



State of Wisconsin
2001 - 2002 LEGISLATURE

SOON

LRB-1815/5

RCT:wj&hmb:pg

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(I changed)

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 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 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.

DNR and

who either

within specified periods

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

Insert from p. 5

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.

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

1 101.143 (3) (c) 4. Receive written approval from the department of natural
2 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), from the
3 department of commerce that the remedial action activities performed under subd.
4 3. meet the requirements of s. 292.11.

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

6 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
7 owning a home oil tank system may, with the approval of the department of natural
8 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the department
9 of commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
10 implementing monitoring to ensure the effectiveness of natural attenuation of
11 petroleum product contamination.

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

13 101.143 (3) (cp) 1. Except as provided in subds. 2. to 5., if the department of
14 natural resources or, if the site is covered under s. 101.144 (2) (b) or (c), the
15 department of commerce estimates that the cost to complete a site investigation,
16 remedial action plan and remedial action for an occurrence exceeds \$60,000, the
17 department of commerce shall implement a competitive public bidding process to
18 obtain information to assist in making the determination under par. (cs).

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

20 101.143 (3) (d) *Final review of remedial action activities.* The department of
21 natural resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the
22 department of commerce shall complete a final review of the remedial action
23 activities within 60 days after the claimant notifies the appropriate department that
24 the remedial action activities are completed.

→25 **SECTION 6.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

1 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
2 eligible costs for an award under par. (a) include actual costs or, if the department
3 establishes a usual and customary cost under par. (cm) for an item, usual and
4 customary costs for the following items:

5 **SECTION 7.** 101.143 (4) (cc) of the statutes is created to read:

6 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. a. Except as
7 provided in subd. 2., if an applicant's final claim is submitted more than 60 days after
8 receiving written notification that no further remedial action is necessary with
9 respect to the discharge, interest costs incurred by the applicant after the 60th day
10 after receiving that notification are not eligible costs.

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

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

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

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

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

category one high-cost site, as defined in sub. (2)(a) 1.

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

9 SECTION 8. 101.143 (9m) (g) 2. of the statutes is amended to read:

10 101.143 (9m) (g) 2. Revenue obligations issued under this subsection may not
11 exceed \$270,000,000 \$370,000,000 in principal amount. In addition to this limit on
12 principal amount, the building commission may contract revenue obligations under
13 this subsection as the building commission determines is desirable to fund or refund
14 outstanding revenue obligations, to pay issuance or administrative expenses, to
15 make deposits to reserve funds, or to pay accrued or capitalized interest.

*Insert
p. 1 B*

16 SECTION 9. 101.144 (1) ¹⁴³ ~~(a)~~ ^(ce) of the statutes is created to read:

17 101.144 (1) ~~(a)~~ ^(ce) "High-cost site" means the site of a discharge of a petroleum
18 product from a petroleum storage tank at which more than \$200,000 in eligible costs
19 under s. 101.143 ^{this section.} have been incurred.

20 SECTION 10. 101.144 (2) (a) of the statutes is amended to read:

21 101.144 (2) (a) ~~The department shall administer a program under which~~
22 ~~responsible persons investigate, and take remedial action in response to, those~~
23 ~~discharges of petroleum products from petroleum storage tanks that are covered~~
24 ~~under par. (b) or (c). The department may issue an order requiring a responsible~~
25 ~~person to take remedial action in response to a discharge of a petroleum product from~~

SECTION 10

1 a petroleum storage tank if the discharge is covered under par. (b) or (c). In
2 administering this section, the department shall follow rules promulgated by the
3 department of natural resources for the cleanup of discharges of hazardous
4 substances.

