



**Wisconsin State Senate**

*Office of the Chief Clerk*

**State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882**

*Aug 15*

*The attached was  
dropped off at our office  
this morning. I thought  
the committee on Universities  
would be the most  
appropriate place to  
send it!*

*Norm*

*6-1803*

*DISCUSSION DRAFT*

TO: Distribution List

FROM: O. Gallun, Life Member  
Alumni Association  
University of Wisconsin *OG*

DATE: August 15, 2002

SUBJECT: A Review of the Structure for the University of Wisconsin Board  
of Regents with Recommendations

Oversight

The story of governance for colleges and universities in the United States is as old as our Union itself, and steeped in the process of meddling, conflict and resolution. Early eastern colleges of the 1700's had guardianship functions which were involved in a process of segmenting the proper functions for church and state within the oversight structure, while developing a body of authority independent from the state. Later in the 1800's, schools in the then west, developed stewardship authority to further dilute the process of obtruding with education. In this case however, the offending bodies were the notoriously political and inconsistent territorial legislatures.

The early governance of Land Grants chartered under the 1862 Act can be generously described as unstable. Their management involved much confusion and dispute. 1

Between 1920 and 1960, the United States again experienced numerous incidents of excessive tampering with education. This time the offenders were governors from various states and the expressed purpose was social policy. 2

(1) In the early days, and in a few instances persisting until relatively recent times, these institutions were sometimes held to be private corporations, and treated as such. (2) In few states they are not recognized as having any corporate identity apart from that of the state, and are consistently treated as non-corporate departments of the state government. (3) In a majority of the states at present, the institutions are strictly public corporations (technically designated as quasi-corporation), and largely or wholly subject to control the legislatures; and (4) in a few states they are public corporations by virtue of the state constitution, possessing a sphere of authority within which neither the legislature nor the executive may interfere, and in substance constituting a fourth coordinate arm of the state government. 3

In recent decades, there is one factor which has effected oversight in general and one factor that has effected UW oversight specifically. In the mid-1980's, the United States initiated a policy of deregulation of prices. This caused a more concentrated and consistent level of competition within organizations. The response by organizations at the governance level has been to narrow or limit the size of their group for stronger focus and direction.

typical board 15 in 1988, 13 in 1993 and 12 in 1998 4

In Wisconsin, we are emerging from a period of political leadership by one governor and party that is unprecedented in modern times. This period of political tenure has allowed one representative party to make regent appointments well in excess of what might be considered prudent organizational practice and past partisan politics, into that dangerous field of meddling that can have so many severe and unforeseen consequences.

The purpose of this *Discussion Draft* is to review the current structure of the University of Wisconsin Board of Regents and propose recommendations for a focused and efficient process with a balanced structure into the future. In so doing immunizing the organization from further uncertainty and risk associated with such political motivations.

### Regents

While our modern university and its antecedents have had a stewardship function for decades, the genesis of the current Regent structure is to be found in the merger of the University of Wisconsin and the State University System in 1971. The purpose of the current structure is rooted in a negotiated proportional representation of the merging governance groups in 1971. Today, we still operate under the structure.

Board of regents of the university of Wisconsin system: creation. There is created a board of regents of the university of Wisconsin system consisting of the state superintendent of public instruction, the president, or by his or her designation another member, of the technical college system board and 14 citizen members appointed for staggered 7-year terms, and a student enrolled at least half-time and in good academic standing at an institution within the university of Wisconsin system who is at least 18 years old and a resident of this state, for a 2-year term. The student member may be selected from recommendations made by elected representatives of student governments as institutions within the university of Wisconsin system. The governor may not appoint a student member from the same institution in any 2 consecutive terms. If a student member loses the status upon which the appointment was based, he or she shall cease to be a member of the board of regents.

[*Wisconsin Statute Sec. 15.91 (1997)*]

## Evaluation

The current structure exposes the administrative and educational functions of the university to a number of significant weaknesses that should be further evaluated and corrected. The size of the board 17, is certainly over and above the size for what has become the norm or trend in oversight functions since deregulation of the 1980's. The size of the board, coupled with the citizen requirement, creates the unenviable task of finding and filling positions from within the state with individuals who might not have a scope of experience in functions and markets commensurate with the responsibilities of an enterprise the scope and complexity of our educational system here in Wisconsin.

The legislated seven year term for Regents leads to fragmented tenures that are not tied to any democratic process, such as elections. The independence of the recommendation-nomination-appointment process should be clarified and strengthened. These are all factors that add to significant uncertainty and inefficiency in an organization which is detrimental to competitive efforts.

## Model

Reference is made to Appendix A with a short schema for comparable educational guardianship structures. In addition, mention is made of the University of Michigan structure and its leadership role in the 1850's for educational independence and excellence. For our purpose, the structure and components of this regent group is more significant to the discussion than the constitutional action providing the authority. 5

## Size

The oversight functions of the University of Nebraska (12), Rutgers, the State University of New Jersey (11), the University of Michigan and Michigan State University (8) are attractive.

## Structure

The group composition qualities (subset) that this writer believes can offer the University of Wisconsin effective options and benefits are Nebraska (8/4), Rutgers (6/5) and to some extent, the University of California (18/7).

The following are two statutes from the state of Michigan.

Candidates for boards of state universities; nomination at fall state conventions. At its fall state convention each political party may nominate 2 candidates for membership to the board of regent of the University of Michigan, 2 candidates for membership on the boards of trustees of Michigan State University and 2 candidates for

membership on the board of governors of Wayne State University. Nomination to membership on the board of regents of the University of Michigan shall occur in 1966 and every second year thereafter. Nomination of the board of trustees of Michigan State University and to the board of governors of Wayne State University should occur in 1964 and every second year thereafter.

*[Michigan Compiled Law Sec. 168.282 (1963)]*

State board of education and boards of state universities; terms of office. Subject to section 286a, the term of office of members of the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University and the board of governors of Wayne State University shall be 8 years and shall begin at 12 noon on January 1 next following their election. The terms of office of members of said boards shall continue until successor is elected and qualified.

*[Michigan Compiled Law Sec. 168.289 (1963)]*

### Eligibility

Presently, the states of Wisconsin and Michigan require regents to be citizens of the state. California and New Jersey do not require citizenship for participation in the governance function. The history of the University of Wisconsin has numerous references through the decades to alumni as Regents. The University of Ohio has had a long standing policy that a majority of the Regents of the school must be alumni. 6

Eligibility as applied in this instance is to an inclusive rather than exclusive. A citizen of the state and alumnus of the school could be eligible under all three categories.

### Proposal

<u>Group</u>	<u>Eligibility</u>	<u>Number</u>	<u>Term</u>
1	Citizenship	6	8 years
2	Alumnus	3	4 years
3	Standing	2	8 years
4	Standing	1	2 years

### Observation

The key in Wisconsin is to separate the recommendation-nomination-appointment process, while balancing the nomination results. The nomination process can be like Michigan, coming out of political parties or from the state legislature. Since nominations would be staggered on a two year basis, the political parties or legislature could nominate two citizens, one representing each political party, every two years.

As it is expected that the Board of Regents would consult with alumni organizations prior to making a nomination, it might be more practical for the legislature to recommend directly to the Regents, who would then make nominations to the governor. Do not believe that it is appropriate for the political parties to make recommendations directly to the Regents.

One competitive advantage that Wisconsin possesses over Michigan is a stronger practicing legal profession. The implementation process in Wisconsin can be streamlined and efficient as opposed to the lengthy constitutional process of Michigan. A well crafted *Memorandum of Agreement* between the Board of Regents, The Legislature and the Governor's Office would be the foundation document. The *MOA* would cover the current structure, process of change, and operating basis for the new appointment process and board structure in detail. The legislature could then amend the law based on eligibility criteria presented above.

