

Petroleum Environmental Cleanup Fund Award (PECFA) Program



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Petroleum Environmental Cleanup Fund Award (PECFA) Program

Introduction

The petroleum environmental cleanup fund award (PECFA) program reimburses owners for a portion of the cleanup costs of discharges from petroleum product storage systems and home heating oil systems. The amount of reimbursement varies from a minimum of 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 program was created in response to the costs of federal requirements enacted in the 1980s to prevent the release of petroleum and other regulated substances from underground storage tanks into the environment. Federal regulations required owners of commercially-owned underground storage systems, and farm and residential tanks larger than 1,100 gallons, to: (a) replace or upgrade their tanks by December 22, 1998; (b) have leak detection systems; and (c) demonstrate financial responsibility or have pollution insurance for underground storage systems. The state administers the federal requirements and also applies state regulations to certain smaller tanks, such as certain heating oil tanks and small farm and residential tanks, which are not federally-regulated.

The program is funded from a portion of a 2¢ per gallon petroleum inspection fee, which is deposited in the segregated petroleum inspection fund. Annual PECFA awards grew from \$0.3 million in 1988-89 to a high of \$296.6 million in 1999-00, declined to \$4.1 million in 2012-13, and totaled \$4.8 million in 2013-14. A total of \$387 million in revenue obligations was authorized by

the Legislature and issued for payment of PECFA claims. The revenue obligation debt service is paid from petroleum inspection fee revenues.

The Department of Natural Resources (DNR) administers the contaminated land cleanup and financial reimbursement components of the program. During the 2011-13 biennium, the Department of Safety and Professional Services (DSPS) administered the financial reimbursement portion of the program and cleanup of low- and medium-risk petroleum sites. (Prior to July, 2011, the former Department of Commerce administered this portion of the program.) Under 2013 Act 20, the 2013-15 biennial budget act, the DSPS responsibilities were transferred to DNR.

There have been several changes to the PECFA program over the past 25 years. This paper describes the following aspects of the current PECFA program, including: (a) program eligibility criteria and claim requirements; (b) award guidelines; (c) the number of PECFA sites; (d) program administration; (e) program costs; and (f) debt service costs for revenue obligations originally issued between 2000 and 2008 to pay PECFA claims. The paper also describes the petroleum inspection fee and other programs funded from the petroleum inspection fund.

DNR is aware of approximately 14,300 PECFA sites. As of November 1, 2014, \$1.53 billion in PECFA awards have been made for partial or full cleanup at 13,300 occurrences. Of the total payments, \$1.4 billion (93% of payments) has paid for completion of cleanup of 12,532 occurrences (93% of occurrences with at least one payment). An occurrence is a contiguous contaminated area resulting from one or more petroleum products discharge. A site potentially

has more than one occurrence for purposes of reimbursement under the program.

Appendices contain additional information about program requirements, legislative history, program costs and appropriations from the petroleum inspection fund.

Eligibility Criteria

Eligibility for the PECFA program is defined in section 292.63 of the statutes. Owners of the following types of petroleum product storage tanks are eligible: (a) commercial underground and aboveground tanks of 110 gallons or more in capacity; (b) farm and residential vehicle fuel tanks storing more than 1,100 gallons of petroleum products that are not for resale; (c) home heating oil systems; (d) farm vehicle fuel tanks storing 1,100 or less gallons if the system is on a parcel of 35 or more acres of contiguous land devoted primarily to agricultural use which produces certain minimum farm income; (e) public school district and technical college district heating oil tanks used to store heating oil for consumptive use on the premises where stored; and (f) tanks located on trust lands of an American Indian tribe if the owner or operator otherwise complies with Department of Agriculture, Trade and Consumer Protection (DATCP) administrative rules concerning petroleum product storage. (2013 Act 20 transferred responsibility for tank regulation and petroleum inspection from DSPS to DATCP as of 2013-14).

The petroleum product storage system or home heating oil system must have been previously registered with DATCP. Petroleum products are defined as gasoline, gasoline-alcohol fuel blends, kerosene, fuel oil, burner oil, diesel fuel oil or used motor oil. Appendix I lists the major federal and state storage tank requirements affecting potential PECFA sites.

In order to be eligible for a PECFA award, the owner must do the following:

1. Report the petroleum discharge to DNR or the Department of Military Affairs, Division of Emergency Government, in a timely manner;

2. Notify DNR of the discharge and of the possibility of submitting a PECFA claim, prior to conducting a site investigation or remedial action;

3. Register the petroleum tank system with DATCP;

4. Complete an investigation to determine the degree and extent of environmental damage caused by the petroleum discharge;

5. Prepare a remedial action plan that identifies the specific activities proposed to be conducted;

6. Conduct all remedial action activities at the site to restore the environment to the extent practicable and minimize the harmful effects of the discharge, which may include monitoring to ensure the effectiveness of the natural process of degradation of petroleum product contamination if approved by DNR; and

7. Receive approval from DNR that the remedial activities meet cleanup standards.

In an emergency situation, an owner of a petroleum product storage system, or a person owning a home heating oil system, may submit a claim to DNR without completing a site investigation or remedial action plan if: (a) an emergency existed that made the investigation or plan inappropriate; and (b) the owner notified DNR of the emergency before conducting the emergency action and DNR authorized emergency action.

Persons who become owners of an eligible site who were not the owners when the discharge occurred are also eligible to submit a PECFA claim unless they should have known that a dis-

charge occurred. Further, if DNR approves, an owner of an eligible system or person owning a home heating oil system may enter into a written agreement with another person (including insurance companies, banks and consulting firms) to serve as their agent in order to submit a PECFA claim. If an agent is involved, payments are made jointly to the agent and owner. The state Department of Transportation (DOT) may also serve as an agent if the PECFA site affects a transportation project and DOT's participation is approved by DNR.

Underground and aboveground farm vehicle fuel tanks of 1,100 gallons or less capacity are eligible for PECFA if the petroleum product storage system stores petroleum products that are not for resale, and if certain criteria are met related to agricultural use and gross farm profits.

Federal and state laws require owners or operators of petroleum underground storage tanks to provide proof of financial responsibility for cleanup of contamination at the sites and for compensation of third parties for bodily injury and property damage caused by accidental releases from the sites. Underground systems that are owned or operated by marketers are required to provide proof of financial responsibility of \$1,000,000 per occurrence. Before sites were cleaned up or upgraded, the PECFA program provided a method for owners or operators to meet the financial responsibility requirements.

PECFA eligibility is not available for petroleum underground storage tank systems that meet federal and state standards for new and upgraded tanks. In general, the federal standards required federally-regulated tanks to be replaced or upgraded by December 22, 1998.

Cleanup Requirements

Section 292.11 of the statutes requires that persons who possess or control a hazardous substance which is discharged or who cause the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of the state. DNR is responsible for establishing environmental cleanup enforcement standards for groundwater and soil (numerical values for limit of the concentration of a contaminant).

DNR administrative rules included in the NR 700 series provide a comprehensive framework to govern environmental cleanups conducted by DNR, persons who caused or possess environmental contamination, or other parties conducting a cleanup. The rules govern cleanup at PECFA-eligible and non-PECFA eligible sites.

Many PECFA-eligible sites have utilized the option of: (a) using natural attenuation for remedial action, which means allowing naturally-occurring physical, chemical or biological processes to degrade contamination over a period of time; or (b) flexible closure, which means that cleanup activities can be stopped and the site closed when groundwater contamination levels exceed enforcement standards if certain cleanup conditions are met.

DNR administrative rules provide for a geographic information system (GIS) registry that includes information about contaminated sites that have been closed with a groundwater enforcement standard exceedance. Sites with residual groundwater contamination in excess of the NR140 enforcement standard must be placed on a GIS registry. The site information is available on the DNR Internet web site. DNR administrative rules also require inclusion on the GIS registry of sites approved for closure with residual soil con-

tamination. As of June 30, 2014, 5,915 PECFA-eligible sites have been placed on the GIS registry of closed sites, including 1,807 sites with a groundwater enforcement standard exceedance, 1,065 with soil contamination only, and 3,043 with both groundwater and soil contamination.

PECFA Award Payments

DNR is responsible for issuing PECFA awards after eligible costs have been incurred and DNR has approved all remedial action. Reimbursement procedures are established in s. 292.63 of the statutes (s. 101.143 prior to July 1, 2013) and administrative code chapter NR 747.

A PECFA claim must contain all of the following: (a) for a claim covering the site investigation and preparation of a remedial action plan, a copy of the site investigation report and a departmental letter indicating that remedial action plan submittal requirements have been complied with; (b) a copy of the DATCP tank inventory form for each petroleum tank system at the site; (c) bid specifications and bids for commodity services; (d) documentation of actual costs incurred in the cleanup; (e) proof of payment including accounts, invoices, sales receipts or records documenting actual eligible costs; (f) written approval from DNR for completed remedial activities; and (g) other records and statements that DNR determines are necessary to complete the application.