5 SECTION 11. ^{101.143 (12)} ~~101.144 (2) (e)~~ of the statutes is created to read:

6 ^{(d) 143 (12)} ~~101.144 (2) (c)~~ ^{(5) High-cost sites. (a) In this subsection!} The program under this section covers a discharge of a
7 petroleum product from a petroleum storage tank if any of the following applies:

8 1. ^{"Category one high-cost site" means a} ~~The~~ site of ^{the} discharge is a high-cost site on November 30, 2001, ^{for which} and
9 written approval under s. ~~101.143~~ ^{La} (3) (c) 4. ^{that} for the site has not been issued on or before
10 that date. ^{sub.}

11 2. ^{"Category 2 high-cost" site means a} ~~The~~ site of the discharge becomes a high-cost site after November 30, 2001,
12 ^{For which} written approval under s. ~~101.143~~ ^{a sub.} (3) (c) 4. ^{if} for the site has not been issued, and either
13 more than \$400,000 in eligible costs under s. ~~101.143~~ ^{this section} have been incurred for the site
14 or remedial action activities for the site have not been completed within 10 years
15 after the investigation under ~~s. 101.143~~ ^{sub.} (3) (c) 1. is completed.

16 SECTION 12. ~~101.144 (2m)~~ of the statutes is created to read:

17 ~~101.144 (2m) (a)~~ ^(b) Except as provided in par. ^(d) (b), the department, ^{of natural resources} shall do all of
18 the following:

19 1. ^{category one high-cost s} Oversee remedial action activities ^{for the sites described in sub. (2) (c) 4,} so
20 that remedial action activities are completed for at least 15% of those sites in each
21 12-month period and that remedial action activities are completed for each of those
22 sites no later than December 1, 2006, or the last day of the 120th month after the site
23 investigation is completed, whichever is later.

, other than category one high-cost sites over which the department of commerce has jurisdiction under s. 101.144 (2),

other than a category 2 high-cost site over which the department of commerce has jurisdiction under s. 101.144(2), category 2

1 2. Oversee remedial action activities for each site described in sub. (2) (c) 2, so

2 that remedial action activities are completed within 36 months after the site first fits

*Insert
7-3 (4)*

3 the description in sub. (2) (c) 2, *becomes a category 2 high-cost site*

4 (b) Paragraph (a) ^d ~~(a)~~ ^{(b) or (c)} 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, if federal or state financial assistance, other than under this
7 section, has been provided for that expansion or redevelopment.

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

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

13 101.144 (3) (intro.) The department of natural resources may take action under
14 s. 292.11 (7) (a) or may issue an order under s. 292.11 (7) (c) in response to a discharge
15 that is covered under sub. (2) (b) or (c) only if one or more of the following apply:

16 **SECTION 14.** 101.144 (3g) of the statutes is amended to read:

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

1 of commerce and the department of natural resources are unable to reach an
2 agreement, they shall refer the matters on which they are unable to agree to the
3 secretary of administration for resolution. The secretary of administration shall
4 resolve any matters on which the departments disagree in a manner that is
5 consistent with this paragraph. The department of commerce shall promulgate rules
6 incorporating any agreement between the department of commerce and the
7 department of natural resources under this paragraph and any resolution of
8 disagreements between the departments by the secretary of administration under
9 this paragraph.

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

15 (END)

Insert 7-3

(c) Except as provided in par. (d), the department of commerce shall do all of the following:

1. Oversees remedial action activities for category one high-cost sites over which the department has jurisdiction under s. 101.144(2) so that remedial action activities are completed for at least 15% of those sites in each 12 month period and that remedial action activities are completed for each of those sites no later than December 1, 2006, or the last day of the 120th month after the site investigation is completed, whichever is later.

2. Oversees remedial action activities for each category 2 high-cost site over which the department has jurisdiction under s. 101.144(2) so that remedial action activities are completed within 36 months after the site first becomes a category 2 high-cost site.

Tradewell, Becky

From: Wong, Manyee
Sent: Tuesday, January 30, 2001 3:30 PM
To: Tradewell, Becky
Subject: LRB draft 1815

Hi Becky,

For the PECFA draft, we decided to leave in place the provision that require DNR to transfer a site to Commerce if a site is determined to be high cost and has eligible cost over \$400,000 or have not completed the required cleanup activities in 7 years. Commerce will have 3 years to oversee cleanup activities.

We will only change the 75%/25% criteria back to 65%/35% and no transfer of sites determined to be high cost as of November 30, 2001 to Commerce. (Those sites will be grandfathered in so to speak and each agency will have 5 years to get them to complete their required cleanup activities.)

