

2001 DRAFTING REQUEST

Bill

Received: **01/05/2001**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies:

Pre Topic:

DOA:.....Wong -

Topic:

PECFA changes concerning closure

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 01/06/2001	wjackson 01/06/2001	rschluet 01/07/2001	_____	lrb_docadmin 01/08/2001		State
/2	traderc 01/10/2001	wjackson 01/10/2001	pgreensl 01/11/2001	_____	lrb_docadmin 01/11/2001		State
/3	traderc 01/12/2001	wjackson 01/12/2001	rschluet 01/14/2001	_____			State
/4	traderc 01/14/2001	hhagen 01/14/2001	pgreensl 01/14/2001	_____	lrb_docadmin 01/15/2001		State
/5	traderc	hhagen	pgreensl	_____	lrb_docadmin		State

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/6	traderc 01/30/2001	hhagen 01/30/2001	pgreensl 01/31/2001	_____	lrb_docadmin 01/31/2001		State
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14 hmk
1/14/01

[Handwritten signatures and initials]
1-12-01 1-12-01
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1/14/01
PG/RS

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FE Sent For:

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RS

<END>

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Instructions:

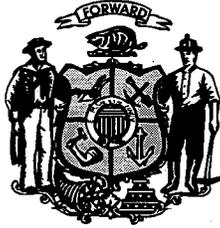
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FE Sent For:

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Date: January 5, 2001
To: Steve Miller, LRB
From: Manyee Wong, DOA
266-7595
Subject: PECFA Statutory Language

I'm forwarding statutory language requests based on Governor's recommendations:

- ✓ 1. Change the requirement in statutes that no more than 35% of the sites be allocated to DNR to 25%
- ✓ 2. Require that sites determine to be in the high-cost category as of November 30, 2001 be transferred to Commerce
- ✓ 3. Define high-cost sites as those that have incurred eligible costs over \$200,000
4. Require the following on high-cost sites:
 - ✓ • Of all high-cost sites under Commerce jurisdiction as of December 1, 2001, at least 15% must be closed each year and all sites must have completed their required cleanup activities by December 1, 2006
 - ✓ • For all sites determined to be high-cost sites after November 30, 2001 under DNR jurisdiction, transfer jurisdiction authority of a site to Commerce if the site has eligible costs over \$400,000 or has not completed the required cleanup activities after 7 years since the site investigation report has been approved. Commerce is required to ensure that these transferred sites complete their cleanup activities within 3 years after the date of transfer.
- ✓ 5. Require the following on all sites:
 - 60-day window for submitting a claim after closure
 - All sites must complete their required cleanup activities 10 years after a site investigation report has been conducted, reviewed and approved by DNR
 - All site investigations must be completed within 5 years after notification or 2 years after the date of budget passage whichever is later

Steve Miller

November 29, 2000

Page 2

- Loss of interest reimbursement if a site has not completed its cleanup activities or site investigation within the time frame discussed above
- ✓ 6. Exempt local units of governments and participants in brownfields redevelopment from numeral 4 and 5
 - ✓ 7. Provide an additional \$100 million in revenue bonding authority to pay PECFA claims

Tradewell, Becky

From: Wong, Manyee
Sent: Friday, January 05, 2001 4:29 PM
To: Tradewell, Becky
Subject: RE: PECFA

Hi Becky,

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

From: Tradewell, Becky
Sent: Friday, January 05, 2001 3:33 PM
To: Wong, Manyee
Subject: PECFA

Manyee,

I am not certain what is wanted about high-cost PECFA sites. Is this it?:

1. On November 1, 2001, identify any sites under DNR's jurisdiction on which eligible costs of over \$200,000 have been incurred and transfer those to Commerce.

Yes. (Date should be November 30, 2001) The idea is to transfer all high-cost sites as of November 30, 2001 to Commerce. DNR has been siting on many of these sites for 7-10 years and very little has been done to get them to closure. We want Commerce to get something done on them.

2. After November 1, 2001, a site must be transferred to Commerce whenever the site either:

After November 30, 2001, a site must be transferred to Commerce

- a. Reaches \$400,000 in eligible costs; or
- b. Reaches more than \$200,000 in eligible costs and it has been 7 years since the site investigation was approved.

Yes. The main idea is to make DNR focus on these high cost sites so cleanup activities can be completed in a timely and cost-effective manner.

Under current law, DNR retains jurisdiction of sites that have nonpetroleum contamination in addition to petroleum contamination. Do you want high-cost sites with nonpetroleum contamination transferred to Commerce?

Yes, for now. I am still discussing this with Commerce so will let you know if there is any change.

I don't see how it is possible to require Commerce to get 15% of these sites closed each year. It might be that it is simply impossible to get 15% clean enough to close. The same issue arises with respect to the 2006 deadline.

We are not using closure as a criteria, rather we are using cleanup activities (or goals) We believe using required cleanup activities rather than closure is more appropriate since some sites may never achieve closure. However, each site will have to establish certain goals or cleanup activities under their remedial action plan and are require to achieve them.

We spoke to Commerce regarding the number of sites that could complete cleanup activities by 2006 and Commerce thought this would be possible for 75% of the current high cost sites (25% will never be closed). We want to provide some deadlines so agencies will have to work hard to get these sites cleaned up. If it looks as if the 2006 deadline is not achievable, we could revise it in the next budget. At least this put some pressure on the agencies.

Let me know if you want further clarifications.

Becky

SOON (in or 17)

RCT. /.....

WJ

DOA:.....Wong - PECFA changes concerning jurisdiction and closure

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

WJ

DO NOT GEN

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

Analysis by the Legislative Reference Bureau

ENVIRONMENT ✓

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEAN UP ✓

Under current law, the department of commerce administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA. This bill makes several changes in the laws related to PECFA.

Under current law, this state issues revenue bonds to fund a portion of the PECFA reimbursement. This bill increases the PECFA revenue bonding limit by \$100,000,000.

Under current law, PECFA provides reimbursement for some interest costs incurred by applicants. Under this bill, with certain exceptions, an applicant is ineligible for reimbursement for interest costs if the applicant submits a PECFA claim more than 60 days after receiving approval of the cleanup, if the cleanup activities are not completed within ^{ten}10 years after the investigation of the discharge was completed, or if the investigation was completed more than ^{five}5 years after the applicant notified the department of commerce about the discharge or more than ^{two}2 years after this bill becomes effective, whichever is later. These provisions limiting interest cost reimbursement do not apply to applicants who are local governmental units or who are engaged in brownfields redevelopment. A brownfield is an abandoned, idle, or underused industrial or commercial facility or site, the expansion

or redevelopment of which is adversely affected by actual or perceived environmental contamination.

