

1993-94 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee on  
Finance (JC-Fi)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ \*\*

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ 93hrJC-Fi\_Misc\_pt70

➤ Record of Comm. Proceedings ... RCP

➤ \*\*



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny, Secretary  
Box 7921

Madison, Wisconsin 53707

TELEFAX NO. 608-267-3579

TDD NO. 608-267-6897

DEC 23 1992

December 23, 1992

The Honorable Gary George  
Senate Co-Chair, Joint Committee on Finance  
115 South, State Capitol  
Madison, WI 53702

The Honorable Barbara Linton  
Assembly Co-Chair, Joint Committee on Finance  
127 South, State Capitol  
Madison, WI 53702

Dear Senator George and Representative Linton:

I am writing in response to your letter of December 2, 1992, regarding the Department's proposed soil standards. Your letter addresses two issues: the Department's schedule for adopting soil standards as administrative rules, and the impacts of different soil standards on cleanup costs reimbursed under the Petroleum Environmental Cleanup Fund (PECFA).

The Department shares the committee's objective of achieving timely promulgation of soil standards to minimize PECFA payments. Therefore, we have taken steps to streamline the present rule timetable as much as possible by compressing the schedule for public hearings. We now plan to hold all hearings in April, 1993, contingent upon receiving authorization to conduct hearings from the Natural Resources Board at their January, 1993 meeting. This timetable would allow us to propose a final rule for promulgation at the July, 1993 Board meeting, rather than August or later as we previously envisioned. As I stated in my October 30, 1992 letter, our interim guidance on natural biodegradation, intended for publication next month, may help reduce soil cleanup costs prior to actual rule adoption. However, we believe that further compression of the permanent rule schedule is unrealistic given the need to be responsive to the public and the NR 700 External Advisory Committee (EAC).

Alternatively, as your letter suggests, the above timetable could be shortened by pursuing promulgation of all or part of the NR 700 series as an emergency rule. Accelerating the schedule in this manner would allow NR 700 to more quickly complement Chapter ILHR 47, the PECFA rule intended for emergency adoption this month by the Department of Industry, Labor and Human Relations. We also believe that the experience gained by all parties in managing cleanups under an emergency rule would prove quite valuable in resolving remaining technical issues prior to adoption of a permanent rule. However, we are also aware of a perception that, by adopting

The Honorable Gary George  
The Honorable Barbara Linton  
December 23, 1992

2

the NR 700 series as an emergency rule, we would be short-circuiting the public participation network we have so carefully established with the EAC.

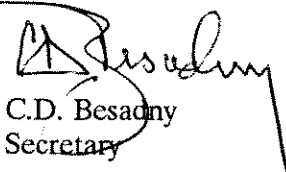
It will take time to reflect on these tradeoffs and reach conclusions on the need for and merits of adopting emergency rules. Since the earliest the Department could adopt an emergency rule for the NR 700 series would be the Natural Resources Board meeting on February 24 and 25, 1993, staff plan on discussing alternative timetables for the NR 700 series at the January Board meeting and at the two EAC meetings in January.

Department staff are also reexamining the feasibility of providing your committee with an estimate of the relative effects on PECFA of different soil standards. Along these lines, I am concerned that more emphasis has been placed on cost effects of alternative soil standards than perhaps is merited. The cost of soil cleanup is only one of three major costs to PECFA. The other two cost categories, groundwater cleanup and investigative work, are not appreciably affected by the soil standard alternative that is chosen. In this context, we believe that ILHR 47, which touches all aspects of the PECFA process, is far more important in achieving PECFA cost reductions than the soil standards under NR 700.

Nonetheless, we agree that further evaluation of the relationship between cleanup costs and soil standards is desirable. While the data constraints I described in my October 30 letter have not changed, it may be possible to make some assumptions which would allow the relative cost effects of different standards to be compared even if we still could not improve the accuracy of the current estimates for annual PECFA costs. In any event, we will attempt to quantify the proportion of PECFA costs that are specific to soil cleanups. We are discussing potential approaches for refining our cost estimates and hope to provide the committee with any results we obtain by February 28, 1993.