Let me know if you have questions or need clarifications.

Thanks.

Manyee



State of Wisconsin
2001 - 2002 LEGISLATURE

SO ON

LRB-1815/6

RCT:wlj&hmb:pg

Stays (mr)

DOA:.....Wong - PECFA changes concerning 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

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. 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 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 either 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. Under this bill, a high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. The bill imposes requirements on DNR and the department of commerce to oversee cleanups so that cleanup activities are completed at high-cost sites within specified periods, but the requirements do not apply to sites owned by applicants who receive federal or state financial assistance, other than under PECFA, and who either 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 (1) (ce) of the statutes is created to read:

2 101.143 (1) (ce) "High-cost site" means the site of a discharge of a petroleum
3 product from a petroleum storage tank at which more than \$200,000 in eligible costs
4 under this section have been incurred.

5 **SECTION 2.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

6 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
7 eligible costs for an award under par. (a) include actual costs or, if the department
8 establishes a usual and customary cost under par. (cm) for an item, usual and
9 customary costs for the following items:

10 **SECTION 3.** 101.143 (4) (cc) of the statutes is created to read:

11 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. a. Except as
12 provided in subd. 2., if an applicant's final claim is submitted more than 60 days after
13 receiving written notification that no further remedial action is necessary with

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1 respect to the discharge, interest costs incurred by the applicant after the 60th day
2 after receiving that notification are not eligible costs.

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

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

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

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

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

21 3. Except as provided in subd. 2., for a category one high-cost site, as defined
22 in sub. (12) (a) 1., if the first day of the 121st month after the investigation under sub.
23 (3) (c) 1. is completed is before December 1, 2006, subd. 1. b. does not apply and
24 interest costs incurred by the applicant after December 1, 2006, are ineligible costs.

25 SECTION 4. 101.143 (9m) (g) 2. of the statutes is amended to read:

1 101.143 (9m) (g) 2. Revenue obligations issued under this subsection may not
2 exceed ~~\$270,000,000~~ \$370,000,000 in principal amount. In addition to this limit on
3 principal amount, the building commission may contract revenue obligations under
4 this subsection as the building commission determines is desirable to fund or refund
5 outstanding revenue obligations, to pay issuance or administrative expenses, to
6 make deposits to reserve funds, or to pay accrued or capitalized interest.

7 **SECTION 5.** 101.143 (12) of the statutes is created to read:

8 101.143 (12) HIGH-COST SITES. (a) In this subsection:

9 1. "Category one high-cost site" means a site of a discharge that is a high-cost
10 site on November 30, 2001, for which written approval under sub. (3) (c) 4. has not
11 been issued on or before that date.

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

18 (b) Except as provided in par. (d), the department of natural resources shall ~~do~~
19 ~~all of the following:~~

20 ↓
21 Oversee remedial action activities for ~~the~~ category one high-cost sites, other
22 than category one high-cost sites over which the department of commerce has
23 jurisdiction under s. 101.144 (2), so that remedial action activities are completed for
24 at least 15% of those sites in each 12-month period and that remedial action
activities are completed for each of those sites no later than December 1, 2006, or the

1 last day of the 120th month after the site investigation is completed, whichever is
2 later.

3 2. ~~Oversee remedial action activities for each category 2 site, other than a~~
4 ~~category 2 high-cost site over which the department of commerce has jurisdiction~~
5 ~~under s. 101.144 (2), so that remedial action activities are completed within 36~~
6 ~~months after the site first becomes a category 2 high-cost site.~~

7 (c) Except as provided in par. (d), the department of commerce shall do all of
8 the following:

9 1. Oversee remedial action activities for category one high-cost sites over
10 which the department has jurisdiction under s. 101.144 (2) so that remedial action
11 activities are completed for at least 15% of those sites in each 12 month period and
12 that remedial action activities are completed for each of those sites no later than
13 December 1, 2006, or the last day of the 120th month after the site investigation is
14 completed, whichever is later.

