



Legislative Fiscal Bureau

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2017

Joint Committee on Finance

Paper #480

PECFA Awards (Natural Resources -- Environmental Quality)

[LFB 2017-19 Budget Summary: Page 336, #10]

CURRENT LAW

The Department of Natural Resources (DNR) administers the petroleum environmental cleanup fund award (PECFA) program, which reimburses owners for a portion of the cleanup costs of discharges from petroleum product storage tank systems and home heating oil systems. The amount of reimbursement varies from 75% to over 99% of eligible cleanup costs. Owners of certain underground and aboveground tanks may receive up to \$1,000,000 for the costs of investigation, cleanup and monitoring of environmental contamination. The PECFA awards appropriation is one of several appropriations funded from the segregated (SEG) petroleum inspection fund, which receives revenue from a 2¢ per gallon petroleum inspection fee. The Department of Agriculture, Trade and Consumer Protection (DATCP) inspects all petroleum products brought into the state, including gasoline, diesel, and heating oil. The Department of Revenue (DOR) collects the fee. The fund also receives revenues from inspection and plan review fees for bulk petroleum tanks, and interest income on the fund balance.

The state paid the first PECFA awards in 1988-89. Claim levels increased during the 1990s as owners replaced or upgraded petroleum tank systems in compliance with federal and state requirements. In the 1990s, the program experienced a backlog of over \$200 million in claims that had been received and not paid. Issuance of \$387 million in petroleum inspection fee revenue obligations first authorized in 1999 Wisconsin Act 9 allowed the PECFA program to pay the backlog of claims in 2000 through 2003. Currently, the program has paid over \$1.5 billion in claims for cleanup at over 12,600 closed sites and 800 active sites.

Under 2015 Wisconsin Act 55, PECFA eligibility is not available for any site if a person: (a) did not notify DNR of the petroleum discharge and the potential for submitting a claim before July 20, 2015; and (b) does not submit a claim for the reimbursement of eligible costs before July 1,

2020. In addition, Act 55 required that an owner or operator of an eligible site must submit a claim for reimbursement within 180 days after incurring the eligible costs, or February 1, 2016, whichever is later, or else the costs are no longer eligible for reimbursement.

During the 2015-17 biennium, the PECFA awards appropriation was provided \$4,550,000 SEG from the petroleum inspection fund in each of 2015-16 and 2016-17, in a biennial appropriation. On March 27, 2017, the Joint Committee on Finance approved an additional \$2,100,000 in 2016-17, providing total authority of \$11,200,000 in the 2015-17 biennium. DNR expended \$5,525,600 on PECFA awards in 2015-16, making \$5,674,400 available for expenditures in 2016-17.

GOVERNOR

Provide \$2,950,000 SEG in 2017-18 and \$850,000 SEG in 2018-19 from the petroleum inspection fund for PECFA awards. This would provide \$7,500,000 in 2017-18 and \$5,400,000 in 2018-19, an increase from \$9,100,000 initially provided in the 2015-17 biennium, to \$12,900,000 in the 2017-19 biennium.

DISCUSSION POINTS

1. The total additional amount provided under the bill is \$3,800,000 over the 2017-19 biennium, and includes two components: (a) \$2,100,000 SEG in 2017-18 that is intended to cover the PECFA claim backlog that developed during 2016-17; and (b) \$850,000 SEG in each year that would provide a total of \$5,400,000 in each year for claims submitted during the biennium, or approximately \$450,000 per month.

2. The petroleum inspection fund includes appropriations for DNR payments under the PECFA program and administration of the program, petroleum tank and inspection programs administered by DATCP, and several other programs in DNR, DATCP, and the Departments of Administration, Military Affairs, Revenue, and Transportation.

3. Table 1 shows the estimated condition of the petroleum inspection fund from 2015-16 through 2018-19 under the Governor's budget recommendations for the 2017-19 biennium. In 2015-16, revenue from the 2¢ per gallon petroleum inspection fee, bulk tank fees and interest income totaled \$75.1 million. Expenditures totaled \$77.5 million in 2015-16, including: (a) \$28.7 million for revenue obligation debt service costs (shown as a reduction to available revenue); (b) \$27.8 million for expenditures from appropriations; and (c) \$21.0 million for a transfer from the petroleum inspection fund to the transportation fund, under one-time provisions of Act 55. It is anticipated that in 2016-17, revenue from the petroleum inspection fee and other revenues will total \$77.1 million. In 2016-17, expenditures are expected to total approximately \$81.7 million, including: (a) \$31.1 million for revenue obligation debt service costs; (b) \$29.6 million for appropriations with 91.6 positions, including \$2.1 million provided for PECFA awards by the Committee in March, 2017, under s. 13.10; and (c) \$21.0 million for a transfer to the transportation fund under one-time provisions of Act 55.