I appreciate the interest that you have taken in this important topic. Please contact Paul Didier, Director of the Bureau of Solid & Hazardous Waste Management (telephone 266-1327), if you have any questions about this letter.

Sincerely,

  
C.D. Besadny  
Secretary

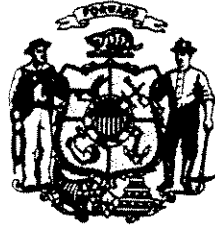
cc: Members of the Joint Committee on Finance  
Members of the Natural Resources Board  
Members of the NR 700 External Advisory Committee  
Secretary Carol Skornicka - DILHR  
Paul Didier - SW/3

# State of Wisconsin

SENATE CHAIR

GARY R. GEORGE

Room 119 South  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
Phone: 266-2500



ASSEMBLY CHAIR

BARBARA J. LINTON

Room 127 South  
State Capitol  
P.O. Box 8952  
Madison, WI 53708-8952  
Phone: 266-7690

## JOINT COMMITTEE ON FINANCE

December 23, 1992

Secretary Carroll Besadny  
Department of Natural Resources  
Box 7921  
Madison, WI 53707

Dear Secretary Besadny:

On December 2 we asked that you accelerate promulgation of administrative rules to establish soil standards for petroleum environmental cleanup fund award (PECFA) sites. At the December 15 meeting of the Joint Committee on Finance, members again expressed frustration with delays in DNR's schedule for adoption of these rules (NR 700).

While NR 700 is being completed, the Department must provide clear direction to PECFA participants regarding several issues which you addressed in your October 30 letter to the Committee:

1. You indicated that DNR will soon provide additional guidance regarding the use of bioremediation, a cost-effective approach to cleanup that can be used at many PECFA sites. This information should be in the form of written guidelines that provide for the use of bioremediation wherever site conditions allow.
2. You also indicated that public health and the environment will be protected if contaminated soils are cleaned to the groundwater enforcement standard. The Department should issue written guidelines to insure that all DNR districts consistently use this

Secretary Carroll Besadny  
December 23, 1992  
Page 2

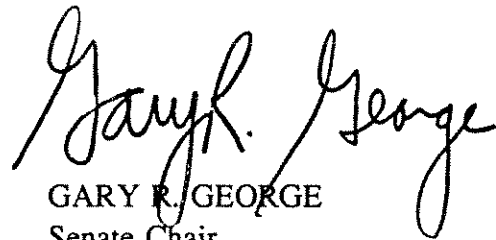
standard--rather than the more restrictive preventive action limit--to now determine that a site is clean for applicable contaminants and soil conditions.

We look forward to your response to our December 2 letter and to the implementation of measures to strengthen the PECFA program.

Sincerely,



BARBARA J. LINTON  
Assembly Chair



GARY R. GEORGE  
Senate Chair

GRG/BJL/lmr

cc: Members, Joint Committee on Finance  
Secretary Carol Skornicka, Department of Industry  
Labor and Human Relations



**State of Wisconsin • DEPARTMENT OF REVENUE**

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

**Tommy G. Thompson**  
Governor

**Mark D. Bugher**  
Secretary of Revenue

December 17, 1992

✓The Honorable Gary R. George, Co-Chair  
Joint Committee on Finance  
State Capitol, Room 115 South  
Madison, WI 53702

The Honorable Barbara Linton, Co-Chair  
Joint Committee on Finance  
State Capitol, Room 127 South  
Madison, WI 53702

Dear Senator George and Representative Linton:

Wisconsin imposes a temporary recycling surcharge on sole proprietorships, partnerships, tax option corporations and regular corporations for tax years ending after April 1, 1991, and before April 1, 1999. Sec. 77.945, Wis. Stats., requires the Department of Revenue, with the approval of the Joint Committee on Finance, to establish annually each December recycling rates necessary to generate sufficient revenue to fund recycling fund appropriations in the following fiscal year.

The purpose of this letter is to submit to the Joint Committee on Finance the Department's recommendation for the rates for tax years ending after April 1, 1993, and before April 1, 1994.