DNR pays PECFA claims on a first-in first-out basis for completed cleanup actions, with the claim date established as the date that the complete claim package and all necessary approvals are received by DNR. DNR generally pays claims within a few months of receipt of the application for reimbursement.

Eligible and Ineligible Costs

In general, eligible costs include the costs of investigating, cleaning and remediating discharges from petroleum product storage tanks, monitoring costs, compensation of third parties for damages caused by underground tank discharges, and other costs determined to be necessary by DNR.

NR 747 establishes a schedule of usual and customary costs for all work performed after May 1, 2006. In general, all PECFA occurrences must use the schedule, except for home heating oil tanks and certain DNR-approved emergency actions. The schedule includes several pages of detailed instructions for owners and consultants to use in calculating reimbursable costs for various investigation and remediation activities. Reimbursement is limited to the actual costs, or the maximum amount for the task in the usual and customary cost schedule, whichever is less. Owners and their consultants are required to use a standardized invoice for all work.

There are exclusions from eligible costs, including any cost incurred before August 1, 1987 (the date PECFA began), costs for activities conducted outside Wisconsin, and costs determined by DNR to be unreasonable or unnecessary. Administrative rule NR 747 includes an additional description of ineligible costs.

NR 747 identifies ineligible costs to which a penalty applies. If a claimant submits a PECFA claim that includes the specified ineligible costs, DNR is required to reduce the PECFA award by an amount equal to half of the ineligible costs after removal of the ineligible costs from the claim. If a consultant submits the ineligible costs, the consultant is required to pay a penalty to DNR equal to half the ineligible costs.

Examples of additional ineligible costs identified in NR 747 include costs: (a) for work per-

formed between the due date of any submittal (such as a report) and the date a past-due submittal is actually submitted; (b) that exceed the maximum reimbursable amount determined by DNR; (c) are incurred prior to obtaining certain approvals from DNR; and (d) exceed reimbursement caps established by the Department for specific activities at the site.

Progress Payments

DNR makes progress payments after the following milestones are completed: (a) completion of an emergency action; (b) completion of a site investigation and remedial action plan; (c) completion of remedial action activities; (d) approval of natural attenuation as a final remedial response or at the end of each one-year cycle of monitoring necessary to show that remediation by natural attenuation will occur; (e) at the end of each one-year cycle of monitoring required for off-site contamination; and (f) after implementation and one year of operation, sampling and monitoring of an active treatment system and every year thereafter. DNR also allows progress payments at sites based on extreme life safety and environmental risk, and where the claimant has demonstrated that he or she does not have the financial means to conduct a remediation without progress payments.

An owner or operator may submit a claim annually if the owner or operator has incurred \$50,000 in unreimbursed eligible PECFA costs and at least one year has elapsed since submission of the last claim.

Cost Containment Provisions

NR 747 provides cost guidelines for various cleanups, bid requirements, requirements for consultants and other items intended to promote cost containment under PECFA. Sites are subject to a maximum allowable cost for a site investigation and development of a remedial action plan of \$20,000, unless DNR pre-approves additional costs.

Consultants working on site investigations are required to periodically report to DNR on the consultant's progress and the estimated cost of work remaining on the investigation. DNR may direct the consultant or responsible party to carry out specific activities necessary to achieve the most cost-effective collection of investigation data necessary to determine whether the occurrence is subject to competitive public bidding, and to define the closure standard, remediation target of cleanup to be met, or scope of work for the remediation. The consultant must notify DNR when the investigation is complete. DNR is then required to send a written determination to the responsible party and consultant, stating whether the site is subject to public bidding for the remediation component, or whether the responsible party must take other action.

DNR is required, under s. 292.63(3)(cs), to determine the least costly method of completing the remedial action activities and complying with groundwater enforcement standards. Under s. 292.63(3)(cw), DNR is required to conduct an annual review, and make a determination of the least costly method of completing the remedial action and maximum reimbursement amount necessary for any remedial action conducted after the date of the notice.

Site Bidding

DNR must estimate the cost to complete a site investigation and remedial action for an occurrence. If that estimate exceeds \$60,000, DNR is required, under s. 292.63(3)(cp), to implement a competitive public bidding process to assist in determining the least costly method of remedial action. DNR may choose to waive the use of the bidding requirement if: (a) an enforcement standard is exceeded in groundwater within 1,000 feet of a well operated by a public utility or within 100 feet of any other well used to provide water for human consumption; or (b) it waives the requirement after providing notice to the Secretary of the Department of Administration (DOA).

Work performed as part of an emergency action within the initial 72 hours of the onset of the need, is not subject to public bidding.

Prior to the transfer of DSPS responsibilities to DNR in July, 2013, 72 rounds of competitive public bidding were conducted for approximately 1,300 sites. The competitive bidding established total reimbursement caps of \$35.42 million, including bids to take a site to closure and bids to establish a specific scope of work at a site.

Administrative rule NR 747.63 authorizes DNR to waive the public bidding process after determining that either bidding would not be cost-effective, or the estimated additional cost to complete a scope of work is reasonable.

DSPS did not conduct public bidding for sites after May, 2011. DNR has not conducted public bidding since July, 2013. DNR data shows that, since the usual and customary cost schedule was implemented in May, 2006, 4,141 sites used that process and received public bid waivers from Commerce or DSPS prior to July, 2013, or from DNR beginning in July, 2013. Since July 1, 2013, 392 sites received waivers from DNR under this process, and used a DNR-approved work scope budget using usual and customary costs. DNR officials indicate notice of the waivers has not been provided to the DOA Secretary.

Consultants and Service Providers

Consultants and consulting firms must register with DNR for admission to participate in the PECFA program. Consultants would include, but not be limited to, engineers, hydrogeologists and environmental scientists or specialists. DNR may disqualify consultants or consulting firms from participating in PECFA for non-compliance with PECFA program requirements. Consultants may provide cleanup services if the site has been through the public bidding process or is using the usual and customary cost schedule. Consulting firms, laboratories and drillers must maintain in-

surance coverage for errors and omissions of at least \$1,000,000 per claim.

Annually, DNR is statutorily required to collect information from consultants with estimates of the additional costs that must be incurred to complete the remedial action activities in compliance with state remediation requirements and groundwater enforcement standards. Administrative rule NR 700.11(1)(a), effective in November, 2013, requires the responsible parties or consultants for all contaminated sites undergoing remediation, or closed with conditions, to submit semi-annual reports on the status of work at the site. The reports are required to include a summary of the completed work, any activity completed during the past six months, the current status of remediation work at the site, additional work planned to adequately complete the remediation at the site, and additional costs required to complete the cleanup.

DNR indicates the semi-annual reports replaced the annual PECFA site reports. The first semi-annual reports, for January through June, 2014, were due to DNR in September, 2014. Semi-annual reports for July through December, 2014, are due to DNR in January, 2015. DNR indicates that semi-annual reports were submitted for 540 PECFA sites in the fall of 2014. The reports included estimates of approximately \$14.2 million in additional costs to complete cleanup work at the sites.

Interest Cost Reimbursement

Reimbursement for interest costs associated with loans secured on or after November 1, 1999, for remediation is limited based on the applicant's gross revenues in the most recent tax year as follows: (a) if gross revenues are up to \$25 million, interest reimbursement is limited to the prime rate minus 1% (or 2.25% since 2009); and (b) if gross revenues are over \$25 million, interest reimbursement is limited to 4%.

Loan origination fees are reimbursable at no more than two points of the loan principal. Annual loan renewal fees are reimbursable at no more than 1% of the outstanding unreimbursed loan amount.

If an applicant submits a final claim more than 120 days after receiving notification from DNR that no further action is necessary at the site, interest costs incurred more than 60 days after receiving the notice are not eligible for reimbursement.

If an applicant does not complete the site investigation within five years after the applicant notified DNR about the discharge, the applicant is ineligible for reimbursement of interest costs incurred after that date. As of the fall of 2014, DNR was aware of 47 sites where claims were submitted to DSPPS before 2013 that had a reduction of reimbursement of interest costs under this provision. When DSPPS had jurisdiction for claims processing, it identified 181 other sites where claims have not been submitted, which will experience a reduction of reimbursement of interest costs under the provision. However, many of the owners of these sites notified DSPPS they will either not file a claim or will use a consultant as the agent for filing a claim and will not incur interest costs. DNR has not identified additional sites under either of these provisions.

NR 747 denies reimbursement of interest costs if a responsible party did not submit a claim within 120 days of receiving a letter from DNR indicating no further action is necessary, or a written directive from DNR to submit the claim. In this situation, any interest expense is ineligible from the 121st day until the Department receives the claim.

