

**2001 DRAFTING REQUEST**

**Bill**

Received: 10/04/2000

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: Commerce

Alt. Drafters:

Subject: Environment - env. cleanup  
Buildings/Safety - misc.

Extra Copies: RJM

**Pre Topic:**

DOA:.....Wong -

**Topic:**

Appropriation of certain plan review fees

**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 12/05/2000	hhagen 12/05/2000	jfrantze 12/06/2000	_____	lrb_docadmin 12/06/2000		
/2	traderc 12/13/2000	wjackson 12/14/2000	jfrantze 12/15/2000	_____	lrb_docadmin 12/15/2000		

FE Sent For:

<END>

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12/14 WJ  
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1/?	traderc	1, hmb 12/5/00	J 10/12/00	Self 12/4			

FE Sent For:

<END>

RCT  
C. Plan Review Fees

**Intent:** Include all bulk tank plan review, inspection and groundwater fee revenues that the Division of Environmental and Regulatory Services currently collects in the Petroleum Inspection Fund. The fees are currently collected and deposited in the Division of Safety and Buildings appropriation, 20.143 (3) (j), Stats., and cannot be accessed to support ERS programs.

In the 1993-95 biennial budget act, staff related to tank plan review and installation was transferred from the safety and buildings appropriation to the SEG petroleum inspection appropriation. In 1996 these functions were transferred from the Department of Industry, Labor and Human Relations to the Department of Commerce. Due to an initial drafting oversight, the tank plan review and installation revenues have remained and have continued since 1996 to be collected in the safety and buildings appropriation.

Under current law, the authority for bulk tank regulation is provided under s. 101.09, Stats., with the plan review and inspection fees authorized under s. 101.19, Stats. The bulk tank plan review fees are collected under Comm 2.43, Wisconsin Administrative Code, and the bulk tank inspector fees are collected under Comm 5.68, Wisconsin Administrative Code. Fees are also established in Comm 10, Wisconsin Administrative Code, but refer back to Comm 2 and Comm 5, Wisconsin Administrative Code. The revenues from the fees are deposited in 20.143 (3) (j), Stats. (appropriation 321). In addition, groundwater fees are collected pursuant to 101.14 (5), Stats., deposited in 20.143 (3) (j) Stats., and then transferred to the Environmental Fund as provided under s. 25.46 (5), Stats.

**Proposed Change:**

- Modify the governing statutes of the Petroleum Inspection Fund, s. 25.47, Stats., to allow all bulk tank plan review, inspection and groundwater fee revenues be deposited in s. 25.47, Stats.
- Remove the authority directing that the fees be deposited in 20.143 (3) (j), Stats.
- Include language allowing s. 25.47, Stats., to include fees imposed pursuant to 101.19 and 101.14(5), Stats.
- The groundwater fees would continue to be transferred to the Environmental Fund, so direct that fees imposed pursuant to 101.14 (5), Stats., be transferred to the Environmental Fund under s. 25.46 (5), Stats.
- Provided that the balance of plan review, and inspection fees collected and currently deposited in 20.143 (3) (j), Stats., be transferred into s. 25.47, Stats. The minimum balance to transfer is \$1,289,611.93. This is the balance of all related revenue through the end of SFY'00. The additional amount to transfer is all fees collected from the end of SFY'00 until the date the transfer is effective less the actual cost of 2 PECFA Program Specialists funded by the fees during SFY'01. The balance of groundwater fees collected through the effective date of the transfer should be transferred to the Environmental Fund under s. 25.46 (5), Stats.

- The bulk tank plan review, inspection and groundwater fee revenues need to be designated only for activities undertaken by Commerce under 20.143 (3) (r) or 20.143 (3) (w), Stats.
- Establish separate revenue codes within s. 25.47, Stats., for plan review, inspection and groundwater fees.

RCT

Depositing of Plan Review Fees. This change will include in the Petroleum Inspection Fund all bulk tank plan review, inspection and groundwater fee revenues that the Division of Environmental and Regulatory Services currently collects. The fees are currently collected and deposited in the Division of Safety and Buildings appropriation, s. 20.143 (3) (j), Stats., and cannot be accessed to support ERS programs. This is due to a 1996 drafting oversight.

RCT →

When the staff related to tank plan review and installation were transferred from the Department of Industry, Labor and Human Relations, the tank plan review and installation revenues were left and have remained in the Safety and Buildings appropriation.

