

**Committee Name:**  
**Joint Committee – Finance**  
**(JC–Fi)**

**Appointments**

99hr\_JC–Fi\_Appt\_pt00

**Committee Hearings**

99hr\_JC–Fi\_CH\_pt00

**Committee Reports**

99hr\_JC–Fi\_CR\_pt00

**Clearinghouse Rules**

99hr\_JC–Fi\_CRule\_99–

**Executive Sessions**

99hr\_JC–Fi\_ES\_pt00

**Hearing Records**

99hr\_ab0000

99hr\_sb0000

**Misc.**

99hr\_JC–Fi\_\_Misc\_\_s.13.10\_pt06a

**Record of Committee Proceedings**

99hr\_JC–Fi\_RCP\_pt00

S.13.10 Meeting  
April 21, 1999

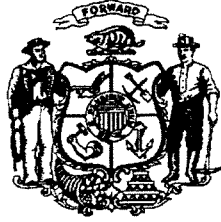
**Smead**  
No. C1526E  
HASTINGS, MN



# THE STATE OF WISCONSIN

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## JOINT COMMITTEE ON FINANCE

### NOTICE

The Joint Committee on Finance  
will hold its regular quarterly meeting  
under s. 13.10 at 10:00 a.m., Wednesday, April 21, 1999  
In Room 411 South, State Capitol

### AGENDA

- I. Department of Employee Trust Funds – David Stella, Administrator of the Division of Retirement Services and Joanne Cullen, Budget Director

The department requests a supplement of \$505,300 SEG in FY99 from the Committee's appropriation (s. 20.865(4)(u)) to the general administration appropriation (s. 20.515(1)(w)) for costs associated with the implementation of the remedy ordered by the Wisconsin Supreme Court in the Special Investment Performance Dividend (SIPD) lawsuit. The department also requests a supplement of \$541,700 SEG in FY00 from the Committee's appropriation (s. 20.865(4)(u)) to the general administration appropriation (s. 20.515(1)(w)) for costs associated with completion of this project.

- II. Department of Administration – Nathaniel Robinson, Administrator, Division of Energy and Intergovernmental Relations

In accordance with s. 14.065, the Governor requests approval of the Stripper XIX Oil Overcharge Plan, allocating a total of \$513,308 (\$447,308 of new Stripper funds and \$66,000 of reallocated Exxon monies) to existing program and policy requirements.

IIIA. Historical Society – George Vogt, Director

The State Historical Society requests the creation of 0.50 FTE SEG Archivist-Senior position in the appropriation under s. 20.245(1)(r) and a \$19,000 SEG increase to the permanent base in the appropriation under s. 20.245(1)(r).

IIIB. Historical Society – George Vogt, Director

The State Historical Society requests (1) the transfer of 0.75 FTE GPR position and \$34,000 GPR authority from the appropriation under s. 20.245(4)(a) to the appropriation under s. 20.245(1)(a); (2) the transfer of unclassified position status from the Office of Development director to the director of the Division of Administrative Services; and (3) the deletion of 0.75 FTE PRO position in the appropriation under s. 20.245(4)(h).

IV. University of Wisconsin System -- James Albers, Director of Campus Planning

In accordance with s. 13.101 (13)(b), UW System is requesting one half the proceeds from the sale of 5.5 acres at the Ashland Research Station operated by UW-Madison be made available to UW-Madison to be used to support ongoing research at that research station. Proceeds from the sale totaled \$5,525.00. This amount has been remitted to the Department of Administration to be credited to the appropriation under s. 20.865 (4)(a).

V. University of Wisconsin System - UW-Madison, Division of Intercollegiate Athletics -- John Torphy, Vice Chancellor, UW-Madison

The UW System requests approval of \$5,062,778 in additional expenditure authority for the appropriation under s. 20.285 (5) (h), *Intercollegiate Athletics Auxiliary Enterprises*; \$67,400 for the appropriation under s. 20.285 (5) (i), *Nonincome sports*; and a reduction of \$1,955,978 in the appropriation under s. 20.285 (5) (j), *Gifts and grants*. This request was originally submitted under s. 16.515. An objection was raised by the committee and the request was scheduled for a meeting under s. 13.10.

VI. Department of Health and Family Services – John Kiesow, Executive Assistant

The department requested the approval of a plan under 14-day passive review for the expenditure of federal Income Augmentation funds. Due to an objection from a committee member, this request is now before the committee under s. 13.10.

VII. Department of Natural Resources – Craig Karr, Division Administrator, Customer Assistance and External Relations

The department requested approval of a grant to the City of Janesville for the purchase of 17.395 acres along the Rock River under the 14-day passive review required under s. 23.0915(4). Due to an objection from a committee member, this request is now before the committee under s. 13.10.