Award Limits and Deductibles

The law establishes maximum awards per occurrence and deductibles that vary depending on the type of petroleum storage tank, the number of tanks and when the costs were incurred. The law

also establishes deductibles, which are the amounts the owner must pay for the cleanup.

The maximum award for commercial underground tanks, almost 80% of the occurrences under the program, is \$190,000 per occurrence for aboveground and underground tanks, for costs incurred on or after December 22, 2001. The deductible paid by the owner is \$10,000 per occurrence. The maximum award is \$1,000,000 per occurrence for investigations and remedial activities started before December 22, 2001. For commercial underground tanks where remediation began before November, 1999, the maximum deductible was \$7,500.

The maximum award for eligible farm tanks of 1,100 gallons or less is \$100,000. The maximum deductible is \$2,500 plus 5% of eligible costs, but not more than \$7,500 per occurrence.

The maximum award for tanks owned by public school districts and technical college districts that store heating oil for consumptive use on the premises is \$190,000. The maximum deductible is 25% of eligible costs.

The maximum award for home heating oil tanks is \$7,500, with a maximum deductible of 25% of eligible costs.

In addition to the overall maximum award, the maximum award for individual claims is limited to the amount determined by DNR to be necessary to implement the least costly method of completing remedial action and complying with groundwater enforcement standards.

Abandoned Tank Removal Program

The PECFA program does not pay for costs associated with the removal of a petroleum tank. 2009 Wisconsin Act 28 created a program to pay for the removal of abandoned underground petro-

leum storage tank systems under certain circumstances. DNR is provided \$100,000 annually from the petroleum inspection fund for the program. DNR is authorized to contract with a contractor certified by DATCP under the tank registration program, to remove underground petroleum product storage tank systems if the tank is abandoned and the owner of the system is unable to pay for the removal.

DNR is authorized to pay for the following costs: (a) empty, clean, remove, and dispose of an underground petroleum product storage tank system; (b) assess the tank site to determine whether there is petroleum contamination at the site; and (c) backfill the excavation. Backfill does not include landscaping or replacing sidewalk, asphalt, fence, or sod or other vegetation. For any site where DNR incurs costs under the program, the Department records a lien for the costs with the Register of Deeds in the county where the site is located, which remains on the property until the amount is paid to the Department. DNR deposits payments received to satisfy the lien into the petroleum inspection fund.

The program has spent \$349,200 between 2009-10 and 2013-14 to remove 139 underground petroleum tanks at 46 sites. Expenditures totaled \$100,000 in 2012-13 and \$24,000 in 2013-14 (plus \$35,300 in encumbrances). Removal costs to date have averaged approximately \$2,500 per tank. Gas stations have an average of three tanks per site.

DNR is identifying potentially-eligible tanks from the following sources that may provide information to the Department: (a) DATCP tank inspectors, who may identify the sites of highest priority for proper removal; (b) owners of underground petroleum storage tank systems; (c) real estate agents; (d) lending institutions; (e) DATCP tank enforcement referrals to the Department of Justice; and (f) certified removers of tanks.

DSPS (prior to July, 2013) and DNR (as of

July, 2013) found common types of sites eligible for the program include current or former gas stations: (a) where the owner is no longer in business; (b) that now provide automotive service with no retail fuel sales; (c) where the owner has abandoned property with leaking tanks; (d) where the owner refused to remove abandoned tanks, died, and left the site for the heirs to address; and (e) where the courts authorized DSPS or DNR to remove tanks on properties where owners refuse to comply with court orders to remove the tanks.

Total Potential PECFA Sites

Potential PECFA sites are regulated under federal and state storage tank requirements. As of July, 2014, DATCP regulated approximately 219,000 flammable and combustible liquid storage tanks. Of this number, approximately 182,000 are underground petroleum product storage tank systems under federal and state requirements and approximately 37,000 are aboveground petroleum product storage tank systems under state requirements. Of the 219,000 tanks, approximately 72,600 are active in-use tank systems, 139,800 are closed tanks, 6,000 are abandoned, and 600 are temporarily out-of-service. (Temporarily out-of-service tanks are not currently being used, and have not been closed or abandoned, but will either return to active use after a short period of time or will be closed.) Of the 72,600 active in-use systems: (a) 50,900 are underground tank systems, of which 12,200 are regulated under federal requirements; and (b) 21,700 are aboveground tanks. It is believed that all of the active, in-use federally-regulated tanks have been upgraded to meet 1998 federal requirements.

Table 1 shows the number of open (in the process of remediation) and closed petroleum-contaminated sites in the databases of DNR as of 2013, and the reconciled databases of DNR and

DSPS prior to 2013. The total number of sites decreased from 17,253 in June, 2012, to 14,224 in June, 2013. When DNR assumed responsibility for all PECFA sites in July, 2013, it combined the site databases of DSPS and DNR, reconciled site data, and eliminated duplicative information about sites. As of June 30, 2014, the DNR database included 14,262 sites, including 802 (5.6%) open (active) sites and 13,460 (94.4%) closed sites.

Table 1: Number of Petroleum-Contaminated Sites

Date	Open Sites	% of Sites	Closed Sites	% of Sites	Total Sites
Sept, 1998	5,970	54.7%	4,946	45.3%	10,916
June, 1999	6,139	50.1	6,121	49.9	12,260
August, 2000	5,531	40.5	8,132	59.5	13,663
June, 2001	4,611	31.9	9,851	68.1	14,462
June, 2002	4,126	26.7	11,302	73.3	15,428
June, 2003	3,604	22.9	12,166	77.1	15,770
June, 2004	3,034	18.9	12,994	81.1	16,028
June, 2005	2,638	16.2	13,646	83.8	16,284
June, 2006	2,240	13.6	14,227	86.4	16,467
June, 2007	1,967	11.8	14,707	88.2	16,674
June, 2008	1,730	10.3	15,082	89.7	16,812
June, 2009	1,527	9.0	15,389	91.0	16,916
June, 2010	1,335	7.8	15,700	92.2	17,035
June, 2011	1,170	6.8	15,976	93.2	17,146
June, 2012	1,014	5.9	16,239	94.1	17,253
June, 2013 *	874	6.1	13,350	93.9	14,224
June, 2014 *	802	5.6	13,460	94.4	14,262

*Data prior to 2013 came from databases of both DNR and DSPS. As of 2013, DNR maintains the sole database of petroleum-contaminated sites.

PECFA Administration

DNR administers PECFA program activities in the Bureau for Remediation and Redevelopment in the Division of Air, Waste and Remediation and Redevelopment (AWaRe). In 2014-15, DNR allocates base funding of \$3,269,500 and 33.8 positions to administer its responsibilities related to cleanup of PECFA sites. This includes: (a) federal LUST program funding of \$1,094,400 and 13.5 hydrogeologist and engineer positions;

and (b) \$2,175,100 in segregated revenues with 20.3 positions from the petroleum inspection fund. These figures include the 23.3 DSPS positions transferred to DNR under 2013 Act 20, and the DNR deletion of 1.6 positions in July, 2014, as part of the allocation of agencywide reductions of 32.1 positions required by 2013 Act 20.

DNR responsibilities related to the program include to: (a) develop and enforce cleanup standards; (b) review remedial action work completed at all petroleum-contaminated sites; (c) provide written approval that the investigation and cleanup of environmental contamination is conducted according to state environmental standards and that the harmful effects from the discharge are minimized according to the hazardous substance spills law; (d) establish the maximum reimbursement amount needed at individual sites; (e) review, approve and pay PECFA claims; (f) conduct appeals made by PECFA claimants; (g) take enforcement actions; and (h) perform other program administration functions. DNR also makes additional efforts to contact the responsible parties at sites where cleanup activities have slowed or stopped, in order to move those site cleanups closer to completion, sends letters to responsible parties, and issues notices to proceed for cases that are not actively managed.

DNR charges fees under administrative rule NR 749 to persons who request DNR actions such as case close-out letters (\$1,050 as of November, 2013, \$750 prior to then) or no further action letters (\$350) for PECFA and non-PECFA sites. The fees are collected as program revenue and offset the costs of providing several types of assistance related to brownfields redevelopment. DNR also collects fees for adding sites to an online geographic information system (GIS) registry of sites approved for closure where a groundwater enforcement standard is exceeded (\$350) or closed with residual soil contamination (\$300). The fees are not reimbursable expenses under the PECFA program. Sites that were formerly under DSPS jurisdiction were not subject

to closure fees. While DNR does not have data about the number of former DSPTS sites that may become subject to the DNR fees, it is possible that up to 100 of these sites annually could be closed under DNR jurisdiction.