Under current law, DNR oversees the cleanup of high-risk sites under PECFA, and the department of commerce oversees the cleanup of other sites. The law requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 35% of the sites are classified as high-risk sites. This bill requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 25% of the sites are classified as high-risk sites on December 1, 2001. Under this bill, the department of commerce oversees the cleanup of sites that are high-cost sites on November 30, 2001. A high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. Also, under the bill, the department of commerce oversees the cleanup of a site that becomes a high-cost site after November 30, 2001, once more than \$400,000 in eligible costs under PECFA have been incurred or it has been more than ^{seven} years since the investigation of the discharge was completed. The bill imposes requirements on the department of commerce to ensure that cleanup activities are completed at the high-cost sites, but the requirements do not apply to sites owned by local governmental units or by persons engaged in brownfields redevelopment.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 101.143 (4) (b) (intro.) of the statutes is amended to read:

2 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
3 eligible costs for an award under par. (a) include actual costs or, if the department
4 establishes a usual and customary cost under par. (cm) for an item, usual and
5 customary costs for the following items:

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185.

6 SECTION 2. 101.143 (4) (cc) of the statutes is created to read:

7 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1 Except as provided
8 in subd. 2 interest costs incurred by an applicant are not eligible costs if any of the
9 following applies:

1 a. The applicant submits a claim more than 60 days after receiving written
2 approval under sub. (3) (c) 4. ✓

3 b. The remedial action activities for the applicant's site are not completed
4 within 10 years after the investigation under sub. (3) (c) 1. ✓ is completed.

5 c. The applicant does not complete the investigation of the petroleum product
6 discharge by the first day of the 61st month after the month in which the applicant
7 notified the department under sub. (3) (a) 3. ✓ or the first day of the 25th month
8 beginning after the effective date of this subdivision 1. a. ✓, whichever is later.

9 2. Subdivision 1. does not apply to any of the following:

10 a. An applicant that is a local unit of government.

11 b. An applicant that is engaged in the expansion or redevelopment of
12 brownfields, as defined in s. 560.13 (1) (a). ✓

13 SECTION 3. 101.143 (9m) (g) 2. ✓ of the statutes is amended to read:

14 101.143 (9m) (g) 2. Revenue obligations issued under this subsection may not
15 exceed \$270,000,000 \$370,000,000 in principal amount. In addition to this limit on
16 principal amount, the building commission may contract revenue obligations under
17 this subsection as the building commission determines is desirable to fund or refund
18 outstanding revenue obligations, to pay issuance or administrative expenses, to
19 make deposits to reserve funds, or to pay accrued or capitalized interest.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185.

20 SECTION 4. 101.144 (1) (ao) ✓ of the statutes is created to read:

21 101.144 (1) (ao) "High-cost site" means the site of a discharge of a petroleum
22 product from a petroleum storage tank at which more than \$200,000 in eligible costs
23 under s. ~~141.143~~ ^{101.143} have been incurred.

24 SECTION 5. 101.144 (2) (a) ✓ of the statutes is amended to read:

1 101.144 (2) (a) The department shall administer a program under which
 2 responsible persons investigate, and take remedial action in response to, those
 3 discharges of petroleum products from petroleum storage tanks that are covered
 4 under par. (b) or (c).[✓] The department may issue an order requiring a responsible
 5 person to take remedial action in response to a discharge of a petroleum product from
 6 a petroleum storage tank if the discharge is covered under par. (b) or (c). In
 7 administering this section, the department shall follow rules promulgated by the
 8 department of natural resources for the cleanup of discharges of hazardous
 9 substances.

History: 1995 a. 27 ss. 3685 and 9116 (5); 1995 a. 227; 1999 a. 9. ✓

10 **SECTION 6.** 101.144 (2) (c) of the statutes is created to read:

11 101.144 (2) (c) The program under this section covers a discharge of a
 12 petroleum product from a petroleum storage tank if any of the following applies:

13 1. The site of the discharge is a high-cost site on November 30, 2001, and
 14 written approval under s. ~~141.143~~^{101.143} (3) (c) 4. for the site has not been issued on or before
 15 that date.

16 2. The site of the discharge becomes a high-cost site after November 30, 2001,
 17 written approval under s. ~~141~~¹⁰¹/143 (3) (c) 4. for the site has not been issued, and either
 18 more than \$400,000 in eligible costs under s. ~~141~~¹⁰¹/143 have been incurred for the site
 19 or remedial action activities for the site have not been completed within 10 years
 20 after the investigation under s. 101.143 (3) (c) 1. is completed.

21 **SECTION 7.** 101.144 (2m)[✓] of the statutes is created to read:

22 101.144 (2m) (a) Except as provided in par. (b),[✓] the department shall do all of
 23 the following:

1 1. Ensure that remedial action activities are completed for at least 15% of the
2 sites described in sub. (2) (c) 1. in each 12⁰ month period and that remedial action
3 activities are completed for all of those sites no later than December 1, 2006.

4 2. Ensure that remedial action activities are completed for each site described
5 in sub. (2) (c) 2. within 36 months after the site first fits the description in sub. (2)
6 (c) 2.

7 (b) Paragraph (a) does not apply to any of the following:

8 1. A site for which the person conducting the remedial action activities is a local
9 unit of government.

10 2. A site for which the person conducting the remedial action activities is
11 engaged in the expansion or redevelopment of brownfields, as defined in s. 560.13 (1)
12 (a).

13 **SECTION 8.** 101.144 (3g) of the statutes is amended to read:

14 101.144 (3g) (a) If, on December 1, 1999, more than ~~35%~~ 25% of sites classified
15 under this section, excluding sites that are contaminated by a hazardous substance
16 other than a petroleum product or an additive to a petroleum product, are classified
17 as high-risk sites, the department of commerce and the department of natural
18 resources shall attempt to reach an agreement that specifies standards for
19 determining whether the site of a discharge of a petroleum product from a petroleum
20 storage tank is classified as high risk. The standards shall be designed to classify
21 no more than ~~35%~~ 25% of those sites as high-risk sites and may not classify all sites
22 at which an enforcement standard is exceeded as high-risk sites. If the department
23 of commerce and the department of natural resources are unable to reach an
24 agreement, they shall refer the matters on which they are unable to agree to the
25 secretary of administration for resolution. The secretary of administration shall

1 resolve any matters on which the departments disagree in a manner that is
2 consistent with this paragraph. The department of commerce shall promulgate rules
3 incorporating any agreement between the department of commerce and the
4 department of natural resources under this paragraph and any resolution of
5 disagreements between the departments by the secretary of administration under
6 this paragraph.