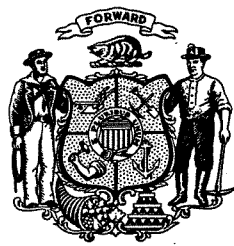
VIII. Elections Board – Kevin Kennedy, Executive Director

The Board requests increased budget authority of \$8,000 PR in 1998-99 in the Board's general program operations program revenue appropriation (s. 20.510 (1)(i)) and a supplement of \$45,000 GPR in 1998-99 to the Board's general program operations general purpose revenue appropriation (s. 20.510 (1)(a)) to complete the development of electronic filing software and the conversion of its program information system, the State of Wisconsin Elections Board Information System, or SWEBIS and to meet a projected salary shortfall.

Reports

- R-1 Department of Administration Position Reports Required Under s. 16.50 (January 1-March 31, 1999).
- R-2 Department of Administration Implementation MOU, Department of Natural Resources and Department of Commerce

*END*



*END*

**JOINT COMMITTEE ON FINANCE**  
**SUMMARY OF GPR APPROPRIATION STATUS**  
(Incorporating Committee Actions thru February 16, 1999)

	1997-98	1998-99	1997-99 Biennium	Releases to Date	Remaining Reserve
<b>Current Biennial Appropriation Amount [s. 20.865(4)(a)]</b>	<b>\$46,318,275</b>	<b>\$73,132,600</b>	<b>\$119,450,875</b>	N.A.	N.A.
<u>Reserved For:</u>					
DOA -- Budget system redesign consultant's study	\$60,000	\$0	\$60,000	\$60,000	\$0
DOA -- Compensation reserves supplement	1,326,000	674,000	2,000,000	0	2,000,000
DOA -- Compensation reserves supplement	20,000,000	0	20,000,000	0	20,000,000
DOC -- Additional contract beds	7,431,496	10,100,000	17,531,496	17,531,496	0
DOC -- Pay plan supplements reserve	0	1,729,600	1,729,600	0	1,729,600
DOC -- Probation and parole absconder unit	702,700	1,025,600	1,728,300	1,728,300	0
DOC -- Racine food service costs	117,300	645,700	763,000	463,000	300,000
DOC -- St. John's Correctional Center expansion	0	991,800	991,800	991,800	0
ELECTIONS BD -- Electronic filing enhancement	102,800	0	102,800	102,800	0
ETF -- SIPD supplemental annuity payments	2,650,400	3,547,100	6,197,500	0	6,197,500
DHFS -- Adoption assistance	187,200	0	187,200	0	187,200
DHFS -- BadgerCare	0	16,600,000	16,600,000	0	16,600,000
DHFS -- Criminal background checks	0	1,920,000	1,920,000	510,800	1,409,200
DHFS -- Medical assistance administration	468,300	0	468,300	468,300	0
DHFS -- Prevention grants	744,800	1,489,700	2,234,500	2,234,400	100
DHFS -- Women's health initiative	2,200,000	1,300,000	3,500,000	3,500,000	0
DPI -- School for the Deaf maintenance funds	74,000	74,000	148,000	148,000	0
DPI -- School for the Visually Handicapped maintenance funds	17,200	17,200	34,400	34,400	0
SPD -- Pay plan supplements reserve	242,800	524,400	767,200	0	767,200
SPD -- Restoration of budget reductions	0	987,600	987,600	0	987,600
Public Land Sales Reserve (see attached summary sheet)	282,879	0	282,879	140,200	142,679
DOR -- Integrated computer system	1,257,100	203,500	1,460,600	1,460,600	0
UW -- BadgerNet	1,470,000	1,470,000	2,940,000	2,940,000	0
UW -- Technology infrastructure and faculty technology	1,060,800	3,307,200	4,368,000	4,368,000	0
DWD -- Centralized receipt and disbursement for child support	0	117,100	117,100	117,100	0
DWD -- KIDS system	5,570,300	11,055,900	16,626,200	16,626,200	0
<b>Sub-total Reserved Balance</b>	<b>\$45,966,075</b>	<b>\$57,780,400</b>	<b>\$103,746,475</b>	<b>\$53,425,396</b>	<b>\$50,321,079</b>
<u>Releases from Reserved Balance</u>					
DOA -- Budget system redesign consultant's study (9/24/98)	\$0	\$60,000	\$60,000		
DOC -- Probation and parole absconder unit (12/18/97)	446,900	1,025,600	1,472,500		
DOC -- Release from probation & parole absconder unit reserve (6/23/98)	255,800	0	255,800		