PECFA program expenditures from 1988-89 through 2013-14 and the estimated amounts in 2014-15. The PECFA program has paid cumulative awards totaling \$1.53 billion through the end of 2013-14 (\$1.14 billion cash allotment from petroleum inspection fees and \$388 million from revenue obligations proceeds) for partial or final cleanups at 13,280 occurrences. (There can be more than one occurrence at a site.) DNR paid \$4,795,800 in PECFA claims in 2013-14. There is \$8.4 million available for expenditure from the biennial PECFA awards appropriation in 2014-15

PECFA Program Costs

Table 2 presents a summary, by fiscal year, of

Table 2: PECFA Program Costs Paid from the Petroleum Inspection Fund by Fiscal Year

	PECFA Awards	Rev. Bond Awards	Rev. Bond Debt Payment	Commerce/ DSPTS Admin.*	DNR Admin.*	Total
1988-89	\$312,000	\$0	\$0	\$40,300	\$33,800	\$386,100
1989-90	7,249,100	0	0	80,000	81,500	7,410,600
1990-91	22,802,900	0	0	193,900	94,300	23,091,100
1991-92	24,621,500	0	0	209,600	99,900	24,931,000
1992-93	43,531,700	0	0	419,900	544,200	44,495,800
1993-94	64,871,900	0	0	585,200	428,100	68,885,200
1994-95	80,891,500	0	0	943,000	441,800	82,276,300
1995-96	106,960,700	0	0	1,073,900	796,500	108,831,100
1996-97	95,902,700	0	0	1,645,300	680,600	98,228,600
1997-98	94,131,700	0	0	2,222,800	235,900	96,590,400
1998-99	94,131,700	0	0	2,139,100	255,200	96,526,000
1999-00	89,219,100	207,394,400	6,879,300	2,246,900	233,000	305,972,700
2000-01	80,680,400	43,711,500	13,790,300	2,701,200	250,900	141,134,300
2001-02	74,999,900	30,008,300	22,536,300	2,971,000	287,800	130,803,300
2002-03	67,995,700	62,272,500	23,713,700	2,757,000	303,800	157,042,700
2003-04	49,795,300	43,136,100	24,540,300	2,848,000	301,900	120,621,600
2004-05	42,707,000	1,835,900	29,575,500	2,648,200	313,000	77,079,600
2005-06	21,311,100	0	70,471,700	2,269,300	328,400	94,380,500
2006-07	22,514,100	0	31,152,700	2,609,300	344,300	56,620,400
2007-08	14,591,100	0	29,561,300	2,459,100	183,700	46,795,200
2008-09	10,408,500	0	28,341,300	2,574,100	207,900	41,531,800
2009-10	9,521,200	0	11,196,100	2,445,300	185,500	23,348,100
2010-11	8,828,300	0	5,868,200	2,157,200	192,800	17,046,500
2011-12	6,970,000	0	7,833,500	1,886,000	352,200	17,041,700
2012-13	4,070,500	0	29,977,500	1,745,100	373,700	36,166,800
2013-14	4,795,800	0	29,969,500	0	1,660,500	36,425,800
2014-15 **	<u>4,500,000</u>	<u>0</u>	<u>30,300,000</u>	<u>0</u>	<u>2,175,100</u>	<u>36,975,100</u>
Total	\$1,148,315,400	\$388,358,700	\$395,707,200	\$43,870,700	\$11,386,300	\$1,987,638,300
Percent	57.8%	19.5%	19.9%	2.2%	0.6%	100.0%

*Excludes federally-funded staff paid through the leaking underground storage tank program and staff funded from program revenue.

**Includes the estimated amount for DNR PECFA awards and debt service, and appropriated amount for DNR administration.

Table 3: Distribution of PECFA Payments by Type of Tank (as of June 30, 2014)

Tank Type	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
Commercial Underground	10,384	78.2%	\$1,340,418,585	87.5%	\$129,085
Aboveground	949	7.2	151,521,935	9.9	159,665
Terminal	31	0.2	16,213,806	1.1	523,026
Farm under 1,100 gal	260	2.0	10,873,064	0.7	41,819
Home Heating Oil	1,424	10.7	7,711,126	0.5	5,415
School District	222	1.7	5,201,645	0.3	23,431
Technical College	5	0.0	159,168	0.0	31,834
Tribal Trust	5	0.0	247,087	0.0	49,417
Total	13,280	100.0%	\$1,532,346,416	100.0%	\$115,388

(\$3,854,200 carried forward in unexpended funds from 2013-14 and \$4,550,000 in new expenditure authority in 2014-15). However, it is anticipated that PECFA claim payments will total approximately \$4.5 million in 2014-15. Table 2 shows the estimated, rather than authorized, expenditures for PECFA claims in 2014-15.

Type of Tank System

The majority of PECFA occurrences for which at least one payment has been made had contamination from federally-regulated commercial underground petroleum storage tank systems, such as found at gasoline stations. Table 3 shows the distribution of PECFA occurrences and awards by the type of petroleum tank system for PECFA payments made as of June 30, 2014. The distribution of payments includes PECFA payments for occurrences that had been finalized and occurrences where payments have partially reimbursed remedial action. Commercial underground petroleum product storage tanks represented 78% of the PECFA occurrences where at least one payment has been made and 88% of PECFA payments made as of June 30, 2014. Home heating oil tanks were the second largest number of occurrences, representing 11% of PECFA occurrences, but less than 1% of PECFA payments. Aboveground tanks represented the second largest group of payment, with 10% of payments, and 7% of the number of occurrences.

Payments Per Occurrence

Table 4 shows the distribution of PECFA occurrences and awards by the amount paid per occurrence for the \$1.5 billion in PECFA payments for 13,280 occurrences made as of June 30, 2014. While 49% of the occurrences had received less than \$50,000 each, this category of occurrences comprised 8% of the total payments. Conversely, 4.4% of the occurrences had received more than \$500,000 each, and this category of occurrences comprised 27% of the total payments. The average PECFA payment per occurrence (including closed occurrences and occurrences with cleanups in process) was \$115,400.

Table 5 shows that, for the 13,280 occurrences for which at least one PECFA payment had been made by June 30, 2014, final payments had been made for completed cleanup at 12,508 occurrences (93%). The \$1.42 billion in PECFA payments for the closed occurrences represented 93% of PECFA payments made as of June 30, 2014. The average PECFA payment for cleanup at completed occurrences was \$113,600.

Table 6 shows how the number and percentage of open occurrences and payments for open occurrences have declined from 1998 to 2014 as open occurrences are moved from the category of open to closed, and the number and percentage of closed occurrences and payments for closed occurrences has increased. In 1998, 25% of cumula-

Table 4: Distribution of PECFA Payments – Occurrences at All Sites (as of June 30, 2014)

Amount Per Occurrence	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
\$50,000 and less	6,514	49.1%	\$123,237,374	8.0%	\$18,919
\$50,001 to \$100,000	2,607	19.6	188,255,058	12.3	72,211
\$100,001 to \$150,000	1,181	8.9	144,637,290	9.4	122,470
\$150,001 to \$200,000	719	5.4	124,457,403	8.1	173,098
\$200,001 to \$250,000	500	3.8	112,029,358	7.3	224,059
\$250,001 to \$300,000	327	2.5	90,011,701	5.9	275,265
\$300,001 to \$350,000	258	1.9	83,701,949	5.4	324,426
\$350,001 to \$400,000	204	1.5	76,246,370	5.0	373,757
\$400,001 to \$450,000	174	1.3	73,809,257	4.8	424,191
\$450,001 to \$500,000	212	1.6	101,932,462	6.7	480,814
\$500,001 to \$550,000	103	0.8	53,982,354	3.5	524,101
\$550,001 to \$600,000	77	0.6	44,211,564	2.9	574,176
\$600,001 to \$650,000	82	0.6	51,429,615	3.4	627,190
\$650,001 to \$700,000	73	0.5	49,224,550	3.2	674,309
\$700,001 to \$750,000	46	0.3	33,443,659	2.2	727,036
\$750,001 to \$800,000	47	0.3	36,331,273	2.4	773,006
\$800,001 to \$850,000	25	0.2	20,696,712	1.4	827,868
\$850,001 to \$900,000	34	0.3	29,794,774	1.9	876,317
\$900,001 to \$950,000	21	0.2	19,362,088	1.3	922,004
\$950,001 to \$1,000,000	<u>76</u>	<u>0.6</u>	<u>75,551,603</u>	<u>4.9</u>	994,100
Total	13,280	100.0%	\$1,532,346,416	100.0%	\$115,388

Table 5: Distribution of PECFA Payments -- Occurrences at Closed Sites (as of June 30, 2014)