15 2. Oversee remedial action activities for each category 2 high-cost site ~~over~~
16 ~~which the department has jurisdiction under s. 101.144 (2) so that remedial action~~
17 ~~activities are completed within 36 months after the site first becomes a category 2~~
18 ~~high-cost site.~~

19 (d) Paragraph ^{s - and} (b) ~~or~~ (c) ~~do~~ not apply to any of the following:

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

23 2. A site for which the person conducting the remedial action activities is
24 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

(END)

Insert 6-2

The inserts to 16 are from 14

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

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

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

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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.

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*Insert
1
2-4
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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.

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



Insert 2-4, continued

1 101.143 (3) (c) 4. Receive written approval from the department of natural
2 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), from the
3 department of commerce that the remedial action activities performed under subd.
4 3. meet the requirements of s. 292.11.

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

6 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
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8 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the department
9 of commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
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17 department of commerce shall implement a competitive public bidding process to
18 obtain information to assist in making the determination under par. (cs).

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

20 101.143 (3) (d) *Final review of remedial action activities.* The department of
21 natural resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the
22 department of commerce shall complete a final review of the remedial action
23 activities within 60 days after the claimant notifies the appropriate department that
24 the remedial action activities are completed. *end of insert 2-4*

25 ~~**SECTION 6.** 101.143 (4) (b) (intro.) of the statutes is amended to read:~~

1 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
2 eligible costs for an award under par. (a) include actual costs or, if the department
3 establishes a usual and customary cost under par. (cm) for an item, usual and
4 customary costs for the following items:

5 **SECTION 7.** 101.143 (4) (cc) of the statutes is created to read:

6 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. a. Except as
7 provided in subd. 2., if an applicant's final claim is submitted more than 60 days after
8 receiving written notification that no further remedial action is necessary with
9 respect to the discharge, interest costs incurred by the applicant after the 60th day
10 after receiving that notification are not eligible costs.

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

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

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

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

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

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

9 SECTION 8. 101.143 (9m) (g) 2. of the statutes is amended to read:

10 101.143 (9m) (g) 2. Revenue obligations issued under this subsection may not
11 exceed ~~\$270,000,000~~ \$370,000,000 in principal amount. In addition to this limit on
12 principal amount, the building commission may contract revenue obligations under
13 this subsection as the building commission determines is desirable to fund or refund
14 outstanding revenue obligations, to pay issuance or administrative expenses, to
15 make deposits to reserve funds, or to pay accrued or capitalized interest.

16 SECTION 9. 101.144 (1) (ao) of the statutes is created to read:

17 101.144 (1) (ao) "High-cost site" means the site of a discharge of a petroleum
18 product from a petroleum storage tank at which more than \$200,000 in eligible costs
19 under s. 101.143 have been incurred.

20 SECTION 10. 101.144 (2) (a) of the statutes is amended to read:

*Insert
6-2*

21 101.144 (2) (a) The department shall administer a program under which
22 responsible persons investigate, and take remedial action in response to, those
23 discharges of petroleum products from petroleum storage tanks that are covered
24 under par. (b) or (c). The department may issue an order requiring a responsible
25 person to take remedial action in response to a discharge of a petroleum product from



Insert 6-2, continued

1 a petroleum storage tank if the discharge is covered under par. (b) or (c). In
2 administering this section, the department shall follow rules promulgated by the
3 department of natural resources for the cleanup of discharges of hazardous
4 substances.

5 **SECTION 11.** 101.144 (2) (c) of the statutes is created to read:

6 101.144 (2) (c) The program under this section covers a discharge of a
7 petroleum product from a petroleum storage tank if any of the following applies:

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

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

16 **SECTION 12.** 101.144 (2m) of the statutes is created to read:

17 101.144 (2m) (a) Except as provided in par. (b), the department shall do all of
18 the following:

19 1. ~~Oversee remedial action activities for the sites described in sub. (2) (c) 1. so~~
20 ~~that remedial action activities are completed for at least 15% of those sites in each~~
21 ~~12-month period and that remedial action activities are completed for each of those~~
22 ~~sites no later than December 1, 2006, or the last day of the 120th month after the site~~
23 ~~investigation is completed, whichever is later.~~

*the site of the discharge is a
category 2 high-cost
site, as defined
in s.
101.143(12)
(a)2.*



Insert 6-2, continued

1 2. Oversee remedial action activities for each site described in sub. (2) (c) 2. so
2 that remedial action activities are completed within 36 months after the site first fits
3 the description in sub. (2) (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, if federal or state financial assistance, other than under this
7 section, has been provided for that expansion or redevelopment.