DOC -- Release from contract beds (6/23/98)	6,649,200	10,100,000	16,749,200		
DOC -- Release from contract beds (12/2/98)	0	782,296	782,296		
DOC -- Release from KIDS system reserve (6/23/98)	0	448,200	448,200		
DOC -- Release from Racine food service costs (6/23/98)	117,300	0	117,300		
DOC -- Release from Racine food service costs (12/2/98)	0	345,700	345,700		
DOC -- Release from St. John's Correctional Center expansion (12/2/98)	0	991,800	991,800		
ELECTIONS BD -- Electronic filing enhancement (12/18/97)	102,800	0	102,800		
DHFS -- Release from prevention grants (12/12/97 -- s. 16.515)	744,800	744,800	1,489,600		
DHFS -- Release from prevention grants (12/2/98)	0	744,800	744,800		
DHFS -- Criminal background checks (6/4/98)	120,300	154,100	274,400		
DHFS -- Criminal background checks (9/24/98)	0	236,400	236,400		
DHFS -- Medical assistance administration (6/23/98)	468,300	0	468,300		
DHFS -- Release from public land sales reserve (6/23/98)	140,200	0	140,200		
DHFS -- Women's health initiative (12/18/97)	1,700,000	1,200,000	2,900,000		
DHFS -- Women's health initiative (5/7/98 -- s. 16.515)	100,000	500,000	600,000		
DPI -- School for the Deaf maintenance funds (12/18/97)	74,000	0	74,000		
DPI -- School for the Deaf maintenance funds (12/2/98)	0	74,000	74,000		
DPI -- School for Visually Handicapped maintenance funds (12/18/97)	17,200	0	17,200		
DPI -- School for Visually Handicapped maintenance funds (12/2/98)	0	17,200	17,200		
DOR -- Integrated computer system (6/4/98)	45,000	1,415,600	1,460,600		
UW -- BadgerNet (12/18/97)	1,470,000	1,470,000	2,940,000		
UW -- Technology infrastructure and faculty technology (12/18/97)	1,060,800	3,307,200	4,368,000		
DWD -- Centralized receipt and disbursement for child support (6/23/98)	0	117,100	117,100		
DWD -- KIDS System (12/18/97)	5,231,800	0	5,231,800		
DWD -- KIDS System (6/23/98)	0	10,607,700	10,607,700		
DWD -- KIDS System (9/24/98)	0	338,500	338,500		
<b>Total Releases</b>	<b>\$18,744,400</b>	<b>\$34,680,996</b>	<b>\$53,425,396</b>		
<b>Remaining Reserved Balance</b>	<b>\$27,221,675</b>	<b>\$23,099,404</b>	<b>\$50,321,079</b>		
<b>Net Unreserved Balance Available</b>	<b>\$352,200</b>	<b>\$15,352,200</b>	<b>\$15,704,400</b>		
<u>Releases from Unreserved Balance</u>					
DATCP -- Food inspection program efficiency study (12/18/97)	\$50,000	\$50,000	\$100,000		
ELECTIONS BD -- Electronic filing enhancement (12/18/97)	12,000	0	12,000		
HEAB -- Program assistant position (12/18/97)	19,700	33,100	52,800		
LRB -- Additional attorneys (9/24/98)	0	65,600	65,600		
RRC -- Salary shortfall and actuarial studies (6/4/98)	51,500	45,100	96,600		
<b>Total Releases</b>	<b>\$133,200</b>	<b>\$193,800</b>	<b>\$327,000</b>		
<b>Net Unreserved Balance Remaining</b>	<b>\$219,000</b>	<b>\$15,158,400</b>	<b>\$15,377,400</b>		
<b>TOTAL AVAILABLE</b> (Net Reserved & Unreserved Balance Remaining)	<b>\$27,440,875</b>	<b>\$38,257,804</b>	<b>\$65,698,479</b>		

**SUMMARY**  
**JOINT COMMITTEE ON FINANCE**  
**PR APPROPRIATION STATUS**  
(Incorporating Committee Actions thru February 16, 1999)

	1997-98	1998-99	1997-99 Biennium
<b>Current Biennial Appropriation Amount [s. 20.865(4)(g)]</b>	<b>\$0</b>	<b>\$160,300</b>	<b>\$160,300</b>
<u>Reserved For:</u>			
OCI -- Information technology imaging project	\$0	\$160,300	\$160,300
	-----	-----	-----
Sub-total Reserved Balance	\$0	\$160,300	\$160,300
 <u>Releases from Reserved Balance</u>			
	\$0	\$0	\$0
	-----	-----	-----
Total Releases	\$0	\$0	\$0
 <b>Remaining Reserved Balance</b>	 <b>\$0</b>	 <b>\$160,300</b>	 <b>\$160,300</b>



**SUMMARY**  
**JOINT COMMITTEE ON FINANCE**  
**FED APPROPRIATION STATUS**  
(Incorporating Committee Actions thru February 16, 1999)