Currently, the surcharge on regular corporations equals 5.5% of gross tax liability, with a minimum surcharge of \$25 and a maximum surcharge of \$9,800. The surcharge imposed on nonfarm proprietorships and partnerships with gross receipts of at least \$1,000 and on tax option corporations equals 0.4345% of net Wisconsin business income, with a minimum surcharge of \$25 and a maximum surcharge of \$9,800. Noncorporate farms with net farm profits of \$1,000 or more are assessed a surcharge of \$25. Nonfarm proprietorships and partnerships with gross receipts less than \$1,000 and noncorporate farms with net farm profits less than \$1,000 are exempt from the surcharge.

Pursuant to sec. 77.945, Wis. Stats., I hereby submit the Department's recommendation that the recycling rates for tax years ending after April 1, 1993, and before April 1, 1994, remain 5.5% of gross tax liability for regular corporations and 0.4345% of net Wisconsin business income for nonfarm proprietorships, partnerships and tax option corporations. Surcharge revenues raised by these rates, along with the surplus in the recycling fund, should be sufficient to fund recycling fund appropriations in Fiscal Year 1994.

The following table shows recycling fund balances, surcharge revenues and appropriations by fiscal year. Amounts for FY 1992 are actual; amounts are estimated for other years.

The Honorable Gary R. George, Co-Chair  
The Honorable Barbara Linton, Co-Chair  
December 17, 1992  
Page Two

RECYCLING FUND REVENUES, APPROPRIATIONS AND BALANCES  
FY 1992 - FY 1995  
(Amounts in \$ millions)

Fiscal Year	Beginning Balance*	Surcharge Revenue	Total Fund Revenue	Appropriations**	Closing Balance
1992	\$ 3.22	\$32.10	\$35.32	\$23.02	\$12.30
1993	12.73	36.30	49.03	42.56	6.47
1994	6.70	37.90	44.60	41.89	2.71
1995	2.80	39.10	41.90	41.81	0.09

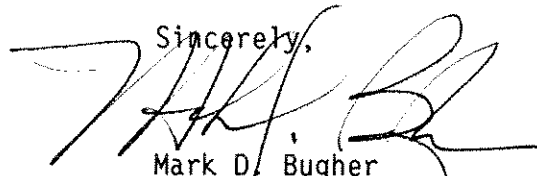
\* Includes interest earned on any positive fund balance; FY 1992 amount also includes one-time refund of previous expenditure.

\*\* Unencumbered, continuing and biennial appropriations in FY 1992 are included in appropriations for FY 1993.

As the table shows, total appropriations for the recycling fund, under current law, are expected to be \$41.89 million in FY 1994. The fund balance at the beginning of that year is expected to be \$6.7 million and the temporary recycling surcharge under current rates is expected to generate revenues totalling \$37.9 million, resulting in a total of \$44.6 million available for financing FY 1994 appropriations. The Department expects the recycling fund to close FY 1994 with a balance of \$2.71 million.

If the Committee needs any additional information for its review of this recommendation, please let me know. Also, please advise me of the Committee's action on the recommendation.

Sincerely,



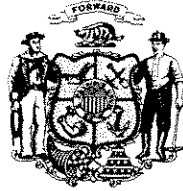
Mark D. Bugher  
Secretary of Revenue

MDB:DC:skr  
COUNIT3630

Enclosure

cc: Members, Joint Committee on Finance  
James R. Klauser, Department of Administration  
Robert W. Lang, Legislative Fiscal Bureau  
Barbara Schultz, Department of Natural Resources  
Jerry Pionkowski  
Yeang-Eng Braun

Tommy G. Thompson  
Governor  
Carol Skornicka  
Secretary



Mailing Address:  
201 E. Washington Avenue  
Post Office Box 7946  
Madison, WI 53707-7946  
Telephone (608) 266-7552

## State of Wisconsin Department of Industry, Labor and Human Relations

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December 17, 1992

DEC 21 1992

The Honorable Gary R. George  
State Senate  
115 South Capitol  
Madison, WI 53702

Dear Senator George:

The Department of Industry, Labor and Human Relations is promulgating an emergency rule on January 1, 1993. The reason for this action was to control costs, to improve the approval process and to clarify the responsibilities of all participants in the process.