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

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

13 101.144 (3) (intro.) The department of natural resources may take action under
14 s. 292.11 (7) (a) or may issue an order under s. 292.11 (7) (c) in response to a discharge
15 that is covered under sub. (2) (b) or (c) only if one or more of the following apply:

16 ~~**SECTION 14.** 101.144 (3g) of the statutes is amended to read:~~

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

*end of insert
6-2*

1 of commerce and the department of natural resources are unable to reach an
2 agreement, they shall refer the matters on which they are unable to agree to the
3 secretary of administration for resolution. The secretary of administration shall
4 resolve any matters on which the departments disagree in a manner that is
5 consistent with this paragraph. The department of commerce shall promulgate rules
6 incorporating any agreement between the department of commerce and the
7 department of natural resources under this paragraph and any resolution of
8 disagreements between the departments by the secretary of administration under
9 this paragraph.

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

15 (END)

-18/5/6dn

Note

Dack

RET hmb

Mandy Wang:

Please review the entire draft very carefully to ensure that it does what is intended.

RET

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1815/6dn
RCT:hmh:pg

January 30, 2001

Manyee Wong:

Please review the entire draft very carefully to ensure that it does what is intended.

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

Tradewell, Becky

From: Wong, Manyee
Sent: Wednesday, January 31, 2001 6:00 PM
To: Tradewell, Becky
Subject: PECFA draft 1815

Hi Becky,

I have reviewed the draft. Everything seems to be ok except for a couple of minor things:

- Section 5 and 13 - Presumably DNR would have these high-cost sites at the outset. So I am not sure if bidding or emergency action on these sites makes sense....
- Page 6, line 1 - It should be 7 years rather than 10 years.

Thanks.
Manyee

Tradewell, Becky

From: Tradewell, Becky
Sent: Thursday, February 01, 2001 12:19 PM
To: Wong, Manyee
Subject: FW: PECFA draft 1815

Manyee,

I just realized that when I sent you this reply earlier I was thinking exactly backwards about s. 101.144 (3). The provision is actually a restriction on the authority that DNR would otherwise have under s. 292.11. If these sites are not included in s. 101.144 (3), then s. 292.11 (7) applies to DNR's actions with respect to these sites the same as it would if Commerce did not have PECFA jurisdiction. Thus, I do not think it would be consistent with the intent of the draft to delete section 13.

Please let me know if I have not explained this clearly.

Becky
-----Original Message-----

From: Tradewell, Becky
Sent: Thursday, February 01, 2001 11:00 AM
To: Wong, Manyee
Subject: RE: PECFA draft 1815

Manyee,

I can see taking the reference out of section 5, but section 13 seems different. Section 101.144 (3) allows DNR to make orders under s. 292.11 (7) (c) if the responsible party is not doing what it should to complete a cleanup. That may be just what is needed for a site where the cleanup is going too slowly. Or perhaps a new problem might be discovered at one of these sites, like the contamination is getting close to a well, and an order would be appropriate.

Let me know what you think or if you have questions.

Becky
-----Original Message-----

From: Wong, Manyee
Sent: Wednesday, January 31, 2001 6:00 PM
To: Tradewell, Becky
Subject: PECFA draft 1815

Hi Becky,

I have reviewed the draft. Everything seems to be ok except for a couple of minor things:

- Section 5 and 13 - Presumably DNR would have these high-cost sites at the outset. So I am not sure if bidding or emergency action on these sites makes sense....
- Page 6, line 1 - It should be 7 years rather than 10 years.