	1997-98	1998-99	1997-99 Biennium
<b>Current Biennial Appropriation Amount [s. 20.865(4)(m)]</b>	<b>\$15,000,000</b>	<b>\$2,000,000</b>	<b>\$17,000,000</b>
<u>Reserved For:</u>			
DHFS/DWD -- Temporary aid to needy families	\$14,000,000	\$0	\$14,000,000
DWD -- W-2 transportation assistance	1,000,000	2,000,000	\$3,000,000
	-----	-----	-----
Sub-total Reserved Balance	\$15,000,000	\$2,000,000	\$17,000,000
<u>Releases from Reserved Balance</u>			
DHFS/DWD - Temporary aid to needy families (12/18/97)	\$4,136,500	\$9,863,500	\$14,000,000
DWD -- W-2 Transportation assistance (12/18/97)	1,000,000	2,000,000	\$3,000,000
	-----	-----	-----
Total Releases	\$5,136,500	\$11,863,500	\$17,000,000
<b>Remaining Reserved Balance</b>	<b>\$9,863,500</b>	<b>(\$9,863,500)</b>	<b>\$0</b>

**SUMMARY**  
**JOINT COMMITTEE ON FINANCE**  
**SEG APPROPRIATION STATUS**  
(Incorporating Committee Actions thru February 16, 1999)

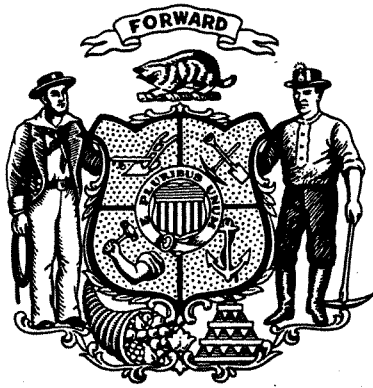
	1997-98	1998-99	1997-99 Biennium
<b>Current Biennial Appropriation Amount [s. 20.865(4)(u)]</b>	<b>\$1,208,000</b>	<b>\$1,384,400</b>	<b>\$2,592,400</b>
<u>Reserved For:</u>			
ETF -- Retirement rollover project	\$0	\$180,000	\$180,000
ETF -- Health insurance data appropriation	0	140,400	\$140,400
DVA -- Veterans assistance program	200,000	200,000	\$400,000
UW -- BadgerNet	1,008,000	864,000	\$1,872,000
	-----	-----	-----
Sub-total Reserved Balance	\$1,208,000	\$1,384,400	\$2,592,400
<u>Releases from Reserved Balance</u>			
UW - BadgerNet (12/18/97)	\$1,008,000	\$864,000	\$1,872,000
DVA -- Veterans assistance program (6/4/98)	0	200,000	200,000
DVA -- Veterans assistance program (12/4/98 s. 16.515)	0	197,200	197,200
ETF -- Health insurance data collection (6/23/98)	0	120,400	120,400
	-----	-----	-----
Total Releases	\$1,008,000	\$1,381,600	\$2,389,600
<b>Remaining Reserved Balance</b>	<b>\$200,000</b>	<b>\$2,800</b>	<b>\$202,800</b>

**SUMMARY**

**DETAIL OF JOINT FINANCE COMMITTEE APPROPRIATED LEVELS**  
**Status as of February 16, 1999**

	1997-98	1998-99	1997-99 Biennium
<b>865(4)(a) Appropriation Total Summary - GPR</b>			
Act 27 (Biennial Budget)	\$24,598,100	\$54,245,300	\$78,843,400
Proceeds from Sale of Public Land (Mendota State Hospital -- July, 1997)	280,379	0	280,379
Transfer per Act 27, Section 9256(3x)	20,000,000	0	20,000,000
Act 237 (Budget Adjustment Bill)	(1,039,900)	3,887,300	2,847,400
Addition to JFC Contract Beds Reserve by Transfer of 1997-98 Ending DOC Appropriation Balance (s. 13.10 meeting; 3/15/98)	2,531,496	0	2,531,496
Act 308 (Reduce adoption assistance reserved funds)	(54,300)	0	(54,300)
Proceeds from Sale of Public Land (Green Bay Correctional Institution -- May, 1998)	2,500	0	2,500
Transfer from DWD appropriation s. 20.445(3)(dz) [s. 13.10 meeting; 12/3/98]		15,000,000	15,000,000
 Current Total	<b>\$46,318,275</b>	<b>\$73,132,600</b>	<b>\$119,450,875</b>
 <b>865(4)(g) Appropriation Total Summary - PR</b>			
Act 27 (Biennial Budget)	\$0	\$160,300	\$160,300
 <b>865(4)(m) Appropriation Total Summary - FED</b>			
Act 27 (Biennial Budget)	\$15,000,000	\$2,000,000	\$17,000,000
 <b>865(4)(u) Appropriation Total Summary - SEG</b>			
Act 27 (Biennial Budget)	\$1,208,000	\$1,384,400	\$2,592,400

END



END

## 13.10 Meeting Wednesday, April 21, 1999

### **Issue: Informational Report on PECFA**

**Comments:** No action needed. Just an opportunity to make a statement if you want.

The budget adjustment act from last year required DNR, Commerce and DOA to prepare periodic reports on PECFA, and detail how many sites are being cleaned up, who's working on what, how many are left, etc.. This is a summary of the most recent of these reports.