Prototype

The following is a sample of the proposed regent group composition with three different *potential tracks* to appointment. Reference is made to Appendix B,C and D.

<u>Regent/Term</u>	<u>Eligibility</u>	<u>Recommendation</u>	<u>Nomination</u>	<u>Appointment</u>
<i>TRACK I</i>				
1/8	Citizenship	Political Parties	Legislature	Governor
2/8	Citizenship	Political Parties	Legislature	Governor
3/8	Citizenship	Political Parties	Legislature	Governor
4/8	Pub Ins	Standing	BOR	Governor
<i>TRACK II</i>				
5/8	Citizenship	Legislature	BOR	Governor
6/8	Citizenship	Legislature	BOR	Governor
7/8	Citizenship	Legislature	BOR	Governor
8/8	Pres TC	Standing	BOR	Governor
<i>TRACK III</i>				
9/4	Alumnus	Organizations	BOR	Governor
10/4	Alumnus	Organizations	BOR	Governor
11/4	Alumnus	Organizations	BOR	Governor
12/2	Student	Standing	BOR	Governor

I believe that boards constituted primarily through a self-perpetuating procedure are less likely to have their focus preempted by or subjugated to the motivations and influences of politicians and political parties that are prompted by considerations irrelevant to the institutions involved. 7

Distribution List:

- Board of Regents; Alumni Association & Clubs;
- ✓ Wisconsin State Senate; Wisconsin Assembly.

Notes

1. And., 9.
2. Aron., 341. Shekl., 329-50.
3. Dur., 160.
4. Mon. & Min., 166.
5. Shekl., 328.
6. See Curt. & Carst. and Cron. & Jenk.. Oliv., 130-8.
7. And., 18.

Reading List

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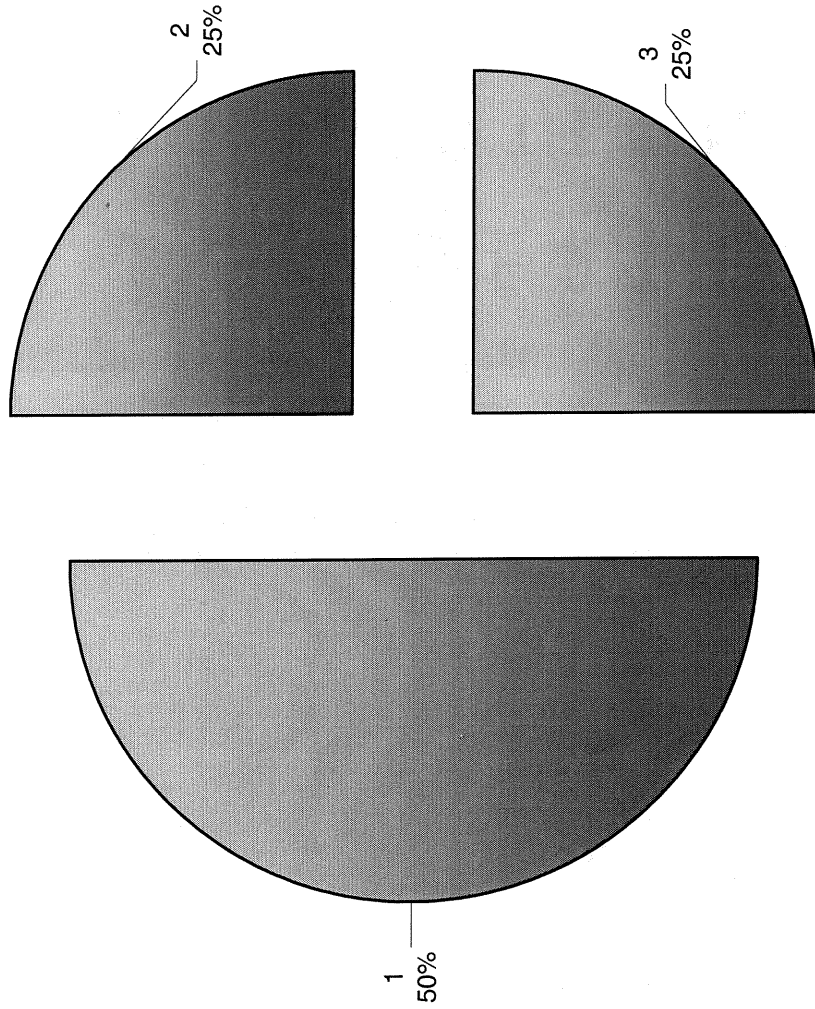
Appendix A

Guardianship	Number Voting	Limits & (Non-voting)	Eligibility	Specifics	Other
Rutgers, The State University of New Jersey Board of Governors	11	6 year term (2) (1)	No citizenship  Faculty Student	6 nominated by Governor, confirmed by senate 5 nominated from Board of Trustees	Board of Trustees 59 -25 Charter 20 must be alumni 3 must be women
California Regents	18	12 year term (1)	No citizenship  Student	Appointed by Governor	8 ex-officio members who are state office holders.
U. of Michigan Regents & Michigan State Trustee's	8	8 year term	Citizenship	Nominate at political party convention 2 from each party can write- in. Elected.	Election  Both schools administered from same state policy
Nebraska Regents	8	6 year term (4)	Citizenship  Student term of office	Elected from districts, voting one from each campus	Only student body presidents?
Wisconsin Regents	17	7 year term	Citizenship	Appointed by governor	



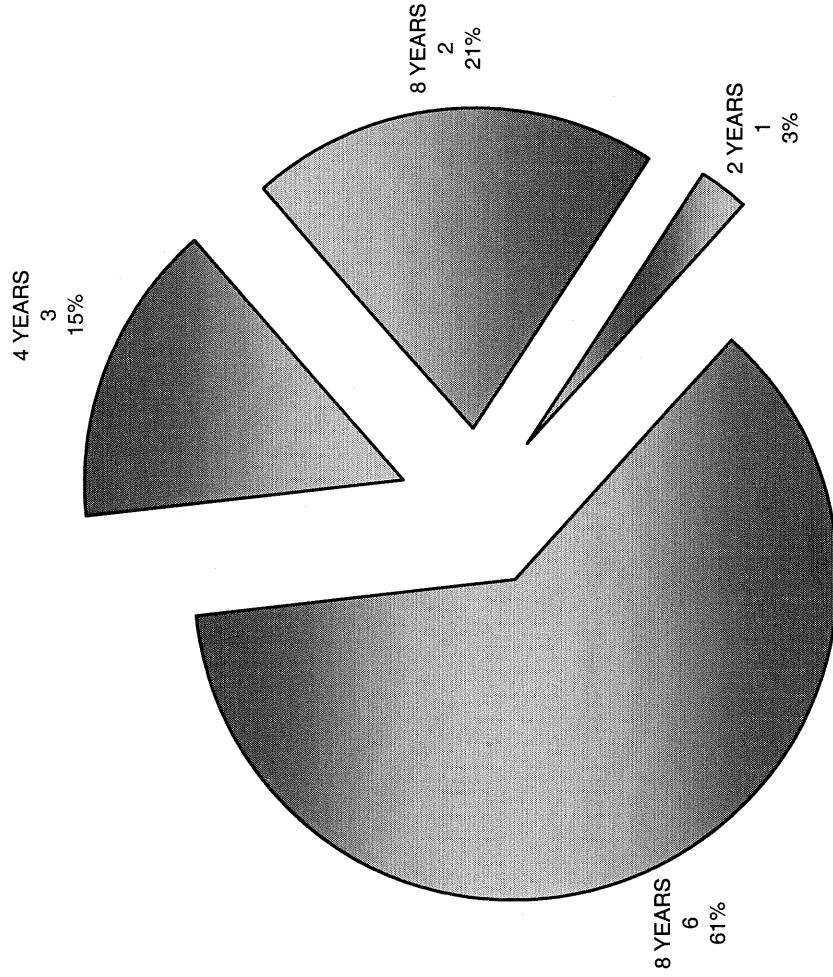
**Appendix B**  
**Percentage of Total Regents by Eligibility & Nomination**