Thanks.
Manyee



State of Wisconsin
2001 - 2002 LEGISLATURE

SOON

LRB-1815/7
RCT:wlj&hmt/BA

YMC

DOA:.....Wong - PECFA changes concerning 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 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. 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 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 either 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. Under this bill, a high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. 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 DNR and the department of commerce to oversee cleanups so that cleanup activities are completed at high-cost sites within specified periods, but the requirements do not apply to sites owned by applicants who receive federal or state financial assistance, other than under PECFA, and who either 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 (1) (ce) of the statutes is created to read:

2 101.143 (1) (ce) "High-cost site" means the site of a discharge of a petroleum
3 product from a petroleum storage tank at which more than \$200,000 in eligible costs
4 under this section have been incurred.

5 **SECTION 2.** 101.143 (2e) (c) of the statutes is amended to read:

6 101.143 (2e) (c) The department of natural resources or, if the discharge is
7 covered under s. 101.144 (2) (b) or (c), the department of commerce shall apply the
8 method in the rules promulgated under par. (b) to determine the risk posed by a
9 discharge for which the department of commerce receives notification under sub. (3)
10 (a) 3.

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

1 101.143 (3) (c) 4. Receive written approval from the department of natural
2 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), from the
3 department of commerce that the remedial action activities performed under subd.
4 3. meet the requirements of s. 292.11.

5 **SECTION 4.** 101.143 (3) (cm) of the statutes is amended to read:

6 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
7 owning a home oil tank system may, with the approval of the department of natural
8 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the department
9 of commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
10 implementing monitoring to ensure the effectiveness of natural attenuation of
11 petroleum product contamination.

12 **SECTION 5.** 101.143 (3) (cp) 1. of the statutes is amended to read:

13 ~~101.143 (3) (cp) 1. Except as provided in subds. 2. to 5., if the department of~~
14 ~~natural resources or, if the site is covered under s. 101.144 (2) (b) or (c), the~~
15 ~~department of commerce estimates that the cost to complete a site investigation,~~
16 ~~remedial action plan and remedial action for an occurrence exceeds \$60,000, the~~
17 ~~department of commerce shall implement a competitive public bidding process to~~
18 ~~obtain information to assist in making the determination under par. (cs).~~

19 **SECTION 6.** 101.143 (3) (d) of the statutes is amended to read:

20 101.143 (3) (d) *Final review of remedial action activities.* The department of
21 natural resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the
22 department of commerce shall complete a final review of the remedial action
23 activities within 60 days after the claimant notifies the appropriate department that
24 the remedial action activities are completed.

25 **SECTION 7.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

1 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
2 eligible costs for an award under par. (a) include actual costs or, if the department
3 establishes a usual and customary cost under par. (cm) for an item, usual and
4 customary costs for the following items:

5 **SECTION 8.** 101.143 (4) (cc) of the statutes is created to read:

6 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. a. Except as
7 provided in subd. 2., if an applicant's final claim is submitted more than 60 days after
8 receiving written notification that no further remedial action is necessary with
9 respect to the discharge, interest costs incurred by the applicant after the 60th day
10 after receiving that notification are not eligible costs.

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

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

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

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

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

5 3. Except as provided in subd. 2., for a category one high-cost site, as defined
6 in sub. (12) (a) 1., if the first day of the 121st month after the investigation under sub.
7 (3) (c) 1. is completed is before December 1, 2006, subd. 1. b. does not apply and
8 interest costs incurred by the applicant after December 1, 2006, are ineligible costs.

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

10 101.143 (9m) (g) 2. Revenue obligations issued under this subsection may not
11 exceed ~~\$270,000,000~~ \$370,000,000 in principal amount. In addition to this limit on
12 principal amount, the building commission may contract revenue obligations under
13 this subsection as the building commission determines is desirable to fund or refund
14 outstanding revenue obligations, to pay issuance or administrative expenses, to
15 make deposits to reserve funds, or to pay accrued or capitalized interest.

