

1999 DRAFTING REQUEST

Bill

Received: 10/2/98

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: Buildings/Safety - misc.

Extra Copies:

Topic:

DOA:.....Wong - Hazardous substance tank regulatory authority

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 11/9/98	gilfokm 11/9/98	jfrantze 11/10/98	_____	lrb_docadmin 11/10/98		State

FE Sent For:

<END>

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1?	traderc	1- Wong 11/9	10/11/10	10/11/10			

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Contracts governed by the laws of non-member countries are not clearly valid. A party to such a contract could claim impossibility of performance (performance is no longer physically or legally possible) or frustration of purpose (the main purpose of the transaction is no longer attainable). The frustration of purpose would mainly come into play in a transaction such as a swap, which is a financial transaction in which the parties are betting that the value of a currency will move in a certain direction.

Proposed change: Language from California is attached.

RCT VI. **Division of Environmental and Regulatory Services**

A. PECFA -- Remediation Service Providers.

Provide ERS with a waiver from the state bid process when selecting remediation service providers. This authority would make it easier for Commerce to use its bundling authority, which it received in the last biennial budget, to control PECFA costs.

Proposed change: Amend § 101.143 (4) (ce) to provide Commerce with a waiver from the state bid process when selecting remediation service providers.

B. PECFA -- Information Disclosure.

The existing language on information disclosure focuses on maintaining strict confidentiality of the name of the owner and the location of the tank. It is not practical in responding to reasonable inquiries from owners, inspection agencies, real estate firms, lenders, etc.

Proposed change: Delete § 101.09 (3) (b).

C. PECFA -- Hazardous Substance Regulatory Authority.

Wisconsin statutes and federal rules provide the Department with authority over underground storage tanks. Federal rules also provide the Department with authority over hazardous substance tanks; however, state law does not clearly define the Department's authority over and technical requirements for hazardous substance tanks. Wisconsin Act 410 and the Federal Rule 40 CFR 280 strengthened the regulatory control over underground storage tanks. Existing chapter 101 statutory language provides regulatory authority for the Act 410 requirements while a June 17, 1985 designation (by the Governor) assigned the

technical requirements of 40 CFR 280 to DILHR (now Commerce). The federal rule includes technical requirements for CERCLA hazardous substance tanks, a population of tanks not clearly defined within the scope of chapter 101. This is a program deficiency was noted by the federal EPA.

Proposed change: Amend

101.09 Storage of flammable and combustible liquids and CERCLA hazardous substances.

101.09(2)(a)

(a) Except as provided under pars. (b) to (d), every person who constructs, owns or controls a tank for the storage, handling or use of flammable, ~~or~~ combustible or CERCLA hazardous substance liquid shall comply with the standards adopted under sub. (3).

101.09(3)(a)

(a) The department shall promulgate by rule construction, maintenance and abandonment standards applicable to tanks for the storage, handling or use of flammable, ~~and~~ combustible or CERCLA hazardous substance liquids, and to the property and facilities where the tanks are located, for the purpose of protecting the waters of the state from harm due to contamination by flammable, ~~and~~ combustible or CERCLA hazardous substances liquids. The rule shall comply with ch. 160. The rule may include different standards for new and existing tanks, but all standards shall provide substantially similar protection for the waters of the state. The rule shall include maintenance requirements related to the detection and prevention of leaks. The rule may require any person supplying heating oil to any noncommercial storage tank for consumptive use on the premises to submit to the department, within 30 days after the department requests, the location, contents and size of any such tank.

101.14(5)(a)

(a) Subject to par. (b), in addition to any fee charged by the department by rule for plan review and approval for the construction of a new or additional installation or change in operation of a previously approved installation for the storage, handling or use of flammable, ~~or~~ combustible or CERCLA hazardous substance liquids, the department shall collect a groundwater fee of \$100 for each plan review submittal. The moneys collected under this subsection shall be credited to the environmental fund for environmental management.

101.14(5)(b)

(b) Notwithstanding par. (a), an installation for the storage, handling or use of flammable, ~~or~~ combustible or CERCLA hazardous substance liquids that has a capacity of less than 1,000 gallons is not subject to the groundwater fee under par. (a).

PJK VI Division of Administrative Services

A. Elimination of Statutory Reports

Intent. The Department proposes to eliminate the following statutory reports:

- Biennial Report on Tax Increment Financing: s. 66.46 (13), Stats.
- Annual Report on the Effects of WHEDA Lending on Economic Development: s. 234.65 (5), Stats.
- Community Development Financial and Technical Assistance Directory: s. 560.03 (16), Stats.
- Biennial SWIB Report: s. 560.08 (2) (m), Stats.
- WHEDA Economic Development Loan Certifications: s. 235.65 (3m).
- Employee-owned businesses: s. 560.07 (2m), Stats.
- Annual Report on Net Jobs Gain/Forward Wisconsin: s. 560.07 (9), Stats.