Political	BOR	BOR
1	2	3
Citizenship	Alumnus	Standing

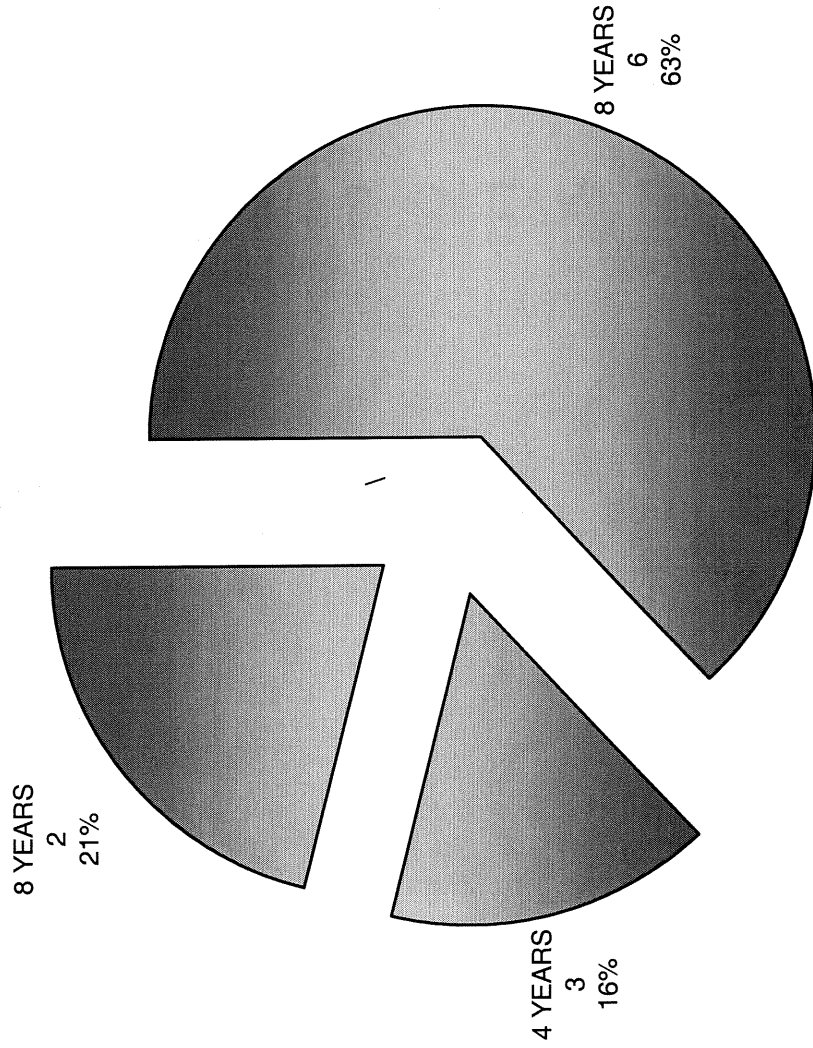
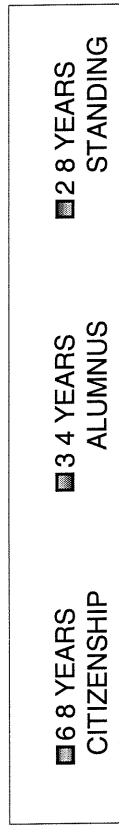


**Appendix C**  
**Percentage of Total Terms for Regents by Eligibility**

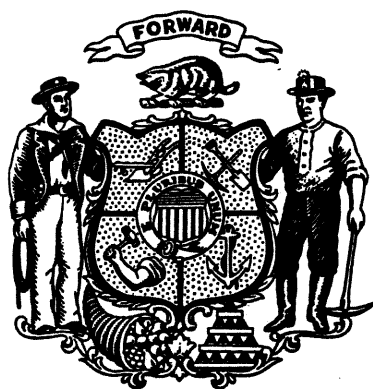
6 8 YEARS CITIZENSHIP	3 4 YEARS ALUMNUS	2 8 YEARS STANDING	1 2 YEARS STANDING
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**Appendix D**  
**Percentage Regent Voting Power by Eligibility**



*END*



*END*



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Scott McCallum, Governor  
Philip Edw. Albert, Secretary

March 11, 2002

The Honorable Brian Burke  
Senate Chair  
Joint Committee on Finance  
Room 317 East, State Capitol  
Madison, WI 53702

The Honorable John Gard  
Assembly Chair  
Joint Committee on Finance  
Room 308 East, State Capitol  
Madison, WI 53702

The Honorable Gary George  
Senate Chair  
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Dear Co-Chairs and Chief Clerks:

The 1999-2000 Biennial Budget bill contained a provision that instructed the Department of Commerce to evaluate the operation of section 101.143(4)(cm) of the statutes and to report the results of the evaluation to the joint legislative audit committee, to the joint committee on finance and to the appropriate standing committees of the legislature, no later than the first day of the 14th month beginning after the effective date of this subsection.

Although the department recognizes the importance of the development and evaluation of a usual and customary costs schedule, it has encountered difficulties in developing data necessary to create such a schedule based on past costs. As a result, we are still in the process of fully implementing the usual and customary cost schedule described in section 101.143(4)(cm). Based on early analysis, the department did implement a competitive bidding process for all commodity services to obtain market-driven cost data. Having now developed an approach to determining usual and customary costs with limited data, the department is reporting on its schedule for full implementation including a date for evaluating the effects of the schedule of costs.

The department has developed a draft schedule of usual and customary costs for consultant activities from available data on hourly rates for consultant employees and from estimates of the typical hours involved in each activity. Estimating is the customary method in the industry for creating budgets for such activities. The department has used staff with experience in the consulting field to estimate the time typically involved in key activities. It proposes to obtain additional input from an advisory committee that includes staff from consulting firms to further refine the usual and customary cost schedule before implementing the schedule by administrative rule.

*Gov. Ops.*

In the attached report, the department has also identified potential implementation problems. This will enable the department to determine what data can be gathered during implementation to evaluate the impact of those problems.

We appreciate your efforts to control costs in the PECFA program and are available to provide any additional information that you might wish regarding current operations and future evaluation reports relating to usual and customary costs.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Edw. Albert". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Philip Edw. Albert  
Secretary

## ESTABLISHMENT OF A USUAL AND CUSTOMARY COST SCHEDULE FOR SERVICES REIMBURSED BY THE PECFA PROGRAM

### Background

In 1991 Wis. Act 39 the Department of Industry, Labor and Human Relations was given the authority to establish a schedule of usual and customary costs<sup>1</sup> for any of the items listed in §101.143(4)(b) as eligible remedial activities.<sup>2</sup> At that time, the department was preparing its first administrative rules for the program and consulted with major contributors to the Wisconsin Medical Assistance program regarding successful approaches to cost control. Based on those discussions as well as on a review of early program developments in other state programs, the department elected to focus its cost control efforts for consulting costs primarily on cost caps and requirements to obtain prior authorization from the department to exceed caps.