16 **SECTION 10.** 101.143 (12) of the statutes is created to read:

17 101.143 (12) HIGH-COST SITES. (a) In this subsection:

18 1. "Category one high-cost site" means a site of a discharge that is a high-cost
19 site on November 30, 2001, for which written approval under sub. (3) (c) 4. has not
20 been issued on or before that date.

21 2. "Category 2 high-cost site" means a site of a discharge that becomes a
22 high-cost site after November 30, 2001, for which written approval under sub. (3) (c)
23 4. has not been issued, if either more than \$400,000 in eligible costs under this
24 section have been incurred for the site or remedial action activities for the site have

1 not been completed within 10⁷ years after the investigation under sub. (3) (c) 1. is
2 completed.

3 (b) Except as provided in par. (d), the department of natural resources shall
4 oversee remedial action activities for category one high-cost sites, other than
5 category one high-cost sites over which the department of commerce has jurisdiction
6 under s. 101.144 (2), so that remedial action activities are completed for at least 15%
7 of those sites in each 12-month period and that remedial action activities are
8 completed for each of those sites no later than December 1, 2006, or the last day of
9 the 120th month after the site investigation is completed, whichever is later.

10 (c) Except as provided in par. (d), the department of commerce shall do all of
11 the following:

12 1. Oversee remedial action activities for category one high-cost sites over
13 which the department has jurisdiction under s. 101.144 (2) so that remedial action
14 activities are completed for at least 15% of those sites in each 12⁷ month period and
15 that remedial action activities are completed for each of those sites no later than
16 December 1, 2006, or the last day of the 120th month after the site investigation is
17 completed, whichever is later.

18 2. Oversee remedial action activities for each category 2 high-cost site so that
19 remedial action activities are completed within 36 months after the site first becomes
20 a category 2 high-cost site.

21 (d) Paragraphs (b) and (c) does not apply to any of the following:

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

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

5 **SECTION 11.** 101.144 (2) (a) of the statutes is amended to read:

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

15 **SECTION 12.** 101.144 (2) (c) of the statutes is created to read:

16 101.144 (2) (c) The program under this section covers a discharge of a
17 petroleum product from a petroleum storage tank if the site of the discharge is a
18 category 2 high-cost site, as defined in s. 101.143 (12) (a) 2.

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

20 101.144 (3) (intro.) The department of natural resources may take action under
21 s. 292.11 (7) (a) or may issue an order under s. 292.11 (7) (c) in response to a discharge
22 that is covered under sub. (2) (b) or (c) only if one or more of the following apply:

23

(END)



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

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

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. 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 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 either 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. Under this bill, a high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. 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 DNR and the department of commerce to oversee cleanups so that cleanup activities are completed at high-cost sites within specified periods, but the requirements do not apply to sites owned by applicants who receive federal or state financial assistance, other than under PECFA, and who either 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 (1) (ce) of the statutes is created to read:

2 101.143 (1) (ce) "High-cost site" means the site of a discharge of a petroleum
3 product from a petroleum storage tank at which more than \$200,000 in eligible costs
4 under this section have been incurred.

5 **SECTION 2.** 101.143 (2e) (c) of the statutes is amended to read:

6 101.143 (2e) (c) The department of natural resources or, if the discharge is
7 covered under s. 101.144 (2) (b) or (c), the department of commerce shall apply the
8 method in the rules promulgated under par. (b) to determine the risk posed by a
9 discharge for which the department of commerce receives notification under sub. (3)
10 (a) 3.

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

1 101.143 (3) (c) 4. Receive written approval from the department of natural
2 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), from the
3 department of commerce that the remedial action activities performed under subd.
4 3. meet the requirements of s. 292.11.

5 **SECTION 4.** 101.143 (3) (cm) of the statutes is amended to read:

6 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
7 owning a home oil tank system may, with the approval of the department of natural
8 resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the department
9 of commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
10 implementing monitoring to ensure the effectiveness of natural attenuation of
11 petroleum product contamination.

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

13 101.143 (3) (d) *Final review of remedial action activities.* The department of
14 natural resources or, if the discharge is covered under s. 101.144 (2) (b) or (c), the
15 department of commerce shall complete a final review of the remedial action
16 activities within 60 days after the claimant notifies the appropriate department that
17 the remedial action activities are completed.