State of Wisconsin
1999 - 2000 LEGISLATURE

SOON

LRB-0423/1

RCT.....
Kmg/pt

DOA:.....Wong - Hazardous substance tank regulatory authority

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

ON ds

do not generate
↓

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

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

delete empty component

Under current law, the department of commerce regulates tanks that store flammable and combustible liquids. This bill requires the department of commerce to also regulate tanks that store liquids that are considered hazardous substances under the federal Superfund Act. Under current law, the department of commerce collects a \$100 groundwater fee for plan review and approval for tanks that store flammable and combustible liquids and that have a capacity of ~~more than~~ 1,000 gallons. Under this bill, the groundwater fee also applies to plan review of tanks that store liquids that are considered hazardous substances under the federal Superfund Act. *and that have a capacity of more than 1,000 gallons or more*

or more

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:

✓ 2

SECTION 1. 101.09 (title) of the statutes is amended to read:

1 **101.09 (title) Storage of flammable and, combustible and hazardous**
2 **liquids.**

History: 1983 a. 410; 1987 a. 399; 1991 a. 269; 1993 a. 416.; 1995 a. 227

3 **SECTION 2.** 101.09 (1) (am) of the statutes is created to read:

4 101.09 (1) (am) "Federally regulated hazardous substance" means a hazardous
5 substance as defined in 42 USC 9601 (14).

6 **SECTION 3.** 101.09 (2) (a) of the statutes is amended to read:

7 101.09 (2) (a) Except as provided under pars. (b) to (d), every person who
8 constructs, owns or controls a tank for the storage, handling or use of flammable or
9 ~~combustible~~ liquid that is flammable or combustible or a federally regulated
10 hazardous substance shall comply with the standards adopted under sub. (3).

History: 1983 a. 410; 1987 a. 399; 1991 a. 269; 1993 a. 416.; 1995 a. 227

11 **SECTION 4.** 101.09 (3) (a) of the statutes is amended to read:

12 101.09 (3) (a) The department shall promulgate by rule construction,
13 maintenance and abandonment standards applicable to tanks for the storage,
14 handling or use of flammable and combustible liquids that are flammable
15 combustible or federally regulated hazardous substances, and to the property and
16 facilities where the tanks are located, for the purpose of protecting the waters of the
17 state from harm due to contamination by flammable and combustible liquids that are
18 flammable or combustible or federally regulated hazardous substances. The rule shall
19 comply with ch. 160. The rule may include different standards for new and existing
20 tanks, but all standards shall provide substantially similar protection for the waters
21 of the state. The rule shall include maintenance requirements related to the
22 detection and prevention of leaks. The rule may require any person supplying
23 heating oil to any noncommercial storage tank for consumptive use on the premises

1 to submit to the department, within 30 days after the department requests, the
2 location, contents and size of any such tank.

3 History: 1983 a. 410; 1987 a. 399; 1991 a. 269; 1993 a. 416.; 1995 a. 227

3 **SECTION 5. 101.14 (5) of the statutes is amended to read:**

4 101.14 (5) (a) Subject to par. (b), in addition to any fee charged by the
5 department by rule for plan review and approval for the construction of a new or
6 additional installation or change in operation of a previously approved installation
7 for the storage, handling or use of ~~flammable or combustible liquids~~ a liquid that is
8 flammable^{or}, combustible or a federally regulated hazardous substance, as defined in
9 s. 101.09 (1) (am), the department shall collect a groundwater fee of \$100 for each
10 plan review submittal. The moneys collected under this subsection shall be credited
11 to the environmental fund for environmental management.

12 (b) Notwithstanding par. (a), an installation for the storage, handling or use of
13 ~~flammable or combustible liquids~~ a liquid that is flammable^{or}, combustible or a
14 federally regulated hazardous substance, as defined in s. 101.09 (1) (am), that has
15 a capacity of less than 1,000 gallons is not subject to the groundwater fee under par.
16 (a).

17 History: 1971 c. 185 s. 1; 1971 c. 228; Stats. 1971 s. 101.14; 1973 c. 324, 326, 336; 1975 c. 39, 94; 1977 c. 29, 413; 1979 c. 221; 1981 c. 320, 341; 1983 a. 36; 1983 a. 189 s. 329 (8); 1983 a. 295, 410; 1985 a. 29; 1985 a. 135 s. 83 (3); 1987 a. 288, 321, 399; 1989 a. 31, 109, 359; 1991 a. 187, 269; 1993 a. 261; 1995 a. 27; 1997 a. 27.

(END)

DNote

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

LRB-0423/1dn

RCT.....
King *pgt*

This is a draft of the department of commerce's request concerning hazardous substance regulatory authority. I think that it might improve the organization of the relevant statutes if s. 101.14 (5) were renumbered into s. 101.09, given that s. 101.14 otherwise deals only with fire protection. Please let me know if you would like a redraft to include that renumbering.

Rebecca C. Tradewell
Assistant Chief Counsel
266-7290

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

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RCT:kmg&pgt:jf

November 10, 1998

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0423/1
RCT:kmg&pgt:jf

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FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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

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HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

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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:

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