Amount Per Occurrence	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
\$50,000 and less	6,205	49.6%	\$116,864,586	8.2%	\$18,834
\$50,001 to \$100,000	2,456	19.6	177,086,201	12.5	72,104
\$100,001 to \$150,000	1,084	8.7	132,513,730	9.3	122,245
\$150,001 to \$200,000	666	5.3	115,264,081	8.1	173,069
\$200,001 to \$250,000	467	3.7	104,672,540	7.4	224,138
\$250,001 to \$300,000	306	2.4	84,200,646	5.9	275,166
\$300,001 to \$350,000	237	1.9	76,979,097	5.4	324,806
\$350,001 to \$400,000	196	1.6	73,250,603	5.2	373,728
\$400,001 to \$450,000	159	1.3	67,406,871	4.7	423,943
\$450,001 to \$500,000	201	1.6	96,736,176	6.8	481,275
\$500,001 to \$550,000	97	0.8	50,828,442	3.6	524,005
\$550,001 to \$600,000	71	0.6	40,828,055	2.9	575,043
\$600,001 to \$650,000	76	0.6	47,643,344	3.4	626,886
\$650,001 to \$700,000	62	0.5	41,837,421	3.0	674,797
\$700,001 to \$750,000	44	0.4	31,999,804	2.3	727,268
\$750,001 to \$800,000	43	0.3	33,248,776	2.3	773,227
\$800,001 to \$850,000	21	0.2	17,387,602	1.2	827,981
\$850,001 to \$900,000	31	0.2	27,144,204	1.9	875,619
\$900,001 to \$950,000	16	0.1	14,732,341	1.0	920,771
\$950,001 to \$1,000,000	<u>70</u>	<u>0.6</u>	<u>69,665,985</u>	<u>4.9</u>	995,228
Total	12,508	100.0%	\$1,420,290,504	100.0%	\$113,551

Table 6: PECFA Occurrences With At Least One Payment, Open and Closed Occurrences (\$ in Millions)

Date	Number of Open Occurrences	% of Open Occurrences to All Occurrences	Total Payments for Open Occurrences	% Payments for Open to All Payments
June 30, 1998	2,853	50.4%	\$408.1	75.5%
June 30, 1999	2,892	45.2	436.2	68.7
June 30, 2000	3,295	38.7	524.2	56.2
June 30, 2001	2,670	28.9	447.2	42.3
June 30, 2002	2,100	21.2	362.2	31.2
June 30, 2003	1,839	17.1	352.7	27.3
June 30, 2004	1,723	14.9	328.0	23.7
June 30, 2005	1,660	13.9	305.3	21.4
June 30, 2006	1,523	12.4	273.5	18.9
June 30, 2007	1,343	10.8	237.7	16.2
June 30, 2008	1,183	9.3	212.8	14.3
June 30, 2009	1,059	8.3	187.5	12.5
June 30, 2010	949	7.4	162.5	10.8
June 30, 2011	911	7.0	146.6	9.7
June 30, 2012	854	6.5	129.5	8.5
June 30, 2013	730	5.5	109.1	7.1
June 30, 2014	772	5.8	112.0	7.3

Date	Number Of Closed Occurrences	% Closed Occurrences to All Occurrences	Total Payments for Closed Occurrences	% Payments for Closed to All Payments	Total Number of Occurrences With Payment	Total Payments
June 30, 1998	2,802	49.6%	\$132.6	24.5%	5,655	\$540.7
June 30, 1999	3,503	54.8	199.0	31.3	6,395	635.2
June 30, 2000	5,218	61.3	407.8	43.8	8,513	932.0
June 30, 2001	6,578	71.1	609.1	57.7	9,248	1,056.3
June 30, 2002	7,783	78.8	799.3	68.9	9,883	1,161.6
June 30, 2003	8,894	82.9	939.1	72.7	10,733	1,291.9
June 30, 2004	9,816	85.1	1,054.0	76.3	11,539	1,382.0
June 30, 2005	10,325	86.1	1,120.5	78.6	11,985	1,425.8
June 30, 2006	10,724	87.6	1,177.1	81.1	12,247	1,450.6
June 30, 2007	11,133	89.2	1,233.2	83.8	12,476	1,470.8
June 30, 2008	11,472	90.7	1,274.8	85.7	12,655	1,487.6
June 30, 2009	11,724	91.7	1,310.8	87.5	12,783	1,498.3
June 30, 2010	11,940	92.6	1,345.0	89.2	12,889	1,507.5
June 30, 2011	12,107	93.0	1,370.0	90.3	13,018	1,516.6
June 30, 2012	12,269	93.5	1,394.0	91.5	13,123	1,523.5
June 30, 2013	12,469	94.5	1,418.4	92.9	13,199	1,527.5
June 30, 2014	12,508	94.2	1,420.3	92.7	13,280	1,532.3

Table 7: Distribution of PECFA Payments -- Occurrences at Active Sites (as of June 30, 2014)

Amount Per Occurrence	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
\$50,000 and less	309	40.0%	\$6,372,788	5.7%	\$20,624
\$50,001 to \$100,000	151	19.6	11,168,857	10.0	73,966
\$100,001 to \$150,000	97	12.6	12,123,559	10.8	124,985
\$150,001 to \$200,000	53	6.9	9,193,322	8.2	173,459
\$200,001 to \$250,000	33	4.3	7,356,818	6.6	222,934
\$250,001 to \$300,000	21	2.7	5,811,055	5.2	276,717
\$300,001 to \$350,000	21	2.7	6,722,853	6.0	320,136
\$350,001 to \$400,000	8	1.0	2,995,767	2.7	374,471
\$400,001 to \$450,000	15	1.9	6,402,386	5.7	426,826
\$450,001 to \$500,000	11	1.4	5,196,287	4.6	472,390
\$500,001 to \$550,000	6	0.8	3,153,913	2.8	525,652
\$550,001 to \$600,000	6	0.8	3,383,509	3.0	563,918
\$600,001 to \$650,000	6	0.8	3,786,271	3.4	631,045
\$650,001 to \$700,000	11	1.4	7,387,129	6.6	671,557
\$700,001 to \$750,000	2	0.3	1,443,855	1.3	721,927
\$750,001 to \$800,000	4	0.5	3,082,497	2.7	770,624
\$800,001 to \$850,000	4	0.5	3,309,110	3.0	827,278
\$850,001 to \$900,000	3	0.4	2,650,570	2.4	883,523
\$900,001 to \$950,000	5	0.6	4,629,747	4.1	925,949
\$950,001 to \$1,000,000	<u>6</u>	<u>0.8</u>	<u>5,885,618</u>	<u>5.2</u>	980,936
Total	772	100.0%	\$112,055,911	100.0%	\$145,150

tive total PECFA payments had been made for 2,802 closed sites. In 2004, that percentage had increased to 76% of cumulative payments for 9,816 closed sites. As of June 30, 2014, 93% of cumulative payments had been made for 12,508 closed sites.

As of June 30, 2014, partial PECFA payments had been made for \$112 million at 772 occurrences, which represented 6% of all occurrences with at least one payment and 7% of all payments being made for active sites with at least one payment. Table 7 shows the payments made at active sites by the payment amount per occurrence. While 40% of the active sites with partial payments had received less than \$50,000 as of June 30, 2014, they represented 6% of total partial payments. Approximately 7% of occurrences with partial payments received over \$500,000 in PECFA payments as of June 30, 2014, and the payments for these occurrences represented 35%

of PECFA partial payments. The average PECFA payment for partially reimbursed occurrences at active sites was \$145,200. Additional PECFA payments can be expected at these sites before they are closed.

PECFA payments have been made in all 72 counties. Milwaukee County sites have received the largest amount of PECFA payments, including 2,318 occurrences and \$220.8 million, representing 17.5% of total occurrences and 14.4% of total payments made as of June 30, 2014. Dane County occurrences received the second highest level of total payments (8.2% of payments) and Waukesha County was third with 4.7% of payments. Appendix II summarizes PECFA payments made by county.

Distribution of PECFA Costs

When the former Department of Commerce

and Department of Safety and Professional Services managed the claim reimbursement portion of the PECFA program, the Departments maintained information about the categories of PECFA costs for claims paid between January 1, 1994, and June 30, 2012. This included claims totaling \$1,332.0 million for 12,380 occurrences. DSPS data on PECFA claims indicated that the largest category of PECFA payments during that time period was consultant services, accounting for 40% of total costs. The second largest category of costs was loan interest and other loan-related expenses for loans secured to clean up PECFA sites, representing 20% of PECFA costs. Costs of soil treatment, such as payments to landfills for disposal of contaminated soil, comprised almost 10% of PECFA awards during that time period. Claims submitted on or after May 1, 2006, administrative rule changes went into effect are categorized as consulting, commodity, usual and customary costs, loan interest or other costs.

Information is not available for the cost components of claims paid after June 30, 2012. DNR has not maintained information about the categorization of costs by cost component.

Efforts to Close Sites

The PECFA program does not have a statutory end date. Cleanup at most federally-regulated sites has been completed in compliance with federal requirements to close or upgrade the tanks by the end of 1998. These sites have been closed, and the last PECFA payments have been made. Sites that are new or were upgraded to meet federal requirements during the 1990s are not eligible for the program. Sites that were cleaned up and received reimbursement for cleanup costs under the program are not eligible after completion of cleanup.