18 **SECTION 6.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

19 101.143 (4) (b) *Eligible costs.* (intro.) Except as provided in par. (c) or (cc),
20 eligible costs for an award under par. (a) include actual costs or, if the department
21 establishes a usual and customary cost under par. (cm) for an item, usual and
22 customary costs for the following items:

23 **SECTION 7.** 101.143 (4) (cc) of the statutes is created to read:

24 101.143 (4) (cc) *Ineligibility for interest reimbursement.* 1. a. Except as
25 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 subd. 1. a.,
12 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 category one high-cost site, as defined
23 in sub. (12) (a) 1., if the first day of the 121st month after the investigation under sub.
24 (3) (c) 1. is completed is before December 1, 2006, subd. 1. b. does not apply, and
25 interest costs incurred by the applicant after December 1, 2006, are ineligible costs.

1 **SECTION 8.** 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 9.** 101.143 (12) of the statutes is created to read:

9 101.143 (12) HIGH-COST SITES. (a) In this subsection:

10 1. "Category one high-cost site" means a site of a discharge that is a high-cost
11 site on November 30, 2001, for which written approval under sub. (3) (c) 4. has not
12 been issued on or before that date.

13 2. "Category 2 high-cost site" means a site of a discharge that becomes a
14 high-cost site after November 30, 2001, for which written approval under sub. (3) (c)
15 4. has not been issued, if either more than \$400,000 in eligible costs under this
16 section have been incurred for the site or remedial action activities for the site have
17 not been completed within 7 years after the investigation under sub. (3) (c) 1. is
18 completed.

19 (b) Except as provided in par. (d), the department of natural resources shall
20 oversee remedial action activities for category one high-cost sites, other than
21 category one high-cost sites over which the department of commerce has jurisdiction
22 under s. 101.144 (2), so that remedial action activities are completed for at least 15%
23 of those sites in each 12-month period and that remedial action activities are
24 completed for each of those sites no later than December 1, 2006, or the last day of
25 the 120th month after the site investigation is completed, whichever is later.

1 (c) Except as provided in par. (d), the department of commerce shall do all of
2 the following:

3 1. Oversee remedial action activities for category one high-cost sites over
4 which the department has jurisdiction under s. 101.144 (2) so that remedial action
5 activities are completed for at least 15% of those sites in each 12-month period and
6 that remedial action activities are completed for each of those sites no later than
7 December 1, 2006, or the last day of the 120th month after the site investigation is
8 completed, whichever is later.

9 2. Oversee remedial action activities for each category 2 high-cost site so that
10 remedial action activities are completed within 36 months after the site first becomes
11 a category 2 high-cost site.

12 (d) Paragraphs (b) and (c) does not apply to any of the following:

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

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

20 **SECTION 10.** 101.144 (2) (a) of the statutes is amended to read:

21 101.144 (2) (a) The department shall administer a program under which
22 responsible persons investigate, and take remedial action in response to, those
23 discharges of petroleum products from petroleum storage tanks that are covered
24 under par. (b) or (c). The department may issue an order requiring a responsible
25 person to take remedial action in response to a discharge of a petroleum product from

1 a petroleum storage tank if the discharge is covered under par. (b) or (c). In
2 administering this section, the department shall follow rules promulgated by the
3 department of natural resources for the cleanup of discharges of hazardous
4 substances.

5 **SECTION 11.** 101.144 (2) (c) of the statutes is created to read:

6 101.144 (2) (c) The program under this section covers a discharge of a
7 petroleum product from a petroleum storage tank if the site of the discharge is a
8 category 2 high-cost site, as defined in s. 101.143 (12) (a) 2.

9 **SECTION 12.** 101.144 (3) (intro.) of the statutes is amended to read:

10 101.144 (3) (intro.) The department of natural resources may take action under
11 s. 292.11 (7) (a) or may issue an order under s. 292.11 (7) (c) in response to a discharge
12 that is covered under sub. (2) (b) or (c) only if one or more of the following apply:

13

(END)