## Tradewell, Becky

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**From:** Tradewell, Becky  
**Sent:** Tuesday, November 28, 2000 2:51 PM  
**To:** Cornelius, Louie  
**Cc:** Walker, William  
**Subject:** Department of Commerce budget drafting request

I am a drafter at the LRB and I am trying to draft one of the Department's budget drafts, the one relating to plan review fees. Would you please refer this message to an appropriate person.

The instructions for this request say to remove the authority directing that bulk tank plan review and inspection fees under s. 101.19 be placed in s. 20.143 (3) (j) and to provide that the fees instead be placed into the petroleum inspection fund. It is obvious that s. 101.19 authorizes many other kinds of fees in addition to bulk tank fees. I assume that the other kinds of fees should still be credited to s. 20.143 (3) (j). I need to know how to describe the bulk tank fees in terms that are consistent with the language in s. 101.19. I do not think that it would be sufficiently clear to simply refer to "bulk tank plan review and inspection fees."

It looks to me as though the bulk tank fees are imposed under s. 101.19 (1) (b) and perhaps (1) (a). The most clear way to handle this might be to restructure s. 101.19 (1) so that the bulk tank fees are authorized in a separate paragraph from the other fees. The paragraph relating to bulk tank fees might say something like: "The review of plans for, and the required inspection of, boilers, pressure vessels, petroleum and liquefied petroleum gas vessels and anhydrous ammonia tanks and containers," except that I do not know whether I have included only the items that relate to what the department considers to be bulk tanks.

Please feel free to call or e-mail me with any questions or comments about this matter.

Becky Tradewell  
6-7290

## Tradewell, Becky

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**From:** Morrissey, Bill - Commerce  
**Sent:** Wednesday, November 29, 2000 1:58 PM  
**To:** Tradewell, Becky  
**Cc:** Horton, David; Drake, Jane; Cornelius, Louie  
**Subject:** Additional information on fees

Since our conversation this morning, we looked at a couple of other parts of the statute. One area that interplays here is 101.09 which provides us the authority to write rules for flammable and combustible liquid tank systems (including rules regarding certification of persons who perform work related to the systems). This is the area that was the foundation for the groundwater part of Comm 10 and our "non-fire" and certification rules. Although it does not state "and create fees" we have used it as the general authority for all the rule making.

In looking at the statute, I noted a second issue. The certification fees (created under 101.09 (3)(c)) are going into the "plan review and inspection" revenue code so we really have two groups of funds that need to move to the petroleum inspection fund. (The certification fees are not mentioned for either Safety and Buildings or our division in 20.143(3)(j) but they are fees charged and currently deposited in the program revenue account. (The fees are included in Comm 5.)

Per Bill Morrissey, Commerce -

Of the items listed in 10.19, this refers only  
to petroleum vessels. Really, it's flammable or  
combustible liquids → § 10.09



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0664/1

RCT: m...  
hmb

SOON

DOA:.....Wong – Appropriation of certain plan review fees

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Note

Do not get

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

*Analysis by the Legislative Reference Bureau*

✓ **COMMERCE AND ECONOMIC DEVELOPMENT**

✓ **BUILDINGS AND SAFETY**

Under current law, the department of commerce regulates tanks that store flammable or combustible liquids. The department charges fees for the review of plans for, and the inspection of, these tanks. These fees are currently credited to a program revenue appropriation for buildings and safety. Under this bill, these fees are deposited in the petroleum inspection fund.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 25.47<sup>✓</sup> (7) of the statutes is created to read:

3 25.47 (7) The fees imposed under s. 101.09<sup>✓</sup> (3) (d).

4 SECTION 2. 101.09<sup>✓</sup> (3) (d) of the statutes is created to read:

1           101.09 (3) (d) The department shall promulgate a rule specifying fees for plan  
2 review and inspection of tanks for the storage, handling, or use of flammable or  
3 combustible liquids and for any certification or registration required under par. (c).

4           **SECTION 3.** 101.19 (1) (b) of the statutes is amended to read:

5           101.19 (1) (b) The required inspection of boilers, pressure vessels, refrigeration  
6 plants, ~~petroleum and liquefied petroleum gas vessels~~, anhydrous ammonia tanks  
7 and containers, elevators, ski towing and lift devices, escalators, dumbwaiters, and  
8 amusement or thrill rides but not of amusement attractions.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.19; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 94, 446; 1987 a. 343; 1991 a. 39, 269; 1993 a. 414; 1999 a.  
53.