In each of the last few years, approximately 50 sites annually have established PECFA eligi-

bility. DNR estimates that this will continue during 2015. It is likely that sites identified in recent years mainly included properties where a PECFA-eligible occurrence was discovered during a transfer of ownership, settlement of an estate, or discovery during a building or road construction project. In addition, sites might be identified where the responsible party has not been willing or able to begin a cleanup, the site has been abandoned, or the owner of a federally-regulated site did not comply with the 1998 deadline to upgrade or close tanks.

Some sites have been open for many years without reaching closure. Some of these sites have ongoing active cleanup underway, and are progressing towards completion and closure, although many of them have complex site conditions and extensive contamination. Other open sites have had little or no cleanup activity conducted for several years.

DNR actions to move open sites to closure during 2013 and 2014 include to: (a) increase efforts to find viable responsible parties to undertake site cleanup; (b) integrate former DSPS PECFA staff into the DNR remediation program; (c) provide one DNR project manager for each site as the point of contact for remediation and reimbursement issues; (d) implement a semi-annual electronic reporting by responsible parties to better track open sites; (e) implement a team review of sites where little remediation work is occurring to identify sites that are most likely to be PECFA eligible; (f) increase use of a streamlined enforcement process at stalled sites; (g) encourage greater use of the uniform and customary cost schedule; (h) use a PECFA agent process to make PECFA reimbursement payments directly to consultants at certain sites where the owners have authorized it; (i) increase active monitoring of sites with phone calls and meetings to move sites toward the next step; and (j) perform reviews of site files to determine the next steps needed to move a site toward closure.

Estimated Total Program Cost

In the mid-1990s, estimates of the cumulative cost of the PECFA program ranged from \$1.4 to \$1.8 billion. In 2006, the former Department of Commerce completed a study of the estimated future financial liability of the PECFA program for petroleum-contaminated sites, and estimated a total cumulative potential program cost of \$1.8 to \$1.9 billion. In October, 2010, Commerce estimated that 1,162 sites had established PECFA eligibility, and had an estimated remaining financial liability of \$67.3 million. Commerce did not estimate potential PECFA program costs for 925 sites with reported costs for which PECFA eligibility had not yet been established. During the 2011-13 biennium, DSPS did not update the estimate of the remaining potential PECFA costs.

Since July 1, 2013, DNR has not performed any study of the overall future financial liability of the PECFA program. DNR is aware of approximately 800 potentially PECFA-eligible sites that could submit claims in the future, but does not have information about how many of them will submit claims. In September, 2014, DNR received semi-annual site status reports for 540 PECFA sites, which included estimates of approximately \$14.2 million in additional cleanup costs for the sites.

The estimate of potential liability would vary depending on the number of, and cleanup costs for, sites for which eligibility is determined in the future, and the actual remaining cleanup costs for sites with PECFA eligibility. The rate at which PECFA claims are paid would vary depending on the amount of time it takes responsible parties to clean up sites.

PECFA Bonding

Between 1999 and 2007, total PECFA revenue obligation authority of \$386,924,000 was authorized. Between March and December of 2000, \$250 million of revenue obligations was issued and the proceeds were subsequently used

to pay PECFA claims and substantially reduce the claim backlog. All of the \$387 million in PECFA revenue obligation authority was issued before December, 2008, and was used to pay PECFA claims. No bonding authority is available for future issuance.

As of December 1, 2014, the total amount of outstanding revenue obligations (the amount the state owes in principal) was \$139.1 million, which included \$67.95 million in long-term obligations with a weighted average interest cost of 4.74%, and \$71.15 million in short-term commercial paper with a weighted average interest rate of 0.11%.

Table 8 shows the actual annual payments to the revenue obligation trustee for petroleum inspection fee revenue obligation debt service for the past 10 years and estimated payments for 2014-15 through 2016-17. Debt service payments for 2009-10 through 2011-12 were lower than in prior years because the state refinanced the debt

Table 8: Petroleum Inspection Fee Revenue Obligation Payments to the Trustee Debt Service Account and Remaining Principal Balance (\$ in Millions)

	Payment Amount*	Principal Balance**
2004-05	\$29.6	\$348.5
2005-06	70.5	318.5
2006-07	31.1	272.6
2007-08	29.6	252.3
2008-09	28.3	231.0
2009-10	11.2	188.6
2010-11	5.9	188.6
2011-12	7.8	188.6
2012-13	30.0	188.6
2013-14	30.0	164.4
2014-15 est.	30.3	139.1
2015-16 est.	28.6	112.6
2016-17 est.	13.2	84.8
July 1, 2017		71.2

*Includes payments to the trustee debt service account from July through June of the fiscal year.

**December 1 outstanding principal balance after making required payments.

to defer principal payments. The state resumed paying principal payments in 2012-13.

The state made payments of \$30 million to the revenue obligation debt service trustee account in both 2012-13 and 2013-14. The state is expected to make debt service payments to the trustee account of approximately \$30.3 million in 2014-15. The estimated debt service amounts for 2014-15 through 2016-17 are based on an assumption that the state will pay all currently outstanding long-term debt by July 1, 2017, and will make interest only payments on short-term obligations (at estimated rates of less than 1%) before that date. The remaining principal amount would be \$71.2 million (all short-term commercial paper currently) after the July, 2017, debt service payment. However, any undesignated petroleum inspection fund balances can be used to pay additional debt service beyond the minimum required amounts, shown in the table. DOA could choose to either pay additional principal on the short-term obligations, or to convert part or all of the short-term paper into longer-term debt instruments with a fixed principal and interest payment schedule.

Petroleum Inspection Fund

The PECFA program is funded from the segregated petroleum inspection fund. Revenue for the fund is generated from the petroleum inspection fee. Under Chapter 168 of the statutes, the Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for inspecting petroleum products brought in to the state to assure that the product meets minimum product grade and environmental specifications. The grade specifications are established by administrative rule and are based on nationally recognized standards, specifications and classifications. A petroleum inspection fee is imposed on all of the inspected petroleum products. The Department of Revenue (DOR) collects the fee at the same time it collects the motor vehicle fuel

tax at petroleum company terminals.

Between 3.5 and 3.6 billion gallons of petroleum are inspected annually (including gasoline, diesel and heating oil). Each one cent of petroleum inspection fee generates revenues of approximately \$35-36 million annually. The current 2¢ per gallon fee generated \$71.1 million of revenue in 2013-14. It is anticipated the state will collect approximately \$77.4 million in petroleum inspection fees in 2014-15, which will include approximately \$7 million in one-time receipts collected from a past-due account.

The petroleum inspection fund also receives revenues from inspection and plan review fees for bulk petroleum tanks, and interest income on the fund balance.

Although a petroleum inspection fee existed since at least 1880, it has been used as a funding source for cleanup of petroleum contamination only since the creation of the PECFA program in 1988. In 1988 the fee was 0.4¢ per gallon and was increased to 1¢ in 1991, to 2¢ in 1992, and to 3¢ per gallon in 1993. The fee was decreased from 3¢ to 2¢ per gallon, on April 1, 2006.

The petroleum inspection fund provides funds for DNR PECFA payments and administration, DATCP's petroleum tank and inspection programs and several other programs in the Departments of Administration, DATCP, Military Affairs, Revenue, and Transportation. The condition of the petroleum inspection fund is shown in Table 9. The petroleum inspection fund is currently expected to have an unencumbered balance of approximately \$15.9 million on July 1, 2015.

The first use of petroleum inspection fees is required to be payment of the revenue obligations that were issued to pay the 1990s PECFA claim backlog. Actual and estimated minimum required payments for debt service costs are shown in Table 8.

