPLE for sediments
Room for improvement

- Misunderstandings / Perceptions vs Reality
- Appropriate level of DNR involvement
- Consistent implementation
- Planning ahead to consider review time
- Post Certificate of Completion changes to the property
Resources

- **VPLE Webpage:**
  - https://dnr.wi.gov/topic/Brownfields/vple.html
- **VPLE Fact Sheet - RR506**
- **VPLE FAQ**
- **VPLE Statutes and Code:**
  - Section 292.15 - http://docs.legis.wisconsin.gov/statutes/statutes/292/II/15
  - NR 750 and 754 - http://docs.legis.wisconsin.gov/code/admin_code/nr/700