The first rules adopted as emergency rules in January 1993 and as permanent rules in March 1994 provided caps on total costs (including commodity services and consulting services) in the investigation, remediation, and operation and maintenance phases. The department also addressed many of the cost items in §101.143(4)(b) through requirements in the rules that non-consulting services be performed by commodity providers independent of the consultant and that the commodity provider be selected through competitive bidding. The requirement to bid commodity services provides a control on the following listed remedial costs: 1) tank tightness testing; 5) removal of contaminated soils; 6) soil treatment and disposal; 8) laboratory services; 9) maintenance of equipment for petroleum product recovery or remedial action activities; and 10) restoration or replacement of a private or public potable water system. While consulting staff may be on-site supervising commodity activities, the activities themselves, including excavation, drilling, geoprobe drilling, laboratory analysis, and installation and maintenance of remedial equipment, are generally performed by a contractor selected through a bid process.

Despite its primary focus on other cost control mechanisms, the department also provided in the rules that "the framework for the control of costs within the PECFA program shall be based upon the responsible party minimizing costs in all phases of the remediation. The primary structural factors for the control of costs include the following: ...the publication of cost guidelines for cost-effective remediations." §ILHR 47.01(4)(e), Wis. Adm. Code. (Emphasis added.) The new code also provided that "the department may use its published cost guidelines to determine if the level of reimbursement requested is excessive and may disallow costs if they are determined to be excessive." §ILHR 47.12(4)(b), Wis. Adm. Code. (Emphasis added.) Guidelines were referenced again in §ILHR 47.30(1), Wis. Adm. Code, that provided "eligible costs for an award issued under this chapter may be determined by the department based upon cost guidelines published by the department." (Emphasis added.) Section ILHR 47.32, Wis. Adm. Code,

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<sup>1</sup> 101.143(4)(cm) Usual and customary costs. The department may establish a schedule of usual and customary costs for any items under par. (b) and may use that schedule to determine the amount of a claimant's eligible costs.

<sup>2</sup> Paragraph 101.143(4)(b) lists the following eligible activities: 1) testing to determine tightness of tanks and lines if the method used is approved by the department; 2) Removal of petroleum products from surface waters, groundwater or soil; 3) investigation and assessment of contamination caused by a petroleum product storage system or a home oil tank system; 4) preparation of remedial action plans; 5) removal of contaminated soils; 6) soil treatment and disposal; 7) environmental monitoring; 8) laboratory services; 10) restoration or replacement of a private or public potable water system; 11) restoration of environmental quality; 12) contractor costs for remedial action activities; 13) inspection and supervision; 14) other costs identified by the department as necessary for proper investigation, remedial action planning and remedial action activities to meet the requirements of §292.11; and 15) for an owner or operator only, compensation to 3rd parties for bodily injury and property damage caused by a petroleum products discharge from an underground petroleum product storage tank system.

provided that "the goal of the fund, as specified in s. ILHR 47.01, is to assure the cost-effective remediation of eligible sites. As one tool in evaluating the costs of services and activities under the program, the department shall establish and publish cost guidelines." (Emphasis added.) The potential uses of cost guidelines were also spelled out in §ILHR 47.32, Wis. Adm. Code, as follows:

**APPLICATION.** The cost guidelines established by the department may be used as one element in evaluating the cost effectiveness of investigation and remedial plan development efforts, requests for funding in excess of the investigation and remedial action plan cap, the estimated costs of a selected remedial alternative and other issues of cost related to a remediation.

**USE OF THE COST GUIDELINES.** In those instances where cost guidelines are used, they may form the basis for disallowing costs which are determined by the department to be excessive in nature or for denying additional funding when actual or proposed costs are determined to be excessive.

(Emphasis added.) In §ILHR 47.33(4)(a), Wis. Adm. Code, the department created a mechanism for evaluating requests to exceed the cap on remediation-phase consulting costs including the use of cost guidelines "as one factor in determining if an approval for additional work is warranted."

In April 1998 the Department of Commerce (Commerce) adopted rules expanding the use of bidding as a cost control mechanism. The new rules required bidding for an entire phase of work, including both commodity costs and consulting costs. The changes showed immediate effects in reducing remediation-phase costs. The new rules did not automatically apply to all PECFA sites, however. Section Comm 47.337, Wis. Adm. Code, permitted the department to direct a site to "a public bid process to establish a lower maximum reimbursable amount to achieve a closed remedial action" only for "sites for which site investigations were not started as of January 15, 1993, and for which a remedial alternative has not been received by the department as of April 20, 1998." §Comm 47.337(4)(a)4. and (1), Wis. Adm. Code. Existing sites were subject to §Comm 47.338(2), Wis. Adm. Code, that permitted the department to "require a redetermination of costs for any existing site to establish a total cost, excluding interest but including all closure costs, to achieve the status of a closed remedial action." Based on a review of the redetermination submitted for a site, the department was permitted to "approve and establish a cap on total costs, excluding interest; deny approval of costs; approve system enhancements; bundle the site with another remediation(s); or direct the site through a public bid process to establish a lower site cost."

In 1998, the Legislative Audit Bureau completed a program audit of the PECFA program and made the following recommendations relating to the control of costs and specifically to developing usual and customary cost guidelines.

- i) Administrative rules adopted in April 1998 expanded Commerce's authority to require bidding for certain cleanup activities as a way to better control costs. In addition to these efforts, we have identified a number of other steps Commerce can take to improve its management of program costs, including establishing more effective cost guidelines regarding the level of work expected for certain tasks, and adopting a schedule of usual and customary costs. Commerce has set limits on costs for a limited number of cleanup activities since 1993, when it was first required to establish such cost guidelines under administrative rules, but it has only recently begun efforts to develop comprehensive guidelines, which it now anticipates implementing by January 1, 1999.



- ii) We also recommend Commerce issue a schedule of usual and customary costs, as required by administrative rule, to eliminate unwarranted variations in costs for similar services.
- iii) Commerce officials and industry representatives note that requirements for bidding have reduced the cost of services such as excavation, laboratory testing, hauling, and landfill and soil treatment. Nevertheless, reimbursement amounts for similar services continue to vary because reimbursements are based on actual costs rather than on usual and customary charges for commonly provided services. Further, numerous services are not required to be bid, and Commerce staff and others have identified a variety of apparently unreasonable service charges. For example, Commerce staff identified:
  - a consulting firm that charged \$200 per hour, which was the hourly rate for a partner in the firm, to collect water samples from a site—a task that reflects a low skill level and could be done by a technician;
  - consultants that submitted claims of between \$50,000 and \$100,000 for computer modeling that Commerce hydrogeologists believe should have cost less than \$10,000; and
  - a firm that charges \$45 per hour for clerical work, although claims involving similar charges by other consultants are much lower.

Given the potential for variations in charges for similar services across sites, we believe Commerce could further control PECFA program costs by the development of cost guidelines; improved financial management; and more effective deployment of staff resources, including auditing efforts.

Provisions contained in 1991 Wisconsin Act 39 enhanced Commerce's ability to control costs by authorizing it to adopt a schedule of usual and customary costs but to continue paying actual costs if warranted by circumstances of particular sites. Further, Commerce has been required to establish such cost guidelines under administrative rules adopted in 1993, but it has not yet done so.