7 (b) If, 6 months after rules under par. (a) are in effect, more than ~~35%~~ 25% of
8 the sites classified under this section, excluding sites that are contaminated by a
9 hazardous substance other than a petroleum product or an additive to a petroleum
10 product, are classified as high-risk sites, the department of commerce shall revise
11 the rules using the procedure for promulgating the rules in par. (a).

12 History: 1995 a. 27 ss. 3685 and 9116 (5); 1995 a. 227; 1999 a. 9.

SECTION 9310. Initial applicability; commerce.

13 (1) PETROLEUM STORAGE REMEDIAL ACTION INTEREST COST REIMBURSEMENT. The
14 treatment of section 101.143 (4) (cc) 1. a. and b. of the statutes ^{, as created by this act,} first applies to claims
15 for which written approval is granted under section 101.143 (3) (c) 4. ✓ of the statutes
16 on the effective date of this subsection.

17 (END)

DNde

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1815/1dn

RCT/.....

WJ

Manyee Wong:

I do not know whether commerce provides reimbursement for interest costs under PECFA as cleanups are being conducted, rather than waiting to the end of the process. If they do not wait to the end of the process, proposed s. 101.143 (4) (cc) may not be workable.

As I mentioned in a message to you on January 5, the PECFA statute does not appear to require site investigation reports to be submitted and approved. For the purpose of getting this draft done, I have used the date that the site investigation is complete. If you want to require site investigation reports to be submitted and approved, please let me know. If you do want that, do you want DNR to review all site investigation reports?

The instructions said to exempt certain applicants from numerals 4 and 5. I have tried to do so. The concept of "brownfields redevelopment" is quite broad and it may be that most participants can argue that they are engaged in brownfields redevelopment.

I included an initial applicability provision for the first two interest reimbursement limitations. That provision makes more sense for the first limitation than for the second, but i was not certain what to do with the second. No initial applicability provision ~~seems to be~~ necessary for the third interest reimbursement limitation. Please let me know if you want different initial applicability provisions and if you want any delayed effective dates.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1815/1dn
RCT:wlj:rs

January 7, 2001

Manyee Wong:

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

Tradewell, Becky

From: Wong, Manyee
Sent: Tuesday, January 09, 2001 3:00 PM
To: Tradewell, Becky
Subject: Drafting changes

Hi Becky,

Please make the following changes to the following drafts:

LRB-0321/3 - Environmental Improvement Fund Present Value and Bonding

- Change the PV subsidy level to \$90 million.
- Revenue obligations level to \$1,389,755,000.

LRB-1815/1 - PECFA changes concerning jurisdiction and closure

- ✓ • Loss of interest reimbursement - our intent is not to eliminate interest reimbursement incurred prior to the deadline to complete cleanup activities. Rather, we want to shut off reimbursement on any interests accrued on existing and future eligible cost after 10 years (i.e., the deadline). For sites that have not completed their site investigations within the specified deadline, those sites will also not get reimbursed for interests accrued on existing and future eligible cleanup cost after the deadline. I am not sure if I making this clear. Let me know if you need further explanations.
- For some reason, Commerce read my drafting instructions to say that "no sites will receive interest cost reimbursements if 15% of all sites determine to be high cost as of November 30, 2001 do not complete their required remedial activities." That is not our intent. Could you make sure that draft does not imply such intent? The provision is intended add some pressure on the agencies to get something done and should not affect site owners in any way. However, we do want to shut off interest cost reimbursements on sites determined to be high cost as of November 30, 2001 if they do not complete their cleanup activities by December 1, 2006 or (new addition) the 10 year applicable deadline whichever is later.
- ✓ • Regarding the concern that the PECFA statute does not appear to require site investigation reports be submitted and approved, I think using the date that a site investigation is complete addresses the issue. Currently, both agencies receive site investigation reports. The consultant completes the investigation and then sends it to the appropriate agency that appears to have the authority over the site. However, an agency can deem the site investigation report to be incomplete and require the consultant to do further work. This will require the consultant to submit their report well ahead of the deadline so they could ensure that any further site investigation activities can be completed by the official deadline. Let me know if you find any inconsistencies on this.
- ✓ • Qualify local governments and participants in brownfields redevelopment exemption to local governments and participants in brownfields redevelopment efforts where state or federal financial assistance other than PECFA has been provided to the project.
- ✓ • Rather than require Commerce to ensure sites conduct their required cleanup activities within 3 years, require Commerce to case manage these transferred sites so they complete their required cleanup activities.
- ✓ • Require that the applicant submits a claim for all incurred costs after the first closure status is approved (conditional or final) → ?
 - Clarify that the site investigation deadlines apply to all site investigations which were started on or before June 30, 2001.
 - Would these changes address your questions on the initial applicability provision with regard to interest reimbursements? If not, please let me know.

LRB 0328/1 Recycling Tipping Fee

- Specify October 1, 2001 as the initial applicability/effective date.

Thanks.
Manyee



SO ON

imr

DOA:.....Wong - PECFA changes concerning jurisdiction and closure

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Note

completing all remedial action activities, the applicant is ineligible for reimbursement for interest costs incurred after that day;

the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods

DO NOT GEN

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

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEAN UP

Under current law, the department of commerce administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA. This bill makes several changes in the laws related to PECFA.

Under current law, this state issues revenue bonds to fund a portion of the costs PECFA reimbursement. This bill increases the PECFA revenue bonding limit by \$100,000,000.

Under current law, PECFA provides reimbursement for some interest costs incurred by applicants. Under this bill, with certain exceptions, an applicant is ineligible for reimbursement for interest costs if the applicant submits a PECFA claim more than 60 days after receiving approval of the cleanup, if the cleanup activities are not completed within ten years after the investigation of the discharge was completed, or if the investigation was completed more than five years after the applicant notified the department of commerce about the discharge or more than two years after this bill becomes effective, whichever is later. These provisions limiting interest cost reimbursement do not apply to applicants who are local governmental

* units or who are engaged in brownfields redevelopment. A brownfield is an abandoned, idle, or underused industrial or commercial facility or site, the expansion

later than the

the final

the applicant is ineligible for reimbursement for interest costs incurred after that 10 year period, and who receive financial assistance, other than under PECFA, and

or redevelopment of which is adversely affected by actual or perceived environmental contamination.

