

2009 DRAFTING REQUEST

Bill

Received: 10/09/2008

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Miner

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Environment - env. cleanup

Extra Copies:

Submit via email: NO

Pre Topic:

DOA:.....Miner, BB0178 -

Topic:

PECFA reimbursement notification deadline

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>
/?							
/P1	btradewe 10/14/2008	bkraft 10/17/2008	phenry 10/20/2008	_____	sbasford 10/20/2008		State
/1	btradewe 01/16/2009	bkraft 01/16/2009	jfrantze 01/19/2009	_____	mbarman 01/20/2009		

FE Sent For:

<END>

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1 bjk 1/16

*Doc/Sell
1/19
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/?	btradewe	/Plbjk 10/17	14 60 ph	19 20 ph			

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<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: PECFA Reimbursement Deadline
- Tracking Code: BB0178
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner AM
 - Phone: 266-1103
 - Email: andrew.miner@wisconsin.gov
- Agency acronym: COMM
- Agency number: 143
- Priority (Low, Medium, High): High

Intent: Establish a deadline of December 31, 2011 for sites to request eligibility for PECFA reimbursement. See attached sheets.

Wisconsin Department of Commerce

2009/11 Biennial Budget

PECFA Deadline for Eligibility

Insert language which states that sites that may qualify for PECFA funding but do not request eligibility by December 31, 2011 would not be eligible for PECFA reimbursement.

The Petroleum Environmental Cleanup Fund Award (PECFA) program was initiated in 1989 to provide reimbursement to owners and operators (claimants) for eligible cleanup expenses of discharges from petroleum product storage tank systems and home heating oil tank systems after the owner or operator has paid for the cleanup cost. Since its inception, the PECFA program has provided close to \$1.5 billion in reimbursement costs to address contamination for over 12,000 occurrences. The PECFA program has been experiencing a natural decline over the past couple of years, and a deadline for responsible parties to submit PECFA eligibility will encourage owners to move forward with the cleanup of the sites.

Wisconsin Department of Commerce

2009/11 Biennial Budget

Setting a Deadline for PECFA Reimbursement Eligibility

Background

The Petroleum Environmental Cleanup Fund Award (PECFA) program was initiated in 1988 to provide reimbursement to owners and operators (claimants) for eligible cleanup expenses of discharges from petroleum product storage tank systems and home heating oil tank systems after the owner or operator has paid for the cleanup cost.

The program is funded from a portion of a 2¢ per gallon petroleum inspection fee. The Department of Commerce (Commerce) administers the financial reimbursement portion of the program and cleanup of low- and medium-risk petroleum sites (PECFA-eligible and non-PECFA eligible). The Department of Natural Resources (DNR) administers cleanup of high-risk petroleum sites and establishes state environmental standards for cleanup of contaminated sites in the state. The two agencies jointly administer provisions related to analyzing the risk of the contamination at PECFA sites, bidding the remedial action activities and maintaining consistency of program administration. Since its inception, the PECFA program has provided close to \$1.5 billion in reimbursement costs to address contamination for over 12,000 occurrences.

The program also receives an annual grant of \$797,200 from the Environmental Protection Agency (EPA). This provides funding for approximately 10 FTE positions in the PECFA bureau.

Problem

The PECFA program has been experiencing a natural decline over the past couple of years, which has raised questions regarding when to begin phasing out the program. The Department is in the process of evaluating the program, and determining the best methods for phasing it out. Initiatives proposing sunseting PECFA were introduced in the last two budgets, and the Division expects initiatives to be introduced in the 2009-2011 budget. It is the Division's position that it is best suited to determine how PECFA is going to be phased out and implement the plan. This will ensure that the program meets its goal of cleaning up eligible leaking underground storage tanks during the phasing out process.