As you can see from the FB summary of the agency report, these agencies are getting better at analyzing and coordinating this mess, but they still have a ways to go, & that's just with standard data collection and review. I'm sure there will be some substantive changes to PECFA soon, and that will undoubtedly just add to the confusion for awhile.

My main point today is that the governor has not done enough to solve the PECFA quandary. These three agencies are cabinet-level agencies and this problem has been around for a long time. Yet, there are still numerous inter-agencies squabbles and a lack of communication and coordination. There is a lot of money at stake here, yet DOA and the governor have let the administration of this program to slide into the abyss. It's really appalling and the governor needs to do more to resolve these agency disputes. I maintain that most of the so-called "problems" of PECFA are largely administrative in nature and could have been dealt with informally. Too much red tape and bureaucratic bungling. That needs to stop.

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 21, 1999

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: PECFA Program Report Submitted by the Departments of Administration, Commerce and Natural Resources – Agenda Item R-2.

1997 Act 237 (the 1997-99 biennial budget adjustment act) directs the Secretaries of the Departments of Administration (DOA), Commerce and Natural Resources (DNR) to submit reports to the Joint Committee on Finance for consideration at the Committee's September, 1998, and March, 1999, s. 13.10 meetings that document the progress of DNR and Commerce towards meeting the requirements of the memorandum of understanding (MOU) related to administration of the petroleum environmental cleanup fund award (PECFA) program and high, medium and low priority petroleum contaminated sites. Act 237 requires that the report contain at least certain specified information. On September 9, 1998, the Committee received a report from the three agencies in response to the Act 237 directive, and reviewed the report at its September 24, 1998, meeting. On March 24, 1999, the Committee received the second required report from the three agencies.

This memorandum provides background about the MOU and summarizes how the March, 1999, report responds to the information required by Act 237. Act 237 does not require the Committee to take specific actions related to the reports. However, the Committee could choose to review the reports with the Secretaries of the three agencies or direct the agencies to provide additional information as necessary.

### BACKGROUND

DNR is responsible for administration of remedial action at high priority petroleum contaminated sites, sites that are contaminated with petroleum and non-petroleum hazardous substances and sites that are contaminated solely with hazardous substances other than petroleum. The 1995-97 biennial budget act transferred from DNR to Commerce the administration of

remedial action at medium and low priority petroleum contaminated sites based on the threat that the discharge poses to public health, safety and welfare and to the environment.

DNR and Commerce were directed to enter into a memorandum of understanding (MOU) that establishes: (a) the respective functions of the two agencies in the administration of cleanup of petroleum storage tank discharges and the PECFA program; (b) procedures to ensure that cleanups at Commerce-administered sites are consistent with the hazardous substances spills law; and (c) procedures, standards and schedules for determining which sites are classified as high, medium or low priority. Both agencies were required to agree to the MOU. The two agencies were required to submit the MOU to the Secretary of the Department of Administration (DOA) for review and approval before the agreement took effect. The statutory requirements related to the division of authority for cleanup at petroleum-contaminated sites between Commerce and DNR and the development and implementation of the MOU are contained in sections 101.144(2) and (3m) of the statutes.

Commerce and DNR entered into an initial MOU on December 6, 1995. The Secretary of DOA sent a January 3, 1996, letter to the two Secretaries in which he accepted submittal of the MOU but did not specifically approve it. (DOA officials indicate that the letter represented approval of the MOU). DNR and Commerce revised the MOU effective May 8, 1998. The May, 1998, MOU had an approval line (which was not included in the 1995 MOU) which the Secretary of DOA signed on May 11, 1998. The Secretary of DOA transmitted the MOU to the Governor in a May 8, 1998, letter.

## **THE JOINT REPORT**

1997 Act 237 directs that the reports submitted to the Committee by DOA, Commerce and DNR include specific information. The following sections show the information required to be included in the report and summaries of the March, 1999, responses of the agencies to each topic.

a. **The progress toward determining the classification of petroleum discharge sites as high, medium or low priority.**

DNR has classified all sites with complete site investigation reports submitted prior to June 1, 1998, and transferred low and medium priority sites to Commerce. For sites with site investigation reports submitted after June 1, 1998, DNR has instructed its regional staff to classify sites within 60 days of receipt of the site investigation report and transfer sites to Commerce as appropriate.