Under current law, DNR oversees the cleanup of high-risk sites under PECFA, and the department of commerce oversees the cleanup of other sites. The law requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 35% of the sites are classified as high-risk sites. This bill requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 25% of the sites are classified as high-risk sites on December 1, 2001. Under this bill, the department of commerce oversees the cleanup of sites that are high-cost sites on November 30, 2001. A high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. Also, under the bill, the department of commerce oversees the cleanup of a site that becomes a high-cost site after November 30, 2001, once more than \$400,000 in eligible costs under PECFA have been incurred or it has been more than seven years since the investigation of the discharge was completed. The bill imposes requirements on the department of commerce to ensure that cleanup activities are completed at the high-cost sites, but the requirements do not apply to sites owned by local governmental units or by persons engaged in brownfields redevelopment.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

oversee
cleanup also

are persons engaged in brownfields redevelopment. ~~by~~ applicants who receive federal or state financial assistance and also other than under PECFA and are

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

SECTION 1. 101.143 (4) (b) (intro.) of the statutes is amended to read:

101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc), eligible costs for an award under par. (a) include actual costs or, if the department establishes a usual and customary cost under par. (cm) for an item, usual and customary costs for the following items:

SECTION 2. 101.143 (4) (cc) of the statutes is created to read:

101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. Except as provided in subd. 2., interest costs incurred by ^{the} applicant are not eligible costs if any of the following applies:

a. ^{if an} The applicant ^{final is submitted} submits a claim more than 60 days after receiving written approval under sub. (3) (c) 4. ^{notification that no further remedial action is necessary with respect to the discharge,}

after the 60th day after receiving that notification

interest costs incurred by the applicant after that day are not eligible costs

Except as provided in subd. 2, if

1 b. The remedial action activities for the applicant's site are not completed
2 *by the first day of the 121st month* within 10 years after the investigation under sub. (3) (c) 1. is completed

3 *Except as provided in subd. 2, if an* c. ~~The~~ applicant does not complete the investigation of the petroleum product
4 discharge by the first day of the 61st month after the month in which the applicant
5 notified the department under sub. (3) (a) 3. or the first day of the 25th month
6 beginning after the effective date of this subd. 1. a., whichever is later

7 2. Subdivision 1. does not apply to any of the following:

8 a. An applicant that is a local unit of government

9 b. An applicant that is engaged in the expansion or redevelopment of

10 brownfields, as defined in s. 560.13 (1) (a) *if Federal or state financial assistance*

11 SECTION 3. 101.143 (9m) (g) 2. of the statutes is amended to read: *other than under this section, if provided for that expansion or redevelopment*

12 101.143 (9m) (g) 2. Revenue obligations issued under this subsection may not
13 exceed ~~\$270,000,000~~ \$370,000,000 in principal amount. In addition to this limit on
14 principal amount, the building commission may contract revenue obligations under
15 this subsection as the building commission determines is desirable to fund or refund
16 outstanding revenue obligations, to pay issuance or administrative expenses, to
17 make deposits to reserve funds, or to pay accrued or capitalized interest.

18 SECTION 4. 101.144 (1) (ao) of the statutes is created to read:

19 101.144 (1) (ao) "High-cost site" means the site of a discharge of a petroleum
20 product from a petroleum storage tank at which more than \$200,000 in eligible costs
21 under s. 101.143 have been incurred.

22 SECTION 5. 101.144 (2) (a) of the statutes is amended to read:

23 101.144 (2) (a) The department shall administer a program under which
24 responsible persons investigate, and take remedial action in response to, those
25 discharges of petroleum products from petroleum storage tanks that are covered

interest costs incurred by the applicant after the later of those days are not eligible costs

Use inserted language twice has been

1 under par. (b) or (c). The department may issue an order requiring a responsible
2 person to take remedial action in response to a discharge of a petroleum product from
3 a petroleum storage tank if the discharge is covered under par. (b) or (c). In
4 administering this section, the department shall follow rules promulgated by the
5 department of natural resources for the cleanup of discharges of hazardous
6 substances.

7 **SECTION 6.** 101.144 (2) (c) of the statutes is created to read:

8 101.144 (2) (c) The program under this section covers a discharge of a
9 petroleum product from a petroleum storage tank if any of the following applies:

10 1. The site of the discharge is a high-cost site on November 30, 2001, and
11 written approval under s. 101.143 (3) (c) 4. for the site has not been issued on or before
12 that date.

13 2. The site of the discharge becomes a high-cost site after November 30, 2001,
14 written approval under s. 101.143 (3) (c) 4. for the site has not been issued, and either
15 more than \$400,000 in eligible costs under s. 101.143 have been incurred for the site
16 or remedial action activities for the site have not been completed within 10 years
17 after the investigation under s. 101.143 (3) (c) 1. is completed.

18 **SECTION 7.** 101.144 (2m) of the statutes is created to read:

19 101.144 (2m) (a) Except as provided in par. (b), the department shall do all of
20 the following:

21 1. ~~Ensure that~~ remedial action activities ~~are completed for at least 15% of the~~
22 ~~sites described in sub. (2) (c) 1.~~ ^{so that remedial action activities are completed for}
23 activities are completed for all of those sites no later than December 1, 2006.

at least 15% of those sites

- ① 2. ^{Oversee} ~~Ensure that~~ remedial action activities ~~are completed~~ for each site described
 ② in sub. (2) (c) 2, ^{so that remedial action activities are completed} within 36 months after the site first fits the description in sub. (2)
 3 (c) 2.

4 (b) Paragraph (a) does not apply to any of the following:

5 1. A site for which the person conducting the remedial action activities is a local
 6 unit of government.) *(use inserted language twice)*

7 2. A site for which the person conducting the remedial action activities is
 8 engaged in the expansion or redevelopment of brownfields, as defined in s. 560.13 (1)

9 (a) *if federal or state financial assistance, other than under this section,*
 10 *has been provided for that expansion or redevelopment*

SECTION 8. 101.144 (3g) of the statutes is amended to read:

11 101.144 (3g) (a) If, on December 1, 1999, more than ~~35%~~ 25% of sites classified
 12 under this section, excluding sites that are contaminated by a hazardous substance
 13 other than a petroleum product or an additive to a petroleum product, are classified
 14 as high-risk sites, the department of commerce and the department of natural
 15 resources shall attempt to reach an agreement that specifies standards for
 16 determining whether the site of a discharge of a petroleum product from a petroleum
 17 storage tank is classified as high risk. The standards shall be designed to classify
 18 no more than ~~35%~~ 25% of those sites as high-risk sites and may not classify all sites
 19 at which an enforcement standard is exceeded as high-risk sites. If the department
 20 of commerce and the department of natural resources are unable to reach an
 21 agreement, they shall refer the matters on which they are unable to agree to the
 22 secretary of administration for resolution. The secretary of administration shall
 23 resolve any matters on which the departments disagree in a manner that is
 24 consistent with this paragraph. The department of commerce shall promulgate rules
 25 incorporating any agreement between the department of commerce and the

1 department of natural resources under this paragraph and any resolution of
2 disagreements between the departments by the secretary of administration under
3 this paragraph.