A great deal of time, effort and scrutiny has gone into the writing of this rule. We sought and considered input from organizations and individuals through hearings and personal contact for several months. We believe the resultant rule will better serve everyone—owners, consultants, financial institutions and the public. The emergency rule will also be submitted as a permanent rule to allow for additional public hearings and legislative review.

Enclosed is a fact sheet on the major points and changes contained in the rule. The rule itself can be obtained by contacting Pat Osborne at 266-7552.

I believe what we have developed will improve the process and help contain costs. Additional improvements can be made which will require legislative approval. We look forward to working with you this session to further address PECFA issues.

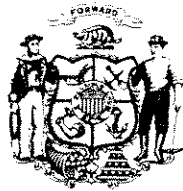
Sincerely,

A handwritten signature in cursive script, appearing to read "Carol Skornicka".

Carol Skornicka  
Secretary



Tommy G. Thompson  
Governor  
Carol Skornicka  
Secretary



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Telephone (608) 266-7552

## State of Wisconsin Department of Industry, Labor and Human Relations

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Wednesday, Dec. 16, 1992

### **New rules assure more cost-effective petroleum spill clean-ups**

Tough new rules that will impose stringent cost controls on the Petroleum Environmental Clean-up Fund Act (PECFA) are being enacted, the Department of Industry, Labor and Human Relations announced today.

The \$43.5 million a year PECFA program reimburses owners for the cost of cleaning up the environmental damage caused by leaking petroleum storage tanks.

In order to save tax dollars, the emergency rule requires competitive bidding, imposes spending caps, spells out audit procedures, publishes cost guidelines, and introduces other forms of private sector competition to this government program, said Carol Skornicka, Secretary of the Department of Industry, Labor and Human Relations.

Owners of spill sites will have to get at least three competitive bids for such clean-up measures as excavation, trucking, laboratory analysis, and treatment.

Private consultants hired to investigate a spill and propose a clean-up plan will be prohibited from steering work to "in-house" or consultant-controlled firms in order to assure "arm's length" transactions. Nor will price mark-ups be allowed for subcontractors' work.

"These new rules are necessary, strict, and fair," Skornicka said. "By introducing competitive market forces to the process, economic discipline is imposed on the spending side without sacrificing the integrity of the environment. That assures taxpayers of the most cost-effective solution for keeping our groundwater safe."

The new administrative rules, effective Jan. 1, are the latest piece of the PECFA management initiatives Secretary Skornicka announced in July. Since then, DILHR also has beefed up its capacity to ensure program compliance, fiscal integrity, and service to the PECFA claimant.

A special strike force of DILHR auditors was dispatched around the state to conduct surprise financial audits of PECFA service providers. "Those surprise audits will continue," Skornicka promised.

Four new DILHR staff members have been added to help verify claims. Inter-agency work

-- More --

**PECFA ADMINISTRATIVE RULE (ILHR 47)  
MAJOR COMPONENTS FACT SHEET**

**Cost Containment Strategies:**

1. Caps the maximum allowable cost for an investigation and the development of a remedial action plan at \$40,000 without explicit pre-approval from the Department to conduct additional investigation.
2. Requires three clean-up plans to be submitted with the cost of doing each. One of those plans must include passive bio-remediation.
3. Requires all subcontract, commodity or other non-consulting services to be put up for at least three competitive bids.
4. Contains a list of cost guidelines for use in reviewing claims submitted and estimated costs.
5. Eliminates subcontractor mark-ups for work performed after January 31, 1993.
6. Requires consultants to fully itemize what costs in the selected alternative are for the actual clean-up and which costs are consultants' fees. The fund will not reimburse consultant fees in excess of those included in the approved alternative.

**Owner's Responsibilities:**

1. To serve as the primary point for the control of costs.
2. To compare the investigation proposals from consulting firms.
3. To notify the Department if the investigation and remedial plan development is expected to exceed the maximum allowable cost of \$40,000.
4. To solicit competitive bids for all subcontract, commodity or other non-consulting services.
5. To guarantee that the most cost-effective approved alternative is selected for the remediation.