9           **SECTION 9101. Nonstatutory provisions; administration.**

10           (1) TANK PLAN REVIEW AND INSPECTION FEES. The secretary of administration  
11 shall calculate the amount of fees collected for plan review and inspection of tanks  
12 for the storage, handling, or use of flammable or combustible liquids and for any  
13 certification or registration required under section 101.09 (3) (c) of the statutes  
14 beginning on July 1, 2000, and ending on the effective date of this subsection, less  
15 the costs encumbered under the appropriation under section 20.143 (3) (j) of the  
16 statutes during that period for 2 program specialists for the program under section  
17 101.143 of the statutes.

18           **SECTION 9210. Appropriation changes; commerce.**

19           (1) TANK PLAN REVIEW AND INSPECTION FEES. There is transferred from the  
20 appropriation account under section 20.143 (3) (j) of the statutes to the petroleum  
21 inspection fund \$1,289,612 plus the amount determined by the secretary of  
22 administration under SECTION 9101 of this act.

(Carroll)  
(END)

auto ref.  
nonstat. subsection

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0664/1dn

RCT: *mi...*

*hmh*

*Date*

This is the draft relating to bulk tank plan review fees. It seemed to me that the most straightforward and clear way to accomplish the department's intent was to move the authority for these fees out of s. 101.19. This eliminates the need to amend s. 20.143 (3) (j) to exclude these fees, which would have been difficult because the authority for the fees is included in language that also authorizes fees that are not supposed to be affected by this draft. Please look carefully at s. 101.19 to determine whether any other changes are necessary to move the authority for these fees out of that section (e.g., should s. 101.19 (1) (a) be amended?).

Because s. 101.14 (5) (a) provides for the groundwater fees to go directly into the environmental fund, it seemed unnecessary to make any changes related to those fees.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
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LRB-0664/1dn  
RCT:hmh:jf

December 6, 2000

This is the draft relating to bulk tank plan review fees. It seemed to me that the most straightforward and clear way to accomplish the department's intent was to move the authority for these fees out of s. 101.19. This eliminates the need to amend s. 20.143 (3) (j) to exclude these fees, which would have been difficult because the authority for the fees is included in language that also authorizes fees that are not supposed to be affected by this draft. Please look carefully at s. 101.19 to determine whether any other changes are necessary to move the authority for these fees out of that section (e.g., should s. 101.19 (1) (a) be amended?).

Because s. 101.14 (5) (a) provides for the groundwater fees to go directly into the environmental fund, it seemed unnecessary to make any changes related to those fees.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

## Tradewell, Becky

---

**From:** Wong, Manyee  
**Sent:** Wednesday, December 13, 2000 9:19 AM  
**To:** Tradewell, Becky  
**Subject:** FW: Legislative Drafts

Hi Becky,

Please incorporate Commerce's comments into LRB draft 0664/1 (plan review fee) and 0662/2 (farm tank coverage). Do not, however, use the 36 months Commerce speaks of below. Please use 12 months instead as instructed in my prior email. I am still waiting to talk to Michael Wolfe on the Land Recycling Loan Program issue. I hope to talk to him today and will get back to you as soon as I can.

Thanks.  
Manyee

-----Original Message-----

**From:** Horton, David  
**Sent:** Wednesday, December 13, 2000 9:09 AM  
**To:** Wong, Manyee  
**Subject:** Legislative Drafts

Hi Manyee,

We have received copies of the PLAN REVIEW FEE transfer and the FARM TANK COVERAGE legislative drafts and have had a chance to review them, including the specific concerns Becky had in her cover page. These are our comments:

**1. On the fee draft.**

The draft works, but after reviewing the \$1,289,612 amount, it needs to be changed to \$1,280,641.

**2. On the farm tank draft.**

- In 101.143 (4)(e)1m. a. on line "19" insert "first" between "a" and "claim" so that it reads "a first claim". This also needs to happen on 101.143 (4) (e) 1m. b. on line "7" (line will read "farm tank submits a "first" claim under .....). This will help clarify where the 36 months are measured from.
- Provision on the location of the tank works and will help clarify that the income needs to have come from the property that has/had the tank and cleanup.
- The draft broadens coverage some (which we knew it would) to those that may have sold a farm to a commercial venture. I would tend to include the draft as written and the legislature can trim it back to existent farms if they want to hold the sites to continued farming operations.

**3. I also wanted to make sure you got Louie's message that the PECFA INTEREST COST REIMBURSEMENT item should be dropped.**

Thanks. Any questions let me know. 6-5860 David.



State of Wisconsin  
2001 - 2002 LEGISLATURE

SOON

LRB-0664/2 2

RCT:hmh:jf

WJ  
YMY

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4 SECTION 2. 101.09 (3) (d) ✓ of the statutes is created to read:





State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0664/2  
RCT:hmh&wlj:jf

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