4 (b) If, 6 months after rules under par. (a) are in effect, more than ~~35%~~ 25% of
5 the sites classified under this section, excluding sites that are contaminated by a
6 hazardous substance other than a petroleum product or an additive to a petroleum
7 product, are classified as high-risk sites, the department of commerce shall revise
8 the rules using the procedure for promulgating the rules in par. (a).

9 **~~SECTION 9310. Initial applicability; commerce.~~**

10 ~~(1) PETROLEUM STORAGE REMEDIAL ACTION INTEREST COST REIMBURSEMENT. The~~
11 ~~treatment of section 101.143 (4) (cc) 1. a and b. of the statutes, as created by this act,~~
12 ~~first applies to claims for which written approval is granted under section 101.143~~
13 ~~(3)(c) 4. of the statutes on the effective date of this subsection.~~

14 (END)

RNote

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

LRB-1815/2/In

RCT.....

WJ

Manyee Wong

Here is my effort to implement your redraft instructions on PECFA.

I cannot require Commerce to "case manage" sites because "case manage" is not a verb. Will "oversee" do? As for Commerce's concern about interest reimbursement if the 15% closure requirement is not met, the draft does not imply that. It would be more clear that nothing happens should that requirement not be met if the draft acknowledged that it may not be possible to meet that requirement. Or, to put it another way, if the 15% was stated as a goal, not a requirement.

Your message states that the site investigation deadlines apply to all site investigations that were started on or before June 30, 2001. From that, I gather that you want the limitations on interest reimbursement to apply to all sites no matter what stage they are at when the budget takes effect. If that is the case, I do not think that an initial applicability provision is called for.

This proposal has gotten very complex, so please review it carefully.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1815/2dn
RCT:wlj:pg

January 10, 2001

Manyee Wong:

Here is my effort to implement your redraft instructions on PECFA.

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This proposal has gotten very complex, so please review it carefully.

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

Tradewell, Becky

From: Wong, Manyee
Sent: Friday, January 12, 2001 11:29 AM
To: Tradewell, Becky
Subject: Draft 1815/2

Hi Becky,

Just a couple more things on draft 1815/2:

PECFA

1815/2

- ✓ Using "oversee" instead of case manage is fine.
 - ✓ Leave the 15% as a requirement since this is what the Governor decided
 - ✓ Section 7 - Require that remedial action activities are completed for all of those sites no later than December 1, 2006 or by the last day of the 120th month after the site investigation is completed whichever is later
- Note: We want to ensure fairness and that all sites have 10 years after the site investigation is completed to complete remedial activities. This should also give Commerce a bit more flexibility on the 2006 deadline
- In Section 2 - Put in that for sites transferred to Commerce as of December 1, 2001, interest incurred by the applicant after the specified deadline (Section 7) to complete cleanup activities will be ineligible for reimbursement



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1815/3

RCT:wlj:pg

SO ON

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DOA:.....Wong - PECFA changes concerning jurisdiction and closure

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

DO NOT GEN

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

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEAN UP

Under current law, the department of commerce administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA. This bill makes several changes in the laws related to PECFA.

Under current law, this state issues revenue bonds to fund a portion of the PECFA costs. This bill increases the PECFA revenue bonding limit by \$100,000,000.

Under current law, PECFA provides reimbursement for some interest costs incurred by applicants. Under this bill, with certain exceptions, if an applicant submits the final PECFA claim later than the 60th day after completing all remedial action activities, the applicant is ineligible for reimbursement for interest costs incurred after that day; if cleanup activities are not completed within ten years after the investigation of the discharge was completed, the applicant is ineligible for reimbursement for interest costs incurred after that 10 year period; and if an investigation was completed more than five years after the applicant notified the department of commerce about the discharge or more than two years after this bill becomes effective, whichever is later, the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods. These provisions limiting interest cost reimbursement do not apply to applicants who receive federal or state

financial assistance, other than under PECFA, and who are local governmental units or are engaged in brownfields redevelopment. A brownfield is an abandoned, idle, or underused industrial or commercial facility or site, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

Under current law, DNR oversees the cleanup of high-risk sites under PECFA, and the department of commerce oversees the cleanup of other sites. The law requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 35% of the sites are classified as high-risk sites. This bill requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 25% of the sites are classified as high-risk sites on December 1, 2001. Under this bill, the department of commerce oversees the cleanup of sites that are high-cost sites on November 30, 2001. A high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. Also, under the bill, the department of commerce oversees the cleanup of a site that becomes a high-cost site after November 30, 2001, once more than \$400,000 in eligible costs under PECFA have been incurred or it has been more than seven years since the investigation of the discharge was completed. The bill imposes requirements on the department of commerce to oversee cleanups so that cleanup activities are completed at the high-cost sites, but the requirements do not apply to sites owned by applicants who receive federal or state financial assistance, other than under PECFA, and are local governmental units or are engaged in brownfields redevelopment.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

2 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
3 eligible costs for an award under par. (a) include actual costs or, if the department
4 establishes a usual and customary cost under par. (cm) for an item, usual and
5 customary costs for the following items:

6 **SECTION 2.** 101.143 (4) (cc) of the statutes is created to read:

7 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. a. Except as
8 provided in subd. 2., if an applicant's final claim is submitted more than 60 days after

1 receiving written notification that no further remedial action is necessary with
2 respect to the discharge, interest costs incurred by the applicant after the 60th day
3 after receiving that notification are not eligible costs.

4 b. Except as provided in subd. 2^{or 3} if the remedial action activities for an
5 applicant's site are not completed by the first day of the 121st month after the
6 investigation under sub. (3) (c) 1. is completed, interest costs incurred by the
7 applicant after that day are not eligible costs.