Other states use cost guidelines to ensure that reimbursed costs reflect reasonable charges and to ensure consistency across sites. For example, in Texas, guidelines establish detailed descriptions of the level of work expected for certain tasks, such as the time needed to complete computer modeling for a site, as well as unit cost limitations for all routine activities, such as a maximum daily charge for truck usage. Further, the Texas guidelines establish limits for:

- site assessment work, such as identification of nearby wells and facilities, determination of well elevations, testing costs, and total site and risk assessment report preparation;
- excavation work, asphalt removal, hauling, and landfill disposal; and
- analysis and report preparation by senior engineers, which is limited to 3 hours at \$95 per hour; for field work and report preparation by field engineers, which is limited to 10 hours at \$65 per hour; and for

field work and reporting by field technicians, which is limited to 10 hours at \$45 per hour.

Other states with cost guidelines include:

- Colorado, which has established maximum allowable rates for well-drilling activities, soil excavation, hauling and disposal, laboratory testing, and labor and equipment costs;
- Indiana, which has established maximum allowable costs for soil sample and groundwater monitoring; well installation; laboratory testing; staff and labor costs; site set-up preparation costs; construction/ demolition costs; and soil excavation, transportation, and disposal;
- Minnesota, which has established a mix of level-of-effort and total cost guidelines, such as a maximum allowable consultant charge of \$3,500 for the design of a groundwater pump-and-treat system and maximum hourly rates for each type of staff member involved in cleanup activities, as well as rules prescribing when a senior-level professional may be used and when a consulting firm must use an entry-level professional or a field technician; and
- Virginia, which requires prior approval from the state oversight agency for all cleanup tasks performed and for all items purchased to conduct the cleanup effort.

Because Commerce's claim review practices currently allow costs paid for similar services to vary across sites, the development and implementation of cost guidelines by Commerce could be expected to improve the efficiency of the PECFA program and to help reduce costs in several ways, including by:

- providing staff with a consistent benchmark for evaluating whether the amount of costs being proposed in remedial action plans or submitted in claims is appropriate, rather than requiring staff to review each remedial action plan or reimbursement claim in isolation;
- providing both responsible parties and service providers with more specific information on the level of charges Commerce believes to be acceptable, thereby enhancing Commerce's ability to influence the rates charged by consultants and commodities providers for similar services;
- focusing the attention of reviewers on the claims, owners, consultants, and service providers that consistently exceed reasonable charges, in order to offer the greatest potential for reducing program costs; and
- creating a benchmark from which Commerce can defend itself against appeals when claims-review staff declare certain costs ineligible. Commerce has implemented several cost-containment measures, such as adopting administrative rules setting a \$40,000 cap on site investigation costs, and limiting allowable travel costs to those allowed by state travel guidelines.

However, it has been reluctant to develop cost guidelines such as usual and customary rates for consultant, laboratory, and soil excavation services, believing that such guidelines may encourage some providers to charge higher rates if the maximum allowable charge for a service is above what they would normally charge, as well as that bidding requirements are adequate to ensure costs are minimized. Nevertheless, analysis of typical charges for individual services should allow Commerce to set cost guidelines at levels that prevent unreasonably high charges by some providers while allowing little opportunity for other providers to increase rates. Further, bidding requirements will continue to motivate providers to minimize charges. During the course of this audit, Commerce agreed to develop cost guidelines, and it plans to have them in place by January 1, 1999. We support Commerce's decisions to use the cost oversight authority it has been granted by the Legislature, and *we recommend the Department of Commerce's plan include guidelines for all costs commonly associated with PECFA cleanup and that it establish data collection and analysis methods that allow guidelines to be revised as appropriate to accommodate market changes.* The guidelines should include level-of-service guidelines for common tasks and maximum hourly rates for various skill levels, as well as time limitations and maximum unit costs for specific tasks. In addition, they should allow Commerce flexibility to deviate under special circumstances in order to meet cleanup objectives.

Based in part on these recommendations, in 1999 the legislature changed the permissive language in the PECFA statute and made the creation of a usual and customary cost schedule mandatory. The non-statutory provisions directed Commerce to report back to the Legislature within 14 months of the effective date of the new section. 1999 Wis. Act 9 §9110. That report was due in December 2000 and was never submitted. The statutory requirement to create a usual and customary cost schedule is contained in §101.143(4)(cm), Wis. Stat., as follows.

Usual and customary costs: The department shall establish a schedule of usual and customary costs for items under par. [101.143(4)](b) that are commonly associated with claims under this section. The department shall use that schedule to determine the amount of eligible costs for an occurrence for which a competitive bidding process is not used, except in circumstances under which higher costs must be incurred to comply with sub. [101.143(3)](c)3 and with enforcement standards. For an occurrence for which a competitive bidding process is used, the department may not use the schedule. In the schedule, the department shall specify the maximum number of reimbursable hours for particular tasks and the maximum reimbursable hourly rates for those tasks. The department shall use methods of data collection and analysis that enable the schedule to be revised to reflect changes in actual costs.

1999 Wis. Act 9 §1986m.

The statute excludes from a usual and customary cost schedule "an occurrence for which a competitive bidding process is used." Thus the schedule does not apply to sites under §101.143(3)(cp) 1, Wis. Stat., and §§Comm 47.337 and 47.338, Wis. Adm. Code, in which the site is competitively bid. It also does not apply to individual services that are competitively bid.

#### Department Efforts to Implement a Usual and Customary Cost Schedule

The department had begun collecting data from existing claims prior to the LAB audit in 1998 and generally believed, as did the LAB, that "analysis of typical charges for individual services should allow Commerce to set cost guidelines at levels that prevent unreasonably high charges by some providers

while allowing little opportunity for other providers to increase rates." Unfortunately, the department encountered significant difficulties in determining "typical charges for individual services." Existing claims submitted to the department proved to be inadequate as a basis for making that determination. There were three basic deficiencies in using existing claims data. First, because claims could only be submitted at defined milestones, such as the completion of the investigation, the completion of the remedial action, and yearly during the operation and maintenance phase, data was usually outdated by the time a claim was filed with the department. Claims reflected work performed over a period of years in completing a milestone. Second, the department was experiencing delays from receipt of claims until claims were audited. These delays also contributed to data not being current. Third, and perhaps most importantly, consultants did not bill for "individual services" in the same categories as each other or in the same categories as the department needed to establish usual and customary costs.

Lack of standardized invoicing categories made the data in submitted claims unusable for determining costs for "individual services." For example, one large consulting firm frequently combines all site investigation costs into the category "Preparation and Submittal of SIR<sup>3</sup>." This category is used on invoices to describe all investigation activities, including both field activities and office activities. While the department can determine for auditing purposes the general nature of activities on site based on chronologies in consultant reports, the invoices cannot be used to break out individual services such as groundwater sampling or monitoring well development from other site investigation activities occurring at the same time. Other firms have used the category "professional services" to describe all consulting activities. While individual employees are often listed with their title, rate of pay and hours worked, it is rare to be able to identify the specific activities an individual has performed during those hours. This is true for nearly all consultants. While other states, particularly those requiring prior approval for all expenditures, require costs to be submitted in standard categories, the Wisconsin program has not. As a result, the available cost data cannot be allocated to the individual service categories the department wishes to use in a usual and customary cost schedule.

Even where partial data can be developed from the small number of consultants using detailed billing systems, it is not possible to conclude that such costs are "typical." The department encounters widely varying costs for the same services. This variance reflects not just wide ranges in hourly charges for consultants as described in the LAB report; it also reflects significant site-specific differences in the nature of individual services. For example, sampling wells can take anywhere from a few minutes per well on sites where groundwater is relatively shallow and recharge rates are short to significantly longer periods for deep wells in clay soils with a slow recharge rate. The data collected is too small to statistically control for site characteristics in order to determine charges on a "typical" site.