TABLE 1

Petroleum Inspection Fund Condition, Through May 16, 2017, Committee Action

	2015-16 <u>Actual</u>	2016-17 <u>Estimated</u>	2017-18 <u>Budget Bill</u>	2018-19 <u>Budget Bill</u>	2018-19 <u>Staff</u>
Opening Balance	\$21,786,300	\$19,330,400	\$14,680,100	\$10,975,500	
Revenues:					
Petroleum Inspection Fee	\$74,804,900	\$76,700,000	\$77,100,000	\$77,100,000	
Revenue Obligation Debt Service	-28,744,200	-31,084,400	-28,631,700	-25,925,900	
Petroleum Bulk Tank Fees and Other	<u>278,300</u>	<u>370,000</u>	<u>300,000</u>	<u>300,000</u>	
Total Revenues	\$46,339,000	\$45,985,600	\$48,768,300	\$51,474,100	
Total Revenue Available	\$68,125,300	\$65,316,000	\$63,448,400	\$62,449,600	
Expenditures:					
PECFA Awards	\$5,525,600	\$5,674,400*	\$5,400,000*	\$5,400,000	
PECFA Administration	2,281,700	2,329,900	2,254,800	2,254,800	20.30
Petroleum Inspection	4,369,300	4,515,200	4,501,200	4,504,700	36.05
Transportation Fund	6,584,600	6,629,000	6,652,100	6,652,100	4.00
Other Programs **	9,033,700	9,723,300	9,664,800	9,693,300	30.75
Expenditure of Prior Year Encumbrances	<u>0</u>	<u>764,100</u>	<u>0</u>	<u>0</u>	<u>0.00</u>
Total Expenditures	\$27,794,900	\$29,635,900	\$28,472,900	\$28,504,900	91.10
Less Transfer to Transportation Fund	\$21,000,000	\$21,000,000	\$24,000,000	\$24,000,000	
Cash Balance	\$19,330,400	\$14,680,100	\$10,975,500	\$9,944,700	
Encumbrances, Continuing Balances	-\$764,100	\$0	\$0	\$0	
Available Balance	\$18,566,300	\$14,680,100	\$10,975,500	\$9,944,700	

*2016-17 includes \$2,100,000 provided in a March, 2017, s.13.10 approval, and does not include the same amount in 2017-18.

**Other programs include appropriations for transfer to the segregated environmental management account, Department of Administration (DOA) diesel truck idling reduction grants, Department of Agriculture, Trade and Consumer Protection weights and measures and unfair sales act, Department of Military Affairs emergency response board and major disaster assistance, Department of Revenue administration of petroleum inspection fee collections, and a reimbursement of the petroleum inspection fee paid on certain purchases of aviation fuel. Amounts include May 16, 2017, action of the Joint Committee on Finance to restore the DOA diesel truck idling reduction grant program, which would have been repealed under the bill.

4. The first use of petroleum inspection fees is required to be payment on the \$387 million in PECFA revenue obligations issued to pay the 1990s PECFA claim backlog. As of December 1, 2016, the total amount of outstanding revenue obligations was \$76.1 million. The estimated revenue obligation debt service amounts shown in the table for 2016-17 through 2018-19 reflect the fixed principal and interest payment schedule established in the October, 2016, refinancing of short-term commercial paper to fixed-rate obligations. The final fixed-rate obligations will be retired on July 1, 2019.

5. Table 1 shows the \$2.1 million provided by the bill for PECFA awards in 2017-18, as being expended in 2016-17 instead of in 2017-18 because of the March, 2017, Committee action under s. 13.10 to address the 2016-17 claim demand. Table 1 also includes the May 16, 2017, Committee action to restore the DOA diesel truck idling reduction grant program.

6. Under the bill and Joint Committee on Finance action to date, it is anticipated the petroleum inspection fund will have a June 30, 2019, balance of approximately \$9.9 million. Revenue deposited in the petroleum inspection fund will total approximately \$154.8 million during the 2017-19 biennium. Expenditures from the fund will total approximately \$159.5 million during the 2017-19 biennium, with 91.1 authorized positions. Of this total, approximately 50% (\$78.9 million) of the expenditures, plus 56.35 positions, will be for PECFA awards, DNR administration of the PECFA program, revenue obligation debt service costs, and DATCP petroleum inspection and tank regulation programs. In addition, approximately 38% (\$61.3 million) will be for the Department of Transportation appropriations and the transfer to the transportation fund. The remaining 12% includes \$19.3 million for other programs.

7. When the budget bill was developed, DNR anticipated the Department would continue to receive PECFA claims totaling approximately \$450,000 per month during much of the 2017-19 biennium. This equals the \$5,400,000 provided under the bill in each of 2017-18 and 2018-19 for ongoing claim demand. The bill could be amended to reduce the 2017-18 appropriation by \$2.1 million [Alternative 2] to reflect the provision of those funds in 2016-17 instead of 2017-18. This would provide increases of \$850,000 SEG in each of 2017-18 and 2018-19 for ongoing demand estimated during budget bill development, or a total of \$10.8 million during the biennium. This alternative is reflected in the \$9.9 million June 30, 2019, fund balance shown in the table.

8. In January, 2017, DNR received semi-annual site status reports for 479 PECFA sites, which included estimates of approximately \$22.1 million in additional cleanup costs for the sites. DNR indicates the cost estimates provided by site owners or consultants might be higher than actual costs will be, but some cleanups also might not be completed in time to submit final PECFA claims by the June 30, 2020, deadline.