8 c. Except as provided in subd. 2., if an applicant does not complete the
9 investigation of the petroleum product discharge by the first day of the 61st month
10 after the month in which the applicant notified the department under sub. (3) (a) 3.
11 or the first day of the 25th month beginning after the effective date of this subd. 1.
12 a., whichever is later, interest costs incurred by the applicant after the later of those
13 days are not eligible costs.

14 2. Subdivision 1.^{or 3.} does not apply to any of the following:

15 a. An applicant that is a local unit of government, if federal or state financial
16 assistance other than under this section, has been provided for that expansion or
17 redevelopment.

18 b. An applicant that is engaged in the expansion or redevelopment of
19 brownfields, as defined in s. 560.13 (1) (a), if federal or state financial assistance
20 other than under this section, has been provided for that expansion or
21 redevelopment.

22 **SECTION 3.** 101.143 (9m) (g) 2. of the statutes is amended to read:

23 101.143 (9m) (g) 2. Revenue obligations issued under this subsection may not
24 exceed \$270,000,000 \$370,000,000 in principal amount. In addition to this limit on
25 principal amount, the building commission may contract revenue obligations under

Insert
3-21 →

1 this subsection as the building commission determines is desirable to fund or refund
2 outstanding revenue obligations, to pay issuance or administrative expenses, to
3 make deposits to reserve funds, or to pay accrued or capitalized interest.

4 **SECTION 4.** 101.144 (1) (ao) of the statutes is created to read:

5 101.144 (1) (ao) "High-cost site" means the site of a discharge of a petroleum
6 product from a petroleum storage tank at which more than \$200,000 in eligible costs
7 under s. 101.143 have been incurred.

8 **SECTION 5.** 101.144 (2) (a) of the statutes is amended to read:

9 101.144 (2) (a) The department shall administer a program under which
10 responsible persons investigate, and take remedial action in response to, those
11 discharges of petroleum products from petroleum storage tanks that are covered
12 under par. (b) or (c). The department may issue an order requiring a responsible
13 person to take remedial action in response to a discharge of a petroleum product from
14 a petroleum storage tank if the discharge is covered under par. (b) or (c). In
15 administering this section, the department shall follow rules promulgated by the
16 department of natural resources for the cleanup of discharges of hazardous
17 substances.

18 **SECTION 6.** 101.144 (2) (c) of the statutes is created to read:

19 101.144 (2) (c) The program under this section covers a discharge of a
20 petroleum product from a petroleum storage tank if any of the following applies:

21 1. The site of the discharge is a high-cost site on November 30, 2001, and
22 written approval under s. 101.143 (3) (c) 4. for the site has not been issued on or before
23 that date.

24 2. The site of the discharge becomes a high-cost site after November 30, 2001,
25 written approval under s. 101.143 (3) (c) 4. for the site has not been issued, and either

1 more than \$400,000 in eligible costs under s. 101.143 have been incurred for the site
2 or remedial action activities for the site have not been completed within 10 years
3 after the investigation under s. 101.143 (3) (c) 1. is completed.

4 **SECTION 7.** 101.144 (2m) of the statutes is created to read:

5 101.144 (2m) (a) Except as provided in par. (b), the department shall do all of
6 the following:

7 1. Oversee remedial action activities for the sites described in sub. (2) (c) 1. so
8 that remedial action activities are completed for at least 15% of those sites in each
9 12-month period and that remedial action activities are completed for ^{each} all of those
10 sites no later than December 1, 2006 ^{or the last day of the 120th month ~~beginning~~} after the site investigation is completed, whichever
is later

11 2. Oversee remedial action activities for each site described in sub. (2) (c) 2. so
12 that remedial action activities are completed within 36 months after the site first fits
13 the description in sub. (2) (c) 2.

14 (b) Paragraph (a) does not apply to any of the following:

15 1. A site for which the person conducting the remedial action activities is a local
16 unit of government, if federal or state financial assistance, other than under this
17 section, has been provided for that expansion or redevelopment.

18 2. A site for which the person conducting the remedial action activities is
19 engaged in the expansion or redevelopment of brownfields, as defined in s. 560.13 (1)
20 (a), if federal or state financial assistance, other than under this section, has been
21 provided for that expansion or redevelopment.

22 **SECTION 8.** 101.144 (3g) of the statutes is amended to read:

23 101.144 (3g) (a) If, on December 1, 1999, more than ~~35%~~ 25% of sites classified
24 under this section, excluding sites that are contaminated by a hazardous substance
25 other than a petroleum product or an additive to a petroleum product, are classified

1 as high-risk sites, the department of commerce and the department of natural
2 resources shall attempt to reach an agreement that specifies standards for
3 determining whether the site of a discharge of a petroleum product from a petroleum
4 storage tank is classified as high risk. The standards shall be designed to classify
5 no more than ~~35%~~ 25% of those sites as high-risk sites and may not classify all sites
6 at which an enforcement standard is exceeded as high-risk sites. If the department
7 of commerce and the department of natural resources are unable to reach an
8 agreement, they shall refer the matters on which they are unable to agree to the
9 secretary of administration for resolution. The secretary of administration shall
10 resolve any matters on which the departments disagree in a manner that is
11 consistent with this paragraph. The department of commerce shall promulgate rules
12 incorporating any agreement between the department of commerce and the
13 department of natural resources under this paragraph and any resolution of
14 disagreements between the departments by the secretary of administration under
15 this paragraph.

16 (b) If, 6 months after rules under par. (a) are in effect, more than ~~35%~~ 25% of
17 the sites classified under this section, excluding sites that are contaminated by a
18 hazardous substance other than a petroleum product or an additive to a petroleum
19 product, are classified as high-risk sites, the department of commerce shall revise
20 the rules using the procedure for promulgating the rules in par. (a).