#### Proposed Usual and Customary Cost Schedule

Despite finding that the available data is insufficient to make determinations of typical costs for individual services, the department does have sufficient data for determining the usual and customary maximum hourly rate for consulting firm staff. See, Appendix A. We also have former consultants on staff with estimating experience. We have used a Delphi-process to develop consensus on the reasonableness of time estimates and estimates of the level of staff required for various individual tasks. This process involves group comment on the issues, development of a written proposal, and group comment on the written proposal. In addition to staff input, we used the maximum rates used in other states as a contributor to the Delphi-process, after breaking down lump sum amounts into estimates of hourly rate and time for the task. Staff participating in the process included 4 former consulting staff and 2 senior claim reviewers, with the program's legal counsel serving as facilitator. Through this process we have developed proposed maximum limits that appear by consensus to be reasonable in light of

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<sup>3</sup> SIR is an acronym for site investigation report.

Wisconsin claims experience. [Appendix B.] We have also developed definitions for each scope of activity covered by the schedule of usual and customary costs. [Appendix C.]

Because this proposal is based only on internal consensus, we believe the Delphi-process should be continued through one more round of facilitated comment, analysis, reporting, and discussion with involvement of the outside consulting community. The department is assembling a code advisory committee for the purpose of advising the department on revisions to ch. Comm 47, Wis. Adm. Code, and this committee can be used to pursue one or two more rounds of expert input and consensus development on the typical costs of the identified services. [Appendix D.]

#### Expected Implementation Issues

In the course of several rounds of comment and discussion of the proposed usual and customary cost schedule, the Delphi group identified a number of implementation issues that may affect the effectiveness of the proposed cost schedule in reducing costs as well as the acceptance of the process by stakeholders. These implementation issues are presented to enable the department to consider how best to mitigate undesired effects and to alert the Legislature to potential problems.

- The schedule will apply to a limited and shrinking group of sites. Because sites for which investigations were completed on or after November 1, 1999 and where remediation costs are expected to exceed \$60,000 are subject to a public bid process, there will be a large group of sites where usual and customary costs will not apply. The primary impact will be in the investigation phase and on existing sites that have not been sent to competitive bidding under the provisions of §Comm 47.338, Wis. Adm. Code. Due to the underground storage tank upgrade requirements in place since December 1998, few new investigations are beginning. In rule revisions currently underway, however, the department is considering whether it is possible to expand bidding to the investigation phase. This action may increase the number of sites subject to competitive bidding and significantly reduce the number affected by the schedule of usual and customary costs.
- The schedule will not apply to commodity services that are competitively bid. The primary impact of the usual and customary costs schedule will be on consulting activities that are not currently subject to competitive bidding. Currently, commodity services must be competitively bid. This process appears to have been very successful in reducing costs through competition, however the department should evaluate whether to delete the provisions for competitive bidding for some or all commodity services and replace bidding with a usual and customary cost schedule covering these activities.
- The system may require expensive accounting changes for consultants. Many consulting firms have integrated accounting systems that provide billing and invoices as well as tracking employee time for pay purposes. Requiring billing to reference specific categories of activities may require changes that cannot be accommodated by existing software. This cost may be substantial, however there is no data from which the department can estimate the costs.
- The burden of excess costs will fall on claimants. Just as in other areas of cost control, such as limits on the reimbursement of interest, the cost schedule will not prevent the consultant from charging costs above the usual and customary cost for an activity. Rather, the usual and customary cost schedule is only a limit on reimbursement.

Claimants with existing contracts may not be able to change consultants to lower their costs, even though they will be subject to reimbursement limits.

- The waiver process will likely be heavily used, requiring staff time. The department's experience with varying costs for the activities included in the usual and customary costs schedule suggests that the primary determinant of variability is differences in site characteristics. The department expects a large number of requests for waiver based on site characteristics and will need to track all waiver requests and department actions to refine the usual and customary cost schedule to account for some of this variability.
- Waiver denials will contribute to appeals. Just as denials of requests to exceed current cost caps often end up with the claimant and consultant doing the work anyway because they believe it is necessary, it is likely that consultants will exceed usual and customary costs even where a waiver has been denied. When claims containing these costs are submitted and audited, the excess costs will be denied reimbursement. That denial is an appealable event.
- Using 50% of the billing rate as a basis for travel time may reduce the geographic area in which a consultant will operate. While an obvious beneficial effect is a reduction in non-productive consulting time, another effect may be to reduce owners' access to consultants for sites in remote areas.
- There is the potential that consultants will quit work on sites when they reach the limits of usual and customary costs instead of justifying the exceedance through a waiver request. This is currently a problem when consultants reach caps, and the expansion of cost controls through the usual and customary cost schedule may exacerbate the problem.
- Consulting firms whose costs are below the maximum usual and customary costs may increase their rates to the maximum. The maximum permissible rates are based on average rates across the state. Actual rates vary both by region and by individual firm. Although the department proposes that the usual and customary cost schedule be a maximum limit on reimbursement and will reimburse actual costs up to that maximum. It is likely that some consultants will increase their staff billing rates to the maximum level.
- The number of consulting firms participating in the program may decrease. Firms with overhead costs exceeding the amounts captured by the rates and hours represented by the usual and customary cost schedule may be unable to continue participation in the program. This problem has been observed in the Medical Assistance and Medicare programs where usual and customary cost limits are used. Under PECFA, the consultant may be able to pass on some excess costs to the claimant, however the department still expects that there will be some reduction in the number of consultants participating in the program.

### Summary

The department has analyzed the availability of data for developing a usual and customary cost schedule and has determined that currently available data is not adequate to develop a statistical model of costs. It has therefore developed an implementation approach that will assure cost limits are content valid based on input from content experts. It will promulgate the usual and customary cost schedule in administrative

rules approximately December 1, 2002. The rules will cover both usual and customary cost limits and also billing procedures for consultants. Requiring uniform billing procedures will assure that data is collected in a form that will be usable for modifying cost limits in the future.

## APPENDIX A

### Classifications Recognized by the Petroleum Environmental Cleanup Fund Act

#### PROFESSIONAL SERVICES

##### **Principal**

Administrative and/or professional head of organization. Directs professional staff. Staff time of individuals at this level has generally been excluded from computation of usual and customary cost schedule.

**\$129/hr**

##### **Senior Scientist/Engineer**

Senior technical leader. Develops technical and budgetary approach to work orders. Duties include aquifer characterization, review of technical reports and remedial action plans. Supervises work activities of lower level professional staff. Coordinates and communicates with agency personnel and client regarding contracts, general direction and problems at work site. Generally performs limited fieldwork. Performs design and investigation work in technically complex situations often requiring innovative applications.

**\$105/hr**

##### **Project Scientist/Engineer/Manager**

Identifies problems and develops investigative and remedial solutions to work site situations. Consults with higher level professional staff. Prepares work plans, cost estimates and reports. Performs modeling. Analyzes and interprets field data. Supervises lower level technical personnel during on-site drilling, sampling, or remediation activities. Frequently communicates with agency personnel and client.

**\$90/hr**

##### **Staff Scientist/Engineer**

Implements field work for on-site investigation and remediation activities including site characterization, drilling supervision, monitoring well installation and sampling activities. Assists in modeling, hydrogeologic data analysis, and report preparation. Consults with higher level professional staff.

**\$60/hr**

##### **Hydrogeologist**

Ability to conduct hydrogeological investigations relating to leaking UST's and must be experienced in overseeing a wide variety of drilling operations, monitor well installations, sample logging and collection and data acquisition and interpretation and have the ability to design, perform and interpret aquifer tests.