The Department identified the following issues in determining how to best begin the phase out process for PECFA:

- There are 1,735 eligible sites currently in PECFA's database. In addition to these sites, there are 809 unclassified sites at DNR, and a universe of "unknown sites."
- The number of newly identified sites has also experienced a natural decline since the mid-1990s. For example, in FY 2008 there were 108 newly identified sites, down from 116 newly identified sites in FY 2006.
- The PECFA program paid out approximately \$15 million in claims in FY 2008. The claims have been naturally declining, but a need still exists.
- The Department estimates that a large number of sites exist where the owner is deceased and the responsible party is unknown.
- Wisconsin is one of few states that do not provide eligibility for sites that have been upgraded. Instead, the state relies on private insurance to ensure compliance with the law. The Department is currently looking at the effectiveness of private insurance.
- There are still many older tanks that qualify for PECFA reimbursement; however, because there is not a definitive timeline for entering the Program, responsible parties are not motivated to request eligibility to the PECFA Program.
- To encourage responsible parties to report tanks that are eligible for PECFA reimbursement, a deadline to register for PECFA eligibility should be determined.
- A deadline for responsible parties to submit PECFA eligibility will encourage owners to move forward with the cleanup of their sites.
- Once the PECFA Program has a final number of sites that are eligible for reimbursement, the Program will be able to define the funds needed for cleanup of sites and the length of time for the cleanup.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0523/P1

RCT.....

Lbjk

In 10/14

DOA:.....Miner, BB0178 - PECFA reimbursement application deadline ✓

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓
X-ref ✓

Note

do not gen.

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

Analysis by the Legislative Reference Bureau ✓

This is a preliminary draft. An analysis will be provided in a later version. ✓

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

2 SECTION 1. 101.143 (3) (a) (intro.) of the statutes is amended to read:
3 101.143 (3) (a) *Who may submit a claim.* (intro.) Subject to pars. (ab), (ae), (ah),
4 (am) and (ap), an owner or operator or a person owning a home oil tank system may
5 submit a claim to the department for an award under sub. (4) to reimburse the owner
6 or operator or the person for the eligible costs under sub. (4) (b) that the owner or
7 operator or the person incurs because of a petroleum products discharge from a
8 petroleum product storage system or home oil tank system if all of the following
9 apply:

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; 2001 a. 16, 109; 2003 a. 33; 2005 a. 75; 2007 a. 20, 145.

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SECTION 2. 101.143 (3) (ab) of the statutes is created to read:
101.143 (3) (ab) *Deadline for notifying department.* An owner or operator or person owning a home oil tank system is not eligible for an award under this section for costs incurred because of a petroleum product discharge if the owner or operator or person does not notify the department under par. (a) 3. of the discharge, and the potential for submitting a claim under this section, before January 1, 2012.
(END)

ONote

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0523/P1dn

RCT.....

l bjk

Date

✓
Andrew Miner: (1)

> The instructions for this draft indicated that sites "that do not request eligibility by December 31, 2001," would not be eligible for reimbursement of cleanup costs under PECFA. I did not interpret this to mean that a PECFA claim must be filed by that date, but am not certain what exactly is intended by "request eligibility." Section 101.143 (3) (a) 3. requires an owner or operator to notify the Department of Commerce, before conducting an investigation or cleanup, of the discharge and the potential for submitting a claim. This draft provides that an owner or operator who has not made that notification before January 1, 2012, is ineligible. If that was not what was intended, I will need a description of what an owner or operator must do by that date.

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

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FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0523/P1dn
RCT:bjk:ph

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Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0523/D1

RCT:bjk:ph

IN 1/16

Stays

VMF

notification (I changed system)

DOA:.....Miner, BB0178 - PECFA reimbursement application deadline
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓
Insert

do not gen.

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Analysis by the Legislative Reference Bureau

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insert

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Analysis insert

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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.

Under this bill, the owner of a petroleum product storage tank is not eligible for reimbursement under PECFA unless the owner notifies the Department of Commerce about the discharge, and the potential that the owner will submit a claim for reimbursement, before January 1, 2012.

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



DOA:.....Miner, BB0178 - PECFA reimbursement notification deadline
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

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12 (END)