21 (END)

Insert 3-21

¶ 3. Except as provided in subd. 20^s for a site described
in s. 106.144(2)(c) ^{or} if the first day of the 12th
month after the investigation under sub. (3)(c) 1. ^{is} completed
^{subd. 10 b does not apply and}
is before December 1, 2006, interest costs incurred by the
applicant after December 1, 2006, are eligible costs. ©



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1815/9

RCT:wlj:rs
thmh
vm

5040

DOA:.....Wong – PECFA changes concerning jurisdiction and closure

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Note

1 *Do not gen*
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

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Under current law, PECFA provides reimbursement for some interest costs incurred by applicants. Under this bill, with certain exceptions, if an applicant submits the final PECFA claim later than the 60th day after completing all remedial action activities, the applicant is ineligible for reimbursement for interest costs incurred after that day; if cleanup activities are not completed within ten years after the investigation of the discharge was completed, the applicant is ineligible for reimbursement for interest costs incurred after that ~~10~~ ^{ten} year period; and if an investigation was completed more than five years after the applicant notified the department of commerce about the discharge or more than two years after this bill becomes effective, whichever is later, the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods. These provisions limiting interest cost reimbursement do not apply to applicants who receive federal or state

financial assistance, other than under PECFA, and who are local governmental units or are engaged in brownfields redevelopment. A brownfield is an abandoned, idle, or underused industrial or commercial facility or site, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

Under current law, DNR oversees the cleanup of high-risk sites under PECFA, and the department of commerce oversees the cleanup of other sites. The law requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 35% of the sites are classified as high-risk sites. This bill requires DNR and the department of commerce to modify the criteria for determining whether a site is a high-risk site if more than 25% of the sites are classified as high-risk sites on December 1, 2001. Under this bill, the department of commerce oversees the cleanup of sites that are high-cost sites on November 30, 2001. A high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. Also, under the bill, the department of commerce oversees the cleanup of a site that becomes a high-cost site after November 30, 2001, once more than \$400,000 in eligible costs under PECFA have been incurred or it has been more than seven years since the investigation of the discharge was completed. The bill imposes requirements on the department of commerce to oversee cleanups so that cleanup activities are completed at the high-cost sites, but the requirements do not apply to sites owned by applicants who receive federal or state financial assistance, other than under PECFA, and are local governmental units or are engaged in brownfields redevelopment.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

Insert →
2-71 SECTION 1. 101.143 (4) (b) (intro.) of the statutes is amended to read:

2 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
3 eligible costs for an award under par. (a) include actual costs or, if the department
4 establishes a usual and customary cost under par. (cm) for an item, usual and
5 customary costs for the following items:

6 SECTION 2. 101.143 (4) (cc) of the statutes is created to read:

7 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. a. Except as
8 provided in subd. 2., if an applicant's final claim is submitted more than 60 days after

1 receiving written notification that no further remedial action is necessary with
2 respect to the discharge, interest costs incurred by the applicant after the 60th day
3 after receiving that notification are not eligible costs.

4 b. Except as provided in subd. 2. or 3., if the remedial action activities for an
5 applicant's site are not completed by the first day of the 121st month after the
6 investigation under sub. (3) (c) 1. is completed, interest costs incurred by the
7 applicant after that day are not eligible costs.

8 c. Except as provided in subd. 2., if an applicant does not complete the
9 investigation of the petroleum product discharge by the first day of the 61st month
10 after the month in which the applicant notified the department under sub. (3) (a) 3.
11 or the first day of the 25th month beginning after the effective date of this subd. 1.
12 a., whichever is later, interest costs incurred by the applicant after the later of those
13 days are not eligible costs.

14 2. Subdivision 1. or 3. does not apply to any of the following:

15 a. An applicant that is a local unit of government, if federal or state financial
16 assistance other than under this section, has been provided for that expansion or
17 redevelopment.

18 b. An applicant that is engaged in the expansion or redevelopment of
19 brownfields, as defined in s. 560.13 (1) (a), if federal or state financial assistance
20 other than under this section, has been provided for that expansion or
21 redevelopment.

22 3. Except as provided in subd. 2., for a site described in s. 101.144 (2) (c) 1., if
23 the first day of the 121st month after the investigation under sub. (3) (c) 1. is
24 completed before December 1, 2006, subd. 1. b. does not apply and interest costs
25 incurred by the applicant after December 1, 2006, are ineligible costs.

1 **SECTION 3.** 101.143 (9m) (g) 2. of the statutes is amended to read:

2 101.143 **(9m)** (g) 2. Revenue obligations issued under this subsection may not
3 exceed ~~\$270,000,000~~ \$370,000,000 in principal amount. In addition to this limit on
4 principal amount, the building commission may contract revenue obligations under
5 this subsection as the building commission determines is desirable to fund or refund
6 outstanding revenue obligations, to pay issuance or administrative expenses, to
7 make deposits to reserve funds, or to pay accrued or capitalized interest.

8 **SECTION 4.** 101.144 (1) (ao) of the statutes is created to read:

9 101.144 (1) (ao) "High-cost site" means the site of a discharge of a petroleum
10 product from a petroleum storage tank at which more than \$200,000 in eligible costs
11 under s. 101.143 have been incurred.

12 **SECTION 5.** 101.144 (2) (a) of the statutes is amended to read:

13 101.144 (2) (a) The department shall administer a program under which
14 responsible persons investigate, and take remedial action in response to, those
15 discharges of petroleum products from petroleum storage tanks that are covered
16 under par. (b) or (c). The department may issue an order requiring a responsible
17 person to take remedial action in response to a discharge of a petroleum product from
18 a petroleum storage tank if the discharge is covered under par. (b) or (c). In
19 administering this section, the department shall follow rules promulgated by the
20 department of natural resources for the cleanup of discharges of hazardous
21 substances.

22 **SECTION 6.** 101.144 (2) (c) of the statutes is created to read:

23 101.144 (2) (c) The program under this section covers a discharge of a
24 petroleum product from a petroleum storage tank if any of the following applies:

1 1. The site of the discharge is a high-cost site on November 30, 2001, and
2 written approval under s. 101.143 (3) (c) 4. for the site has not been issued on or before
3 that date.

4 2. The site of the discharge becomes a high-cost site after November 30, 2001,
5 written approval under s. 101.143 (3) (c) 4. for the site has not been issued, and either
6 more than \$400,000 in eligible costs under s. 101.143 have been incurred for the site
7 or remedial action activities for the site have not been completed within 10 years
8 after the investigation under s. 101.143 (3) (c) 1. is completed.

9 **SECTION 7.** 101.144 (2m) of the statutes is created to read:

10 101.144 (2m) (a) Except as provided in par. (b), the department shall do all of
11 the following:

12 1. Oversee remedial action activities for the sites described in sub. (2) (c) 1. so
13 that remedial action activities are completed for at least 15% of those sites in each
14 12-month period and that remedial action activities are completed for each of those
15 sites no later than December 1, 2006, or the last day of the 120th month after the site
16 investigation is completed, whichever is later.

17 2. Oversee remedial action activities for each site described in sub. (2) (c) 2. so
18 that remedial action activities are completed within 36 months after the site first fits
19 the description in sub. (2) (c) 2.