DNR and Commerce implemented a pilot process in July, 1998, which directs consultants to send site investigation reports to the appropriate agency, instead of the prior practice of consultants sending the site investigation report to DNR and DNR determining the site priority. The May, 1998, MOU stated that the site classification pilot would be evaluated by March 31,

1999, and in September, 1998, the Joint Committee on Finance requested that the March, 1999, report include an evaluation of the pilot program. However, the March, 1999, report states that Commerce and DNR are working on the evaluation and anticipate having a final report prepared by April 30, 1999.

The report also states that the definitions of medium and high priority sites were changed in January, 1999. The definitions are summarized in section (f) of this memorandum. The report indicates that DNR and Commerce expect to finalize a schedule for the transfer of additional sites to Commerce by May 30, 1999.

**b. The number of petroleum discharge sites under the jurisdiction of DNR and Commerce.**

The March, 1999, report identifies 12,010 petroleum tank sites that are included in the databases of both agencies. The agencies have matched the Commerce "occurrence" identification numbers in the "TRACKER" database to the DNR "activity" case number in the "BRRTS" database. The Commerce TRACKER database now contains the DNR BRRTS identification number for all reconciled contamination occurrences and the DNR BRRTS database now includes "flags" to identify PECFA sites.

As of March, 1999, DNR administers 78% (9,340) of the sites and Commerce administers the remaining 22% (2,670). Of the total, 53% (6,332) are open (active) sites. DNR administers 83% (5,247) of the open sites and Commerce administers the remaining 17% (1,085). Of the active sites, 61% (3,859 of 6,332) are high priority sites and all high priority sites are administered by DNR. An additional 21% (1,341) of active sites are unknown priority and are administered by DNR until the priority is determined. The remaining 47 active sites administered by DNR are medium or low priority and might have either contamination from a hazardous substance in addition to petroleum or to an area of exceptional environmental value.

In addition to the 12,010 sites that have been reconciled in the databases of both agencies, 5,698 sites are included in the DNR database but have not yet been matched to a site in the Commerce database. Thus, the DNR database includes a total of 17,708 sites. The report also indicates that the Commerce database includes 13,305 occurrences but only 12,010 of them have been matched to sites in the DNR database, meaning 1,295 Commerce occurrences have not been reconciled with DNR data. The two agencies continue to reconcile this data. It is possible that the agencies will determine that some of the 5,698 sites that are unmatched in the DNR database and some of the 1,295 occurrences that are unmatched in the Commerce databases are the same sites. Further, some of the DNR sites may contain contaminants other than petroleum that would not be included in the Commerce database.

The report states that reconciliation of the data will continue by making a side-by-side comparison of the files that were not matched. DNR and Commerce are discussing the outstanding issue of whether a unique DNR database activity number needs to be assigned to each Commerce



database occurrence number. Both agencies are evaluating the source of, and steps needed, to eliminate data inconsistencies. The agencies plan to contract with a third party to evaluate various options for incorporating the data sets maintained by the agencies, before finalizing the reconciliation of the databases.

**c. The number of petroleum discharge sites closed by DNR and Commerce.**

The report states that 47% (5,678) of the 12,010 sites that have been reconciled in both agencies are closed. Of this total, 25% (1,406) are high priority sites. By contrast, at least 61% of the open sites are high priority. In addition to the reconciled sites, 63% (3,600) of the 5,698 sites that are included in the DNR database (but not the Commerce database) are closed sites.

At its September, 1998, meeting, the Joint Committee on Finance requested the agencies to provide information in the March, 1999, report related to the number of petroleum sites closed by each agency since July 1, 1996. The March report states that between July 1, 1996, and December 31, 1998, Commerce closed 1,572 sites and DNR closed 1,895 sites. All of the Commerce closures were petroleum sites included on the databases of both agencies. Of the DNR closures, 1,229 were petroleum sites also on the Commerce database and 666 were petroleum sites included in the 5,698 DNR sites that have not been reconciled with the Commerce database. In addition, DNR closed 423 non-petroleum sites during the time period. DNR also issued 192 "conditional closures," which include sites that have completed all required remedial activities and need to finish actions such as properly abandoning monitoring wells or placing a groundwater use restriction on the deed before obtaining a final closure.

During the three-month period from October 1, 1998, through December 31, 1998, Commerce closed 146 petroleum sites and DNR closed 178 petroleum sites (116 of which are reconciled with the Commerce database and 62 of which are not). DNR also closed 29 non-petroleum sites during the three months.