**Consultant's Responsibilities:**

1. To develop three alternatives and costs as part of the remedial action plan development. One alternative has to be passive bio-remediation or monitoring. Alternatives need to be fully costed, including consultant costs. This will

## About PECFA

The Petroleum Environmental Clean-up Fund Act covers the costs of cleaning spills from commercial and retail motor fuel tanks, farm and residential motor fuel tanks larger than 1,100 gallons and underground home or commercial-sale heating oil tanks. Privately and municipally owned tanks are covered; state and federal tanks are not.

PECFA does not pay for removal of tanks, replacement tanks, or for loss of business during clean-up.

The state legislature has authorized that no more than \$43.5 million a year be spent on PECFA. A 2 cents/gallon oil inspection fee is levied at the wholesale level; 70 percent of those proceeds is applied toward PECFA.

Since the first payment in early 1989, PECFA has paid out \$67,258,523 for clean-ups at 1,124 sites. DILHR has been notified of another 2,957 possible claims.

Since 1988, DILHR has been notified of the closing of 16,300 underground tanks; another 100,000 underground tanks remain active in Wisconsin.

The emphasis is on leak prevention. By Dec. 22, 1993, federal law requires that all underground commercial and retail motor fuel tanks and home and farm motor fuel tanks larger than 1,100 gallons have leak detection systems.

The maximum annual PECFA reimbursement remains \$1 million for underground tank sites; \$195,000 for an above-ground site, and \$7,500 for home heating oil tanks.

Detailed informational packets will be mailed to PECFA consultants and workshops are scheduled in January in Appleton, Eau Claire, Madison, Hayward, and Milwaukee. Practitioners can call 267-3753 for further details.



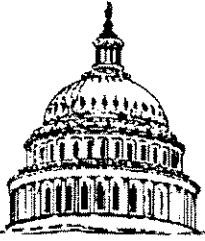
## PECFA WORKSHOP SCHEDULE

The State Safety and Buildings Division has scheduled six half-day seminars throughout Wisconsin in January to explain details of the new Petroleum Environmental Cleanup Fund Act (PECFA) rules.

Cities and Dates		Locations
APPLETON 9-12 noon	JAN. 6	Paper Valley Hotel/Conference Center 333 W. College Avenue
EAU CLAIRE 9-12 noon	JAN. 8	Holiday Inn Convention Center (downtown) 205 S. Barstow
MADISON 9-12 noon	JAN. 12	Wisconsin Center 702 Langdon
MILWAUKEE 9-12 noon	JAN. 14	Holiday Inn Mayfair 201 N. Mayfair Road
MILWAUKEE 9-12 noon	JAN. 15	Holiday Inn Mayfair 201 N. Mayfair Road
ASHLAND	JAN. 20	To be announced.

The Appleton, Eau Claire, Madison and Milwaukee workshops are primarily intended for consultants and contractors. They will include an overview of the new PECFA administrative rule, information on materials to be submitted, information on improving the submittal process and an opportunity to ask questions.

The Ashland meeting is intended for a wider audience and will cover information on the PECFA program for owners, consultants, financial institutions and interested citizens. For more information about the workshops, call 608-267-3753.



# DILHR ALERT

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## NEW ADMINISTRATIVE RULE PECFA (ILHR 47)

The Department of Industry, Labor and Human Relations has promulgated an emergency rule for the PECFA program. A fact sheet is attached that briefly explains elements of the new rule and its effective dates.

**For your information, contact:** Pat Osborne, 608-266-7552, or Bill Morrissey, 608-266-7605.

The following includes types of constituents likely to contact you and information you can relay to them.

**For constituents:**

1. Consultants, contractors. They may obtain a copy of the new rule at workshops offered Jan. 6 in Appleton, Jan. 8 in Eau Claire, Jan. 12 in Madison, Jan. 14 and 15 in Milwaukee and Jan. 20 in Ashland.. After the workshops are completed, copies will be available through Document Sales. Call 1-800-DOC-SALE.

To request information about attending a workshop, they may call 608-267-3753.

2. Owners. They may obtain information by calling 608-267-3753 to receive a packet on the new rule and their responsibilities regarding compliance.