Table 9: Petroleum Inspection Fund Estimated Condition, 2011-12 Through 2014-15

	2011-12 Actual	2012-13 Actual	2013-14 Actual	2014-15 Estimated
Opening Balance -- July 1	\$2,570,900	\$17,869,900	\$14,721,200	\$13,530,700
Revenues				
Petroleum Inspection Fee	\$73,956,600	\$71,639,100	\$71,119,900	\$77,400,000
Revenue Obligation Debt Service	-7,833,500	-29,977,500	-29,969,500	-30,300,000
Petroleum Bulk Tank Fees and Other	<u>262,800</u>	<u>291,600</u>	<u>228,200</u>	<u>225,000</u>
Total Revenues	\$66,385,900	\$41,953,200	\$41,378,600	\$47,325,000
Total Revenue Available	\$68,956,800	\$59,823,100	\$56,099,800	\$60,855,700
Expenditures and Reserves				
PECFA Awards	\$6,970,000	\$4,070,500	\$4,795,800	\$4,500,000 *
PECFA Administration **	2,238,200	2,118,800	1,660,500	2,175,100
Petroleum Inspection ***	4,627,500	4,298,400	4,238,700	4,836,100
Transportation Fund	6,608,800	6,497,000	6,623,500	6,612,600
Other Programs	11,142,400	8,617,200	9,250,600	9,721,700
Expenditure of prior year encumbrances	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,069,300</u>
Total Expenditures	\$31,586,900	\$25,601,900	\$26,569,100	\$28,914,800
Less Transfer to Transportation Fund	\$19,500,000	\$19,500,000	\$16,000,000	\$16,000,000
Cash Balance	\$17,869,900	\$14,721,200	\$13,530,700	\$15,940,900
Encumbrances, Continuing Balances	-\$180,800	-\$513,100	-\$1,069,300	\$0
Closing Available Balance -- June 30	\$17,689,100	\$14,208,100	\$12,461,400	\$15,940,900

*Shows estimated expenditures of \$4,500,000 rather than the authorized \$8,404,200.

**DSPS and DNR prior to 2013-14, DNR as of 2013-14.

***DSPS prior to 2013-14, DATCP as of 2013-14.

In 2013-14, revenue from the petroleum inspection fee, bulk tank fees and interest income totaled \$71.3 million. Expenditures totaled \$72.6 million, including: (a) \$30.0 million for revenue obligation debt service costs (shown as a reduction to available revenue); (b) \$26.6 million for expenditures from appropriations; and (c) \$16.0 million for a one-time transfer from the petroleum inspection fund to the transportation fund, under provisions of 2013 Act 20. It is anticipated that in 2014-15, revenue from the petroleum inspection fee and other revenues will total \$77.6 million, and expenditures will total \$75.2 million, including: (a) \$30.3 million for revenue obligation debt service costs; (b) \$28.9 million for appropriations with 89.8 positions; and (c) \$16.0

million for a one-time transfer to the transportation fund.

Approximately 56% (\$82.5 million) of the expenditures from the petroleum inspection fund in the 2013-15 biennium will be for PECFA awards, DNR administration of the PECFA program, revenue obligation debt service costs, and DATCP petroleum inspection and tank regulation programs, including 53.7 positions. In addition, approximately 31% (\$45.2 million) will be for DOT appropriations and the transfer to the transportation fund. The remaining 13% includes \$19 million for other programs and \$1 million for expenditure of prior year encumbrances.

The appropriations funded from the petroleum inspection fund are listed individually in Appendix III. The programs are described in the following sections.

Department of Natural Resources

In 2014-15, DNR is authorized 31.95 positions in the Division of Air, Waste, and Remediation and Redevelopment for environmental repair, petroleum spills, and PECFA administration. The Department allocates approximately 19.7 of the positions for the PECFA administrative activities described earlier, and the remaining 12.25 positions for other contaminated land cleanup activities. (For more information, see the Legislative Fiscal Bureau informational paper entitled, "Contaminated Land Cleanup Programs.")

DNR has base funding of \$2,548,300 and 8.5 positions from the petroleum inspection fund for air program activities in 2014-15. These positions are used for air management activities related to mobile source pollution control, air emission reduction from fuel storage and distribution systems, pollution prevention, and department-wide activities related to air management. These positions are funded from four appropriations. Of the total, \$1,460,300 and 5.5 positions are appropriated in the Bureau of Air Management in the AWaRe Division, and \$1,088,000 and 3.0 positions are in the Division of Customer and Employee Services. (For more information, see the Legislative Fiscal Bureau informational paper entitled, "Air Management Programs.")

DNR is appropriated 1.0 position from the fund for pollution prevention activities in the Division of Enforcement and Science.

DNR administers a gasoline vapor recovery equipment removal grant program, created in 2013 Act 20, to provide grants to reimburse gasoline station owners or operators for the costs of removing vapor recovery equipment no longer

required by the U.S. Environmental Protection Agency. The program was appropriated \$1,000,000 SEG on a one-time basis in 2013-14 in a biennial appropriation, and spent \$511,756. The remaining funds are available for expenditure in 2014-15. (For more information, see the Legislative Fiscal Bureau informational paper entitled, "Air Management Programs.")

Department of Administration

The diesel truck idling reduction grant program, created under 2005 Act 25, is currently operated by the State Energy Office within the Department of Administration's Division of Energy Services. For 2014-15, the program is budgeted base funding of \$1,000,000 for grants, and \$74,900 and 1.0 SEG position for program administration.

The program aims to improve fuel efficiency and lower air pollution by providing grants to freight motor carriers headquartered in Wisconsin to purchase and install idling reduction units for long-haul truck tractors. The idling reduction units provide an alternative source of power to heat, cool, or provide electricity to the truck cab, or other parts of the vehicle, instead of using the vehicle's main drive engine to power those functions. Motor carriers are eligible to receive reimbursement of up to 50% of the cost to purchase and install idling reduction equipment. Motor carriers submit grant applications with an itemized price quote from a vendor. Grant awards are allocated through a randomized, computer-based lottery. Once an applicant is selected, the Division sends the applicant an award letter and contract, which must be returned with a signature. The equipment may then be purchased and installed. Self-installation is not an eligible grant expense unless approved by the Department of Administration. The grant program is authorized through June 30, 2015. In 2013-14, \$753,900 was awarded to 12 large fleet motor carriers for 181 units; and \$245,500 was awarded to 36 small fleet motor carriers for 52 units.

Department of Agriculture, Trade and Consumer Protection

DATCP has base funding in 2014-15 of \$4,836,100 from the petroleum inspection fund with 34.0 positions for petroleum inspection regulatory work relating to: (a) sampling and testing of petroleum products sold in the state to ensure consistency with accepted quality and purity standards; (b) enforcing standards for storage tanks of flammable or combustible liquids; and (c) reviewing plans for construction, modification or placement of such storage tanks. Positions are assigned to the Bureau of Weights and Measures (BWM). As of October 1, 2014, 20.0 of the positions are field inspectors conducting petroleum product sampling, storage tank inspections and weights and measures inspections. Other positions are associated with specialists in the petroleum product testing and storage tank regulation areas, as well as program supervisors.

DATCP is authorized base funding of \$797,600 in 2014-15 from the petroleum inspection fund with 6.0 positions for inspection of weights and measures used to deliver petroleum fuel in the state. DATCP's responsibilities include testing commercial weights and measures, such as retail fuel pumps, to verify devices used in state commerce properly deliver or measure quantities reported as sold to buyers. These responsibilities are in addition to those for ensuring petroleum product quality and verifying the integrity of tanks storing flammable liquids. Positions supported by this appropriation as of October 1, 2014, include 3.0 BWM field inspectors, 2.0 field supervisors, and 1.0 metrologist in the state weights and measures laboratory.

DATCP is authorized base funding of \$231,200 from the fund in 2014-15 with 2.35 positions for enforcement of the state Unfair Sales Act. The Unfair Sales Act generally prohibits sales of goods below cost. For gasoline, tobacco products and alcoholic beverages, the statute requires a certain percentage increase in the whole-

sale or retail price relative to the seller's invoice price; due to these product pricing requirements, the act is commonly known as the minimum markup law. The positions are primarily assigned to DATCP's Trade Practices Section, which is responsible for enforcing fair practices in transactions between or among businesses, including trade laws pertaining to certain specific industries.

Department of Military Affairs

The Department of Military Affairs (DMA) is appropriated \$462,100 annually for the State emergency response board, to provide annual grants to local emergency planning committees. Committees may utilize grant funding to pay for eligible costs incurred as a result of complying with state and federal requirements relating to emergency response in the event of a release of hazardous substances. Eligible costs include: (a) maintaining emergency response plans, including plans relating to facilities housing hazardous substances; (b) reviewing, exercising and implementing emergency response plans; (c) purchasing computers and emergency response equipment; (d) funding committee operations and administration; (e) paying for hazardous materials resource supplies; and (f) any other activity of the committee required under state or federal law.

DMA is provided base funding of \$711,200 in 2014-15 from the petroleum inspection fund for major disaster assistance, which makes payments to local units of government and federally recognized American Indian tribes and bands in Wisconsin for the damages and costs incurred as the result of a disaster, if federal disaster assistance is not available. Eligible costs include: (a) debris removal, including woody debris, building wreckage, dirt, gravel, vehicles and other disaster related materials; (b) emergency protective measures to eliminate or reduce immediate threats to life, public health or safety, or a hazard that threatens significant damage to improved public or private property; and (c) damage to

roads and bridges.

Miscellaneous Appropriations

Effective in October, 1997, purchasers of aviation fuel on which the petroleum inspection fee has been assessed are eligible for reimbursement of 2¢ for each gallon of aviation fuel purchased in excess of 1,000,000 million gallons per month. DOR processes applications and pays them from a sum sufficient appropriation. Expenditures were \$226,800 in 2013-14.