9. Site owners and consultants will need to accomplish as much PECFA-eligible cleanup work as possible during the construction seasons of 2017, 2018, and 2019. This would provide time for them to complete site cleanup, obtain DNR approval of site closure, and assemble and submit final PECFA claims before the June 30, 2020, claim submittal deadline.

10. If the estimated \$22.1 million in costs is submitted for reimbursement over the 42 months between January, 2017, and June, 2020, this would equal potential claims of approximately \$525,000 per month. Providing an increase of \$1,750,000 SEG in each of 2017-18 and 2018-19 would be expected to fund this level of ongoing claims with a total of \$6,300,000 each year, or \$12.6 million during the biennium [Alternative 3]. The anticipated June 30, 2019, fund balance would be \$8.1 million under this alternative. Alternative 1, the funding level recommended by the Governor, would provide \$12.9 million, a similar amount as Alternative 3. However, as most of the additional funding would be provided in 2017-18, Alternative 1 would have a lower base funding level for the 2019-21 biennium, during which time the program would be making final claims payments.

11. DNR indicates that under the January, 2017, site cleanup cost estimates, the monthly claim demand may approach \$625,000, rather than the \$450,000 per month provided under the bill. DNR indicates that there has been an increase in cleanup of PECFA-eligible sites

as responsible parties complete work to submit claims before the June 30, 2020, deadline, and claims increases may crest in 2017-19 in advance of the submission deadline. Providing an increase of \$2,950,000 SEG in each of 2017-18 and 2018-19 would be expected to fund this ongoing level of claims and provide \$7,500,000 each year, or \$15.0 million during the biennium [Alternative 4]. The anticipated June 30, 2019, fund balance would be \$5.7 million under this alternative.

12. PECFA sites commonly use consultants as agents for purposes of filing PECFA claims. Under the consultant-agent process, the consultant completes site work, submits a PECFA claim on the owner's behalf, and receives reimbursement from DNR. If program funding is insufficient to pay claims, some consultants may stop active work at PECFA sites until reimbursements are available to provide funding for agents' operations costs. It could be argued that sufficient funds should be provided for PECFA claims during the 2017-19 biennium to ensure continuity of payment of claims. This would allow PECFA site owners and consultants to complete cleanup work during the 2019 construction season and submit final claims during 2019-20.

13. If the appropriation runs out of funds late in the 2017-19 biennium, it is possible that site cleanup work could slow during 2019 until additional funds are provided for PECFA awards. DNR could submit a s.13.10 request for additional funds in 2018-19, as it did in March, 2017, for additional funds in 2016-17.

14. Provision of the current law level of funding of \$4,550,000 each year [Alternative 5] presents the possibility that the appropriation will not have sufficient funds to pay all PECFA claims anticipated to be submitted during the biennium. Table 2 summarizes the alternatives relative to the bill and current law.

TABLE 2

2017-19 PECFA Award Funding -- Summary of Alternatives

	<u>Total Funding in Biennium</u>	<u>Change to Bill</u>	<u>Change to Base</u>
Current Law (Alt. 5)	\$9,100,000	-\$3,800,000	\$0
Bill (Alt. 1)	12,900,000	0	3,800,000
Provide \$450,000 per month; remove supplement (Alt. 2)	10,800,000	-2,100,000	1,700,000
Provide \$525,000 per month (Alt. 3)	12,600,000	-300,000	3,500,000
Provide \$625,000 per month (Alt. 4)	15,000,000	2,100,000	5,900,000

ALTERNATIVES

1. Approve the Governor's recommendation to provide increases of \$2,950,000 SEG in 2017-18 and \$850,000 SEG in 2018-19 for PECFA awards. [This would provide \$7,500,000 in

2017-18 and \$5,400,000 in 2018-19.]

ALT 1	Change to	
	Base	Bill
SEG	\$3,800,000	\$0

2. Modify the Governor's recommendation by providing increases of \$850,000 SEG in 2017-18 and \$850,000 SEG in 2018-19 for PECFA awards. [This would provide \$5,400,000 in each of 2017-18 and 2018-19, equaling \$450,000 per month, and it would delete \$2,100,000 SEG from the bill to reflect Committee action under s. 13.10 of the statutes in March, 2017.]

ALT 2	Change to	
	Base	Bill
SEG	\$1,700,000	-\$2,100,000

3. Provide increases of \$1,750,000 SEG each year in the 2017-19 biennium for PECFA awards. [This would provide \$6,300,000 each year for awards, equaling \$525,000 per month.]

ALT 3	Change to	
	Base	Bill
SEG	\$3,500,000	-\$300,000

4. Provide increases of \$2,950,000 SEG each year in the 2017-19 biennium for PECFA awards. [This would provide \$7,500,000 each year for awards, equaling \$625,000 per month.]

ALT 4	Change to	
	Base	Bill
SEG	\$5,900,000	\$2,100,000

5. Maintain current law.

ALT 5	Change to	
	Base	Bill
SEG	\$0	-\$3,800,000

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