**d. The time that it takes to close petroleum discharge sites after the discharges are reported to the state.**

While the report text does not discuss this topic, it contains tables showing how long it took to close sites (Chapter 4, tables 4.3 through 4.5 ), a 25 page list of cases reviewed by DNR from October 1 through December 31, 1998, and a 17 page list of cases reviewed by Commerce during the same time period. The report table 4.3 shows that of the 5,443 closed sites as of December 31, 1998, that have been reconciled by both agencies, 48% (1,914) of the 3,969 closed sites under DNR jurisdiction were closed in less than two years from the time of notification of the discharge to the state (the length of time to closure is not indicated for 87 sites), and 46% (680) of the 1,474 closed sites under Commerce jurisdiction were closed in less than two years from the time of notification (the length of time to closure is not indicated for 43 sites). Commerce has had jurisdiction over medium and low priority sites since July 1, 1996, so some of the 1,474 sites closed under

Commerce jurisdiction between July 1, 1996, and December 31, 1998, may have been active for some time before they were transferred from DNR to Commerce.

The report table 4.5 summarizes the length of time from notification of the discharge to closure for sites closed by the two agencies between October 1, 1998, and December 31, 1998. However, this table does not reconcile with the text description of the total number of sites closed by each agency. DNR has recently indicated that the 166 DNR closures shown in the table for the three months of petroleum sites that are reconciled with the Commerce database, includes 116 petroleum site closures and 50 conditional closures. (DNR indicates that the 50 conditional closures shown in the table are a subset of the 73 conditional closures described in the text, and that the remaining 23 conditional closures are for sites that are unmatched in the DNR database.) Table 4.5 indicates that for sites closed during the three months that are in both the Commerce and DNR databases, DNR closed or conditionally closed 11% of the sites within 24 months after notification of the discharge, and Commerce closed 65% of the sites within 24 months after notification. When the sites that are unmatched in the DNR database are included, DNR closed or conditionally closed 25% of the sites within 24 months after notification.

**e. The progress made by Commerce in using the authority under the PECFA statute in requiring the use of specified service providers in order to reduce costs of cleanups and in requiring owners of petroleum discharge sites to use a public bidding process in order to reduce the costs of cleanups.**

The March, 1999, report states that since the emergency PECFA rule COMM 47, went into effect on April 21, 1998, Commerce has identified 56 sites that are candidates for bidding of the proposed remedial strategy to determine the lowest cost strategy. The original remedial action proposals for these sites totaled over \$12,785,000. Commerce submitted the initial remedial action proposals totaling \$5.5 million for 21 sites for evaluation through competitive bids in October, 1998, and January, 1999, and received low bids totaling less than \$1.6 million, for a potential savings to the PECFA program of \$3.9 million, or approximately 71%.

The report indicates the agencies are working on issues related to the bidding of remedial strategies at sites. First, Commerce and DNR are discussing the quality of the site investigation, and Commerce has begun to notify DNR project managers of sites being sent to the bidding process. Joint Commerce and DNR evaluation of the site investigation has resulted in holding back several sites from the bid process until additional site investigation activities are performed.

Second, while the bidding of a site establishes a maximum reimbursement amount to move the site to closure, there may be sites where the maximum is reached and the site is not yet closed. The Governor's 1999-01 biennial budget includes a recommendation to authorize Commerce to require a fee from persons who submit bids and use the fee revenue to purchase cost-cap insurance for the program. Commerce has met with the site owner and the winning low bidder for the sites bid in the first two rounds. However, the report indicates that approximately half of the site owners are willing to contract with the winning bidder to perform the remedial action activities. The report

states that the effectiveness of the bid process could be severely impacted if site owners are not willing to hire the low bidder. This is because of concerns that owners may choose a consultant other than the winning (low) bidder, submit claims above the capped level and appeal any reductions made by Commerce. Commerce indicates that if site owners are not willing to use the low bidder, it may be necessary for the PECFA program to request statutory authority to require the use of the successful low bidder.

Commerce has identified four potential remedial "bundles," each of which contains three or more properties that will be incorporated into one coordinated remedial effort in an effort to reduce the total site cleanup cost. The report indicates that bundling is in the early stages of implementation, and no specific estimates of cost savings are available.

The report also indicates that another provision in COMM 47 may reduce costs. The rule would exempt sites where cleanup can be completed for \$80,000 or less from a number of bidding requirements and would allow these claimants to receive priority claim review. Between April 21, 1998, when the emergency rule went into effect, and December 31, 1998, 37% (286) of 770 remedial alternatives received by Commerce for review have been requests for the \$80,000 or less capped cost cleanup. In comparison, in the approximately four month period before the emergency rule went into effect, 17% (65) of 390 remedial alternatives received by Commerce for review were expected to cost \$120,000 or less.

