

VOLUNTARY PARTY LIABILITY EXEMPTION (VPLE)

Brownfields
Study Group

Overview

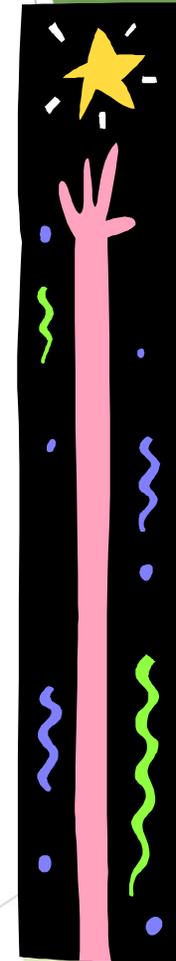
July 2018



Wis. Stats. § 292.15.

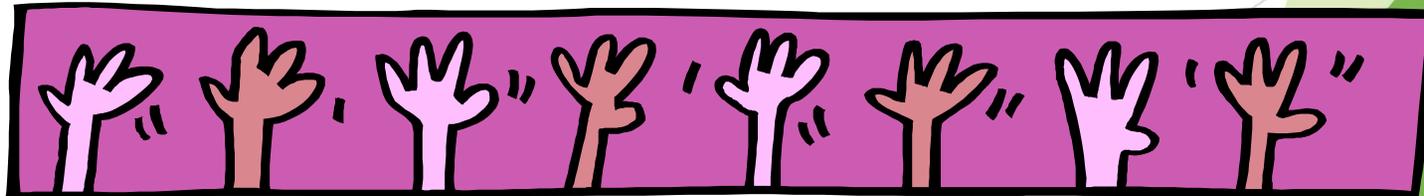
VPLE:

- 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

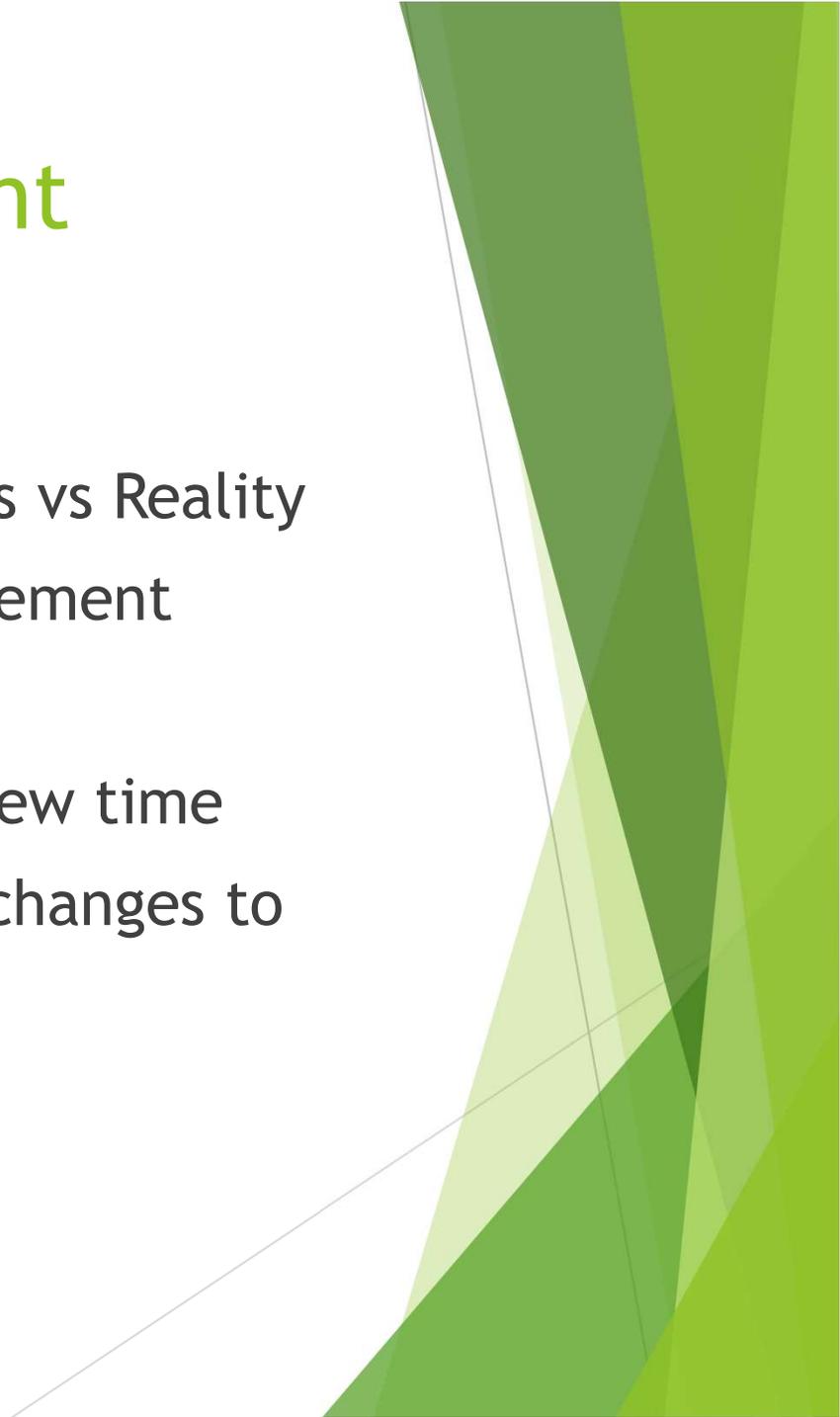
Recent Program Updates

- ▶ 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

▶ <https://dnr.wi.gov/files/PDF/pubs/rr/RR506.pdf>

▶ VPLE FAQ

▶ <https://dnr.wi.gov/files/PDF/pubs/rr/RR057.pdf>

▶ 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