**\$60/hr**

##### **Field Technician II**

Supervises installation, maintenance, and repair of investigative and remediation machinery and equipment. Conducts sampling and monitoring. Maintains machinery and equipment

**\$60/hr**

##### **Field Technician I**

Performs assigned fieldwork and routine labor tasks. Assists in equipment installation and maintenance. Conducts sampling and monitoring. Assists with field supervision of subcontractors. This category includes heavy equipment operators.

**\$50/hr**



**Environmental Scientist**

Performs assignments related to site assessments and bioremediation projects; risk analysis methodologies and analytical data reduction.

**\$50/hr**

**Draftsperson**

Technically familiar with basic engineering principles and construction methodologies. Works independently; work product reviewed by Professional Engineer. Proficient with AutoCAD or other forms of Computer Aided Design Drafting.

**\$40/hr**

**Administrator**

Tracks work plan costs, prepares and processes invoices, administers leasing and ordering of equipment, and performs general administrative work for report and work plan preparation.

**\$30/hr**

**Secretary**

Operates computer for word processing and spreadsheet entry. Assists technical and senior personnel with report production, correspondence preparation, and data entry.

**\$30/hr**

**Clerk**

Performs general office work, typing, filing, and document reproduction.

**\$30/hr**

APPENDIX B

Initial Draft Usual and Customary Cost Schedule

**FIELD ACTIVITIES**

DEFINITION CODE	TASK	PROPOSED LIMIT	State/Explanation
1.1	Oversight of Commodity Provider		
	Direct Push Soil Sampling	\$100/hr maximum, actual personnel rates to be reimbursed if lower.	Arizona: The following rates are maximums. Only actual personnel rates are to be applied to actual hours onsite with the subcontractor plus 1 hr, 30 min each for preparation and demobilization
	Drilling	\$80/hr maximum, actual personnel rates to be reimbursed if lower.	
	Excavation	\$80/hr maximum, actual personnel rates to be reimbursed if lower.	
	Other Field Activities	\$80/hr maximum, actual personnel rates to be reimbursed if lower	
1.2	Site Reconnaissance Map - Survey Property	\$600 lump sum	Wisconsin - based on hydrogeologist field experience and comparison with Arizona cost guidelines for hand augering
1.3	Hand Auger Installation/Sampling	\$80/auger boring	Wisconsin - based on hydrogeologist field experience and comparison with California cost guidelines for hand augering
1.4	Surface Soil/Sediment Sampling	\$40/sample	Wisconsin - based on hydrogeologist field experience and comparison with Virginia cost guidelines for hand augering
1.5	Site Map - Measure Boring/Sample Locations	\$500/initial event; \$250/subsequent events	Texas
1.6	Vapor Sampling/Assessment	\$320 lump sum	Hours from Minnesota; rate from Virginia
1.7	Surface Water Sampling	\$40/sample	North Carolina
1.8	Potable Well Field Reconnaissance	\$570/day	Virginia
1.9	Measure Water Levels	\$35/well	Minnesota
1.10	Groundwater Sampling		

**APPENDIX B**

	Without natural attenuation sampling	\$100/well	North Carolina
	With natural attenuation sampling	\$125/well	North Carolina with Wisconsin hydrogeologist input
1.11	Hydraulic Conductivity Testing/Analysis	\$280/well	Minnesota: 4hrs @ 70/hr
1.12	Post Closure Activities	\$135 first well and each additional well > 100' deep, \$90 each additional well < 100'	Texas - activity 11 of reimbursable cost guidelines - well abandonment
1.13	Travel Time	50% of hourly rate	Virginia

**OFFICE ACTIVITIES**

<b>DEFINITION CODE</b>	<b>TASK</b>	<b>PROPOSED LIMIT</b>	<b>State/Explanation</b>
2.1	Work Plan Preparation	\$1500	Wisconsin
2.2	Project Management	10% of project costs	California + 4%
2.3	Boring/Well Permits	\$300 per drilling event	North Carolina
2.4	Access Agreements	\$395	Virginia
2.5	Site Investigation Report - Soil only	\$3000	Wisconsin (consistent with North Carolina Cost Guideline Data)
2.6	Site Investigation Report - Soil & Groundwater	\$5000	Wisconsin (North Carolina - additional \$2000 for inclusion of groundwater)
2.7	Addendum to SIR	\$750 soil; \$1500 for soil & GW	Wisconsin
2.8	Closure Report	\$1,800	Wisconsin (consistent with North Carolina Cost Guideline Data)

**DEFINITIONS****FIELD ACTIVITIES****1.1 OVERSIGHT OF COMMODITY PROVIDER**

This task includes all activities necessary to perform a day's work in the field, including equipment preparation, loading, and decontamination. It includes site characterization and soil remediation activities associated with soil borings (direct push or drilling), groundwater monitoring well construction and abandonment, remedial soil excavation, and the oversight of the disposal of wastes generated during field activities. This activity does not include equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) The following rates are maximums. Only actual personnel rates are to be applied to actual hour of onsite work during the time the subcontractor is on site. The consultant may also include up to 1 hour-30 minutes for consultant preparation and demobilization for each commodity provider. **\$100/hr for direct push soil sampling; \$80/hr for drilling, excavation, and other field oversight activities.**

**1.2 SITE RECONNAISSANCE MAP - SURVEY PROPERTY**

This task consists of an inspection of the features of the immediate LUST site and surrounding properties. The survey will note tank location, dispenser location, monitoring wells, and other site features including receptor populations. Potential migration pathways such as utility lines, storm sanitary sewers, catch basins and drainage ditches are to be noted. The site reconnaissance should be sufficient for the production of a field grade map that will be used for the development of maps for the work plan and health and safety plan. This rate does not account for any equipment that might be necessary. (See the department's usual and customary equipment list for limits on equipment reimbursement.) The final product from this task is a field grade map and documentation of site reconnaissance activities in the LUST file. This is a lump sum amount for a one-time event. **\$600.00**

**1.3 HAND AUGER INSTALLATION/SAMPLING**

This task involves the collection of subsurface soil samples by a midlevel hydrogeologist/soil scientist using a hand auger. This activity does not include any equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) It also includes the preparation of a soil-boring log for each boring. **\$80.00/auger boring**

**1.4 SURFACE SOIL/SEDIMENT SAMPLING**

This scope of work is for soil sampling not associated with installing a well or a boring. This activity includes composite sampling, sampling of a waste pile for treatment/disposal certification, or sampling from a pit. The cost for this scope of work is based upon personnel time for a Technician II. This scope of work does not include the cost of laboratory analysis of samples collected or equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) Price is per sample point. **\$40.00/sample point**

**1.5 SITE MAP – SURVEY SOIL BORING/SAMPLE LOCATIONS/WELL ELEVATIONS**

This scope of work consists of personnel time for a survey crew chief and a survey rod man to survey soil borings, monitoring wells, or recovery wells for location and elevation. The scope of work includes set-up and relocation time between survey points. This task does not include equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) Subsequent survey events are allowed only if new soil borings or wells have been installed. **\$500.00 for the initial survey; \$250.00 each subsequent survey**

**1.6 VAPOR SAMPLING**

This scope of work consists of the personnel time for a Junior Level Professional to monitor vapors that have migrated from the point of release and entered into subsurface structures such as sewers, basements, utility vaults, aboveground enclosed structures, etc. This is a one-time event and does not include the cost of laboratory analysis of samples collected or equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) **\$320 lump sum**