**f. A summary of the definitions in the MOU of high, medium and low priority sites and the reasons for those definitions.**

The following definitions of high, medium and low priority sites were included in the May, 1998, MOU.

1. High priority sites (the responsibility of DNR) include any site which meets one or more of the following criteria: (a) has confirmed groundwater contamination where any compound detected is equal to or greater than an established preventive action limit in administrative code NR 140; (b) a hazardous substance is present other than petroleum from a petroleum product storage tank system; and (c) there is contamination to an area of exceptional environmental value where the discharge would pose a greater than normal threat.

2. Medium priority sites (the responsibility of Commerce) include sites where: (a) any confirmed groundwater impacts are less than an established preventive action limit in NR 140; and (b) there is no evidence that the site is contaminated with a hazardous substance other than the petroleum product that was discharged from a petroleum product storage tank system.

3. Low priority sites (the responsibility of Commerce) include sites where there is only petroleum contamination in the soils, no threat to groundwater and no evidence that the site is contaminated by a hazardous substance other than the petroleum product that was discharged from the petroleum storage tank system.

The definitions of medium and high priority sites were changed in January, 1999, through the promulgation of emergency administrative rule Comm 46 (promulgated at the direction of the Joint Committee for Review of Administrative Rules). The definition of medium priority sites (under the responsibility of Commerce) was changed to include sites with groundwater contamination greater than the preventive action limit and less than the enforcement standard. These sites are currently classified as high priority. While the agencies do not know the number of sites that will be reclassified from high to medium priority under this change, DNR and Commerce officials have stated, as a rough guess, that perhaps 5-10% of sites will be affected. DNR staff are currently reviewing case files to determine affected sites, and plan to develop a schedule for the transfer of sites by May 30, 1999. While the report does not describe the details of Comm 46, it should be noted that under Comm 46, sites with contamination less than the enforcement standard would be closed. Comm 46 continues to undergo review by the Joint Committee for Review of Administrative Rules. DNR and Commerce are currently developing procedures for closure of sites with contamination between the preventive action limit and enforcement standard.

**g. If more than 30% of the total known active petroleum discharge sites are classified as high priority, a description of the causes for that number of high priority sites.**

The report shows that 61% of the active sites on the reconciled Commerce and DNR databases are classified as high priority (3,859 of 6,332 reconciled active sites). An additional 21% (1,341) of active sites have an unknown priority and are under the jurisdiction of DNR until the priority is determined. When the sites that have not been ranked are excluded, high priority sites represent 77% of the reconciled and ranked active sites.

The report states that roughly 80% of the high priority sites are classified as high priority solely because of groundwater contamination that exceeds the preventive action limits, 5% solely because of contamination by a hazardous substance in addition to the petroleum product that was discharged from the petroleum storage tank system. Approximately 15% of the high priority sites have both groundwater contamination and contamination from non-petroleum hazardous substances and less than 1% are classified as high priority due to contamination to an area of exceptional environmental value. These percentages are the same as reported in the September, 1998, report.

To date, high priority rankings have primarily been based on: (a) numerical exceedances of groundwater contaminant standards; and (b) the presence of multiple types of contaminants at the site. Some have raised concerns relating to whether: (a) a system that ranks perhaps 70% to 80% of sites as "high" priority is reasonable; and (b) a different definition of the actual threat to public health, safety or welfare and the environment could reduce the percentage of high priority sites.

Comm 46 would shift an undetermined number of high priority sites with groundwater contamination between the preventive action limit and the enforcement standard to medium priority. In addition, the Governor's 1999-01 biennial budget recommends that Commerce be directed to promulgate a rule establishing standards for categorizing sites of petroleum product discharges, and that the rule: (a) incorporate any agreements with DNR on site classification and

any resolution of disagreements by the Secretary of DOA; (b) not provide that all sites at which a groundwater enforcement standard is exceeded be classified as high priority; and (c) classify no more than 50% of sites as high priority.

## **SUMMARY**

The report provides information that generally responds to the requirements of 1997 Act 237. The agencies have made progress in linking the site databases of each agency in order to reconcile the number and classification of sites. While 1997 Act 237 does not direct the agencies to submit additional reports to the Joint Committee on Finance, the MOU states that DNR and Commerce will continue to submit quarterly reports to DOA. It can be expected that future reports by the agencies will provide a clearer understanding of how many sites are administered and closed by each agency, classification of sites, effectiveness of the pilot process for site ranking by consultants, progress on the bidding of the remedial action activities at sites and potential methods of closing sites more quickly where groundwater contamination exceeds preventative action limits but is less than enforcement standards. Continuing discussions related to promulgation of Comm 46 and enactment of a 1999-01 biennial budget will likely require modification of the MOU between the agencies.

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