20 (b) Paragraph (a) does not apply to any of the following:

21 1. A site for which the person conducting the remedial action activities is a local
22 unit of government, if federal or state financial assistance, other than under this
23 section, has been provided for that expansion or redevelopment.

24 2. A site for which the person conducting the remedial action activities is
25 engaged in the expansion or redevelopment of brownfields, as defined in s. 560.13 (1)

1 (a), if federal or state financial assistance, other than under this section, has been
2 provided for that expansion or redevelopment.

3 **SECTION 8.** 101.144 (3g) of the statutes is amended to read:

4 101.144 (3g) (a) If, on December 1, 1999, more than ~~35%~~ 25% of sites classified
5 under this section, excluding sites that are contaminated by a hazardous substance
6 other than a petroleum product or an additive to a petroleum product, are classified
7 as high-risk sites, the department of commerce and the department of natural
8 resources shall attempt to reach an agreement that specifies standards for
9 determining whether the site of a discharge of a petroleum product from a petroleum
10 storage tank is classified as high risk. The standards shall be designed to classify
11 no more than ~~35%~~ 25% of those sites as high-risk sites and may not classify all sites
12 at which an enforcement standard is exceeded as high-risk sites. If the department
13 of commerce and the department of natural resources are unable to reach an
14 agreement, they shall refer the matters on which they are unable to agree to the
15 secretary of administration for resolution. The secretary of administration shall
16 resolve any matters on which the departments disagree in a manner that is
17 consistent with this paragraph. The department of commerce shall promulgate rules
18 incorporating any agreement between the department of commerce and the
19 department of natural resources under this paragraph and any resolution of
20 disagreements between the departments by the secretary of administration under
21 this paragraph.

22 (b) If, 6 months after rules under par. (a) are in effect, more than ~~35%~~ 25% of
23 the sites classified under this section, excluding sites that are contaminated by a
24 hazardous substance other than a petroleum product or an additive to a petroleum

1 product, are classified as high-risk sites, the department of commerce shall revise
2 the rules using the procedure for promulgating the rules in par. (a).

3 (END)

Note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1815/4ins
RCT.....

Insert 2-1

^X
SECTION 1. 101.143 (2e) (c) of the statutes is amended to read:

101.143 (2e) (c) The department of natural resources or, if the discharge is covered under s. 101.144 (2) (b) [✓]or (c), the department of commerce shall apply the method in the rules promulgated under par. (b) to determine the risk posed by a discharge for which the department of commerce receives notification under sub. (3) (a) 3.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, ~~269~~; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185.

SECTION 2. 101.143 (3) (c) 4. of the statutes is amended to read:

101.143 (3) (c) 4. Receive written approval from the department of natural resources or, if the discharge is covered under s. 101.144 (2) (b) [✓]or (c), from the department of commerce that the remedial action activities performed under subd. 3. meet the requirements of s. 292.11.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, ~~269~~; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185.

SECTION 3. 101.143 (3) (cm) of the statutes is amended to read:

101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person owning a home oil tank system may, with the approval of the department of natural resources or, if the discharge is covered under s. 101.144 (2) (b) [✓]or (c), the department of commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and implementing monitoring to ensure the effectiveness of natural attenuation of petroleum product contamination.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, ~~269~~; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185.

SECTION 4. 101.143 (3) (cp) 1. of the statutes is amended to read:

101.143 (3) (cp) 1. Except as provided in subds. 2. to 5., if the department of natural resources or, if the site is covered under s. 101.144 (2) (b) [✓]or (c), the department of commerce estimates that the cost to complete a site investigation,

↓

Insert 2-1, continued

remedial action plan and remedial action for an occurrence exceeds \$60,000, the department of commerce shall implement a competitive public bidding process to obtain information to assist in making the determination under par. (cs).

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185.

SECTION 5. 101.143 (3) (d) of the statutes is amended to read:

101.143 (3) (d) *Final review of remedial action activities.* The department of natural resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the department of commerce shall complete a final review of the remedial action activities within 60 days after the claimant notifies the appropriate department that the remedial action activities are completed.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185.

SECTION 6. 101.144 (3) (intro.) of the statutes is amended to read:

101.144 (3) (intro.) The department of natural resources may take action under s. 292.11 (7) (a) or may issue an order under s. 292.11 (7) (c) in response to a discharge that is covered under sub. (2) (b) or (c) only if one or more of the following apply:

History: 1995 a. 27 ss. 3685 and 9116 (5); 1995 a. 227; 1999 a. 9.

-1815/42A
RET:jmh

Delelene

Note

Maryee Wong:

This redraft makes the changes that you requested on Friday, January 12, and adds the provisions necessary to clarify those who has jurisdiction over which sites.

RET

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

LRB-1815/4dn
RCT:hmh:pg

January 14, 2001

Manyee Wong:

This redraft makes the changes that you requested on Friday, January 12, and adds the provisions necessary to clarify who has jurisdiction over which sites.

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

Tradewell, Becky

From: Wong, Manyee
Sent: Monday, January 29, 2001 2:16 PM
To: Tradewell, Becky
Subject: Draft 1816, 1815, and 1881

Hi Becky,

~~Draft 1816 is out.~~

For draft 1815 (PECFA), eliminate the provisions requiring any site transfers to Commerce. Maintain 65%/35% split. Keep the rest the same.

~~For draft 1881, change allocation for sites assessment grants from \$2.0 M to \$1.0 M.~~

Thanks.
Manyee

Tradewell, Becky

From: Wong, Manyee
Sent: Monday, January 29, 2001 2:56 PM
To: Tradewell, Becky
Subject: RE: Draft 1816, 1815, and 1881

Only in regards to site transfers. We want to maintain all deadlines related to high cost site cleanup requirements, all other site cleanup requirements, and site investigations.

Thanks.
Manyee

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

From: Tradewell, Becky
Sent: Monday, January 29, 2001 2:50 PM
To: Wong, Manyee
Subject: RE: Draft 1816, 1815, and 1881

Manyee,

Just to be sure, do you want to eliminate the provisions in the PECFA draft about high-cost sites?

Becky

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

From: Wong, Manyee
Sent: Monday, January 29, 2001 2:16 PM
To: Tradewell, Becky
Subject: Draft 1816, 1815, and 1881

Hi Becky,

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For draft 1815 (PECFA), eliminate the provisions requiring any site transfers to Commerce. Maintain 65%/35% split. Keep the rest the same.

For draft 1881, change allocation for sites assessment grants from \$2.0 M to \$1.0 M.

Thanks.
Manyee