A transfer of \$1,704,800 annually is made from the petroleum inspection fund to the segregated environmental management account of the environmental fund. The revenue received by the environmental management account is used for DNR and other state agencies programs, including contaminated land cleanup and recycling. (For more information, see the Legislative Fiscal Bureau informational paper entitled, "Environmental Management Account.")

An ongoing annual appropriation has been made from the petroleum inspection fund to the transportation fund since 2004-05 (\$6,321,700 per year through 2008-09 and \$6,258,500 per year since then). Originally, the intent of this transfer was to fund a portion of the cost of the vehicle emissions inspection program in southeast Wisconsin with revenue from that fund, but there is no direct tie to the appropriation for that program. In fact, the transfer is currently nearly twice the amount of the total appropriation for the emissions inspection program (\$3,193,300 annually in the 2013-15 biennium).

The ongoing transfer has been supplemented by specified one-time transfers from the petroleum inspection fund in the 2007-09 through 2013-15 biennia. This included \$16,000,000 each year in 2013-14 and 2014-15. These transfers do not fund a specific appropriation within the transpor-

tation fund. Appendix III shows these transfers under "Additional Expenditures."

Department of Revenue

The Department of Revenue (DOR) is authorized base funding of \$122,100 in 2014-15 from the petroleum inspection fund with 1.0 position to administer collection of the petroleum inspection fee.

Department of Transportation

The transportation fund, which funds programs administered by the Department of Transportation (DOT), has received, or continues to receive, one-time and ongoing transfers from the petroleum inspection fund. Two of these transfers are described under "Miscellaneous Appropriations."

Demand management, an appropriation in DOT's general transportation operations program structure, is also funded by the petroleum inspection fund. The appropriation supports policies and programs designed to reduce traffic volume, especially during peak hours of traffic congestion. In 2014-15, base funding of \$354,100 supports 4.0 urban and regional planning positions in the DOT's southeast regional office.

One-Time Transfers

The biennial budgets enacted in several recent biennia have required one-time transfers from the petroleum inspection fund to the general fund, transportation fund, former recycling and renewable energy fund, and environmental management account of the environmental fund. A cumulative total of \$213 million has been or will be transferred from the petroleum inspection fund to other funds by the end of 2014-15. The amounts transferred in each year to each fund are shown in Table 10.

Table 10: One-Time Transfers from the Petroleum Inspection Fund to Other Funds

Fiscal Year	General Fund	Transportation Fund	Recycling and Renewable Energy Fund	Environmental Management Account	Total Transfer to Other Funds
2001-02	\$1,187,800				\$1,187,800
2002-03	2,028,900				2,028,900
2003-04	20,954,200				20,954,200
2004-05	209,900				209,900
2005-06	10,860,600				10,860,600
2006-07	20,258,800				20,258,800
2007-08	1,019,400				1,019,400
2008-09	16,891,100				16,891,100
2009-10	21,973,100	\$10,000,000	\$2,000,000	\$230,000	34,203,100
2010-11	14,048,900	17,800,000	2,000,000	530,000	33,130,000
2011-12	0	19,500,000	0	0	19,500,000
2012-13	0	19,500,000	0	0	19,500,000
2013-14	0	16,000,000	0	0	16,000,000
2014-15	<u>0</u>	<u>16,000,000</u>	<u>0</u>	<u>0</u>	<u>16,000,000</u>
Total	\$109,432,700	\$98,800,000	\$4,000,000	\$760,000	\$212,992,700

Appendices

Several appendices provide additional information about the PECFA program. These include:

- Appendix I describes the major federal and state storage tank requirements affecting PECFA.
- Appendix II lists the number of PECFA sites and total PECFA payments by county as of June 30, 2014.
- Appendix III lists appropriations from the petroleum inspection fund from 2011-12 through 2014-15.
- Appendix IV summarizes the major provisions of legislation that created and subsequently modified the PECFA program.

APPENDIX I

Major Federal and State Storage Tank Requirements Affecting PECFA

Requirement	Federal Regulations	State Regulations	PECFA
Tanks Included	(a) Commercial underground petroleum product storage tanks larger than 110 gallons, (b) commercial underground hazardous chemical storage tanks larger than 110 gallons, and (c) underground farm and residential vehicle fuel tanks larger than 1,100 gallons.	(a) All federally regulated tanks, (b) heating oil tanks where the petroleum products are not for resale, (c) farm and residential tanks of 1,100 gallons or less, (d) aboveground tanks, and (e) tanks with product having a flash point of 200°F or less. (The flash point is the temperature at which the substance can be ignited.)	Tanks storing petroleum products only. (a) Commercial underground and aboveground tanks larger than 110 gallons, (b) farm and residential vehicle fuel tanks larger than 1,100 gallons, (c) home heating oil tanks, (d) farm tanks of 1,100 gallons or less that meet certain eligibility criteria, and (e) public school district and technical college district heating oil tanks used to store heating oil for consumptive use on the premises where stored.
Tanks Excluded	(a) Underground heating oil tank systems where the petroleum products are not for resale, (b) farm and residential tanks 1,100 gallons or less, (c) aboveground tank systems, (d) commercial tanks of 110 gallons or less, and (e) tanks containing nonhazardous chemicals and/or substances meeting certain federal exemptions.	Tanks with product having a flash point above 200°F.	(a) Commercial tanks of 110 gallons or less capacity, (b) residential tanks of 1,100 gallons or less capacity storing petroleum products that are not for resale, (c) farm tanks of 1,100 gallons or less if they don't meet the eligibility criteria for inclusion, (d) nonresidential heating oil tanks for consumptive use on the premises where stored unless included above as public school district or technical college district tanks, (e) tanks owned by this state or the federal government, and (f) pipeline facilities.
Deadline for Release Detection System	Required by December 22, 1993, for all federally regulated tanks regardless of age.	For federally regulated tanks, required by December 22, 1993, same as federal regulations. For new and existing underground heating oil tanks over 4,000 gallons, requirement phased in by May 1, 1995. For new and existing underground heating oil tanks of 4,000 gallons or less, required by May 1, 2001. For aboveground systems over 5,000 gallons, required by May 1, 2001 to have diking or a system of release detection. For underground farm and residential tanks of 1,100 gallons or less, must upgrade by May 1, 2001.	Maximum awards for underground and aboveground tanks decrease from either \$1,000,000 or \$500,000 to \$190,000 on December 22, 2001. Investigations and remedial activities started before December 22, 2001, would continue to be eligible for the higher awards. The maximum award for eligible farm tanks is \$100,000. The maximum award for eligible public school district and technical college district tanks is \$190,000. In any fiscal year, not more than 5% of amounts appropriated for PECFA awards may be used for farm tanks and not more than 5% may be used for school district tanks.
Deadline for Upgrading or Removal of Tanks	Required by December 22, 1998.	For federally regulated tanks, required by December 22, 1998, same as federal regulations. Required by May 1, 2001, for farm and residential tanks, heating oil tanks over 4,000 gallons and aboveground storage tanks over 5,000 gallons.	

APPENDIX I (continued)

Major Federal and State Storage Tank Requirements Affecting PECFA

Requirement	Federal Regulations	State Regulations	PECFA
Other Site Requirements	New tank systems must meet design and installation standards. Closure assessment is required when tank is closed. Hazardous substance tanks also require secondary containment.	For federally regulated tanks, same requirements as federal regulations. For underground heating oil tanks over 4,000 gallons, closure assessment is required at tank closure.	
Financial Responsibility (Insurance) Requirement	<p>Proof of financial responsibility for covering the costs of corrective actions and third-party claims.</p> <p>Owners of petroleum underground storage tanks (UST) systems engaged in petroleum production, or owners with an average annual monthly volume of 10,000 gallons or more: \$1,000,000 per occurrence.</p> <p>Owners of petroleum UST systems not engaged in petroleum production, or owners with an average annual monthly volume of less than 10,000 gallons: \$500,000 per occurrence.</p> <p>In addition, owners of 1 to 100 USTs must have annual aggregate insurance of \$1,000,000; owners of 101 or more USTs, \$2,000,000. However, requirement is deferred until December, 1993, for owners of 1 to 12 underground tanks or owners of 100 or fewer tanks at a single facility.</p>	For federally regulated tanks, same requirements as federal regulations. Not required for non-federally regulated tanks.	<p>Provides award amounts for federally regulated underground petroleum product tanks that are equivalent to the federal financial responsibility requirements.</p> <p>PECFA eligibility is denied effective January 1, 1994, if a tank: (a) meets state or federal standards for new tanks or existing tank upgrades; or (b) is located on property on which cleanup was previously conducted for which a PECFA award was issued, and within the area on which those remedial action activities were conducted. However, certain sites with new