**1.7 SURFACE WATER SAMPLING**

Scope of work assumes sampling of various types of surface waters (i.e. includes ponds, streams, creeks, etc.) to verify contamination. Includes one mid-level staff person to perform sampling. It also includes personnel time to coordinate this task and to manage the laboratory services (i.e. Chain of Custody, sample preparation, sample shipping, and sample QA/QC). This scope of work does not include the cost of laboratory analysis of samples collected or equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) Price is per sample point. **\$40/sample point**

**1.8 POTABLE WELL FIELD RECONNAISSANCE (IF NEEDED)**

This scope of work consists of the field identification of potentially affected private water supplies (i.e., wells and springs) within a ¼ mile radius of the site. The information obtained should include well ownership, well location, well completion data, well use, and reported depth to water (not measured). This task includes time for follow-up phone calls to property owners who could not be reached during regular business hours. It does not include any equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) Additional events will require justification and department approval. **\$570/one time event**

**1.9 MEASURE WATER LEVELS**

This task involves the measurement of static water levels by one technician level personnel. It does not include any equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) This charge is not to be applied during groundwater sampling events. The measurement of static water levels during a groundwater-sampling event is included in that cost. This activity also includes the entry of this data into a table/spreadsheet. **\$35.00/well**

**1.10 GROUNDWATER SAMPLING**

This scope of work assumes sampling of wells of any depth or diameter. It includes the measurement of static water levels (the separate water level measurement charge is not to be applied in addition to this charge) and purge volume calculations. It also includes all necessary personnel to perform required well purging and groundwater sampling, time to coordinate this task and to manage the laboratory services such as: chain of custody, sample preparation, sample shipping, and sample QA/QC. It does not include any equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) It will also include testing of the following field measurements: dissolved oxygen, pH, specific conductivity, and temperature. The cost for this activity is on a per well basis - **\$100/well**. The maximum cost per well will increase to **\$125/well** when natural attenuation parameters are also collected.

**1.11 HYDRAULIC CONDUCTIVITY TESTING/ANALYSIS**

This task consists of the total activities required to perform one hydraulic conductivity test per groundwater monitoring well. It does not include any equipment costs. (See the department's usual and customary equipment list for limits on equipment reimbursement.) Field personnel will be on-site during the period of testing. This task includes all necessary field personnel, data logging, collection, and compilation of data, and data analysis. **\$280/well**.

### **1.12 POST CLOSURE ACTIVITIES**

This task will include all personnel necessary to abandon all groundwater monitoring/extraction wells. It does not include equipment costs (Please see the departmental usual & customary equipment list). These activities must conform to the well abandonment requirements detailed in Wisconsin Administrative Code Chapter NR 141.25. Personnel expected to perform this task will be at the field Technician level. **\$135.00 for the first well; \$90.00 for each additional well < 100 ft deep and \$135 for each additional well > 100 ft deep.**

### **1.13 TRAVEL TIME**

This includes all travel time associated with field activities. **50% of personnel hourly rate.**

## **OFFICE ACTIVITIES**

### **2.1 WORK PLAN PREPARATION**

This task will include all document preparation costs including but not limited to site background review, investigation scope of services, health and safety plan, tables, diagrams, and maps, and sampling protocol. The format and content of this report must conform to §§NR 716.07 and 716.09, Wis. Adm. Code. **\$1500 lump sum**

### **2.2 PROJECT MANAGEMENT**

This task will include all project management costs associated with site investigation activities. Some activities included in project management are commodity bidding services, acquisition of utility clearances, contracting with subcontractors, and scheduling of all field activities. It will also include but is not limited to regulatory correspondence, status updates, budget stewardship, field coordination, project decision, and meetings. **10% of total site investigation costs**

### **2.3 SOIL BORING/MONITORING WELL PERMITS**

This task includes all necessary personnel to acquire all soil boring and/or well permits (only as required). **\$300.00 per drilling event**

### **2.4 ACCESS AGREEMENTS**

This task is for the preparation and execution of an agreement to gain access to property owned by a third party. This activity will not be authorized for access to property that was previously owned or leased by the responsible party. It will include senior personnel time to draft or acquire a Site Access Agreement and for a Mid-level Professional to present it to the third party (a maximum of two presentation attempts). This task also includes time for Clerical staff to assist in preparing or acquiring the document. The department must be notified immediately if it is not possible to obtain a signed Access Agreement. **\$395 per agreement**

### **2.5 SITE INVESTIGATION REPORT – SOIL ONLY**

This task is restricted to those sites for which there is only soil contamination. This activity includes the preparation and submittal of a comprehensive site investigation report including but not limited to data reduction, data analysis, and compilation of tables and figures. In addition, this report shall include a request for closure (includes preparation of the GIS package) at the end of the site investigation, in conformance with chapter NR 746, Wis. Adm. Code, or at the time of investigation/closure request under cost effective remediations (Comm 47.339, Wis. Adm. Code). The format and content of this report must conform to §NR 716.15, Wis. Adm. Code. **\$3000 lump sum**

**2.6 SITE INVESTIGATION REPORT – SOIL AND GROUNDWATER**

This task is restricted to those sites for which there is both soil and groundwater contamination. This activity includes the preparation and submittal of a comprehensive site investigation report and includes but is not limited to data reduction, data analysis, and compilation of tables and figures. In addition, this report shall include a request for closure (includes preparation of the GIS package) at the end of the site investigation, in conformance with chapter NR 746, Wis. Adm. Code, or at the time of investigation/closure request under cost effective remediations (Comm 47.339, Wis. Adm. Code). The format and content of this report must conform to §NR 716.15, Wis. Adm. Code. **\$5000 lump sum**

**2.7 ADDENDUM TO SIR**

This task can be used for both soil-only and soil and groundwater sites. It will include all necessary personnel to prepare and submit a follow-up document when the initial SIR has been submitted on a previous date and was not approved. This activity will include the preparation and submittal of a letter report that provides updated data tables, figures, and conclusions. This activity also includes a request for closure (to include preparation of GIS package modifications, if required by the DNR) at the end of investigation in conformance with chapter NR 746, Wis. Adm. Code, and at time of investigation/closure request under cost effective remediations (Comm 47.339, Wis. Adm. Code). **\$750.00 soils only; \$1500 soil & groundwater**

**2.8 CLOSURE REQUEST**

Includes all activities necessary for the preparation and submittal of closure forms, closure narrative, closure justification, and preparation of the GIS package for closure requests made for sites at the conclusion of remediation as required by chapter NR 726, Wis. Adm. Code. This does not apply to under-\$60,000 sites. **\$1,800 lump sum**

APPENDIX D

Proposed Schedule of Activities Leading to Establishment of a Usual and Customary Cost Schedule

**Timeline for Comm 47 - PECFA  
Usual and Customary Costs**

<u>Action</u>	<u>Date</u>
Scope statement printed in Administrative Register	February 15, 2002
Earliest date code drafting may begin	February 25, 2002
Confer with advisory committee and re-draft code language	March 15, 2002
Prepare draft Environmental Assessment and materials for public hearing	March 25, 2002
Get approval to announce public hearings and transmit to Revisor	April 1, 2002
Announcement notice in Administrative Register	April 15, 2002
Hold public hearings	April 30, 2002
Summarize hearing comments	May 21, 2002
Mail out comments and information to advisory committee	May 22, 2002
Meet with advisory committee	June 5, 2002
Finalize Environmental Assessment and rule materials for legislative review	June 19, 2002
Secure approval for legislative review	June 26, 2002
Assignment of rules	July 8, 2002
Legislative review ends (assumes 1 hearing)	September 6, 2002
Adoption and filing of rules	September 13, 2002
Code in effect (unless delayed date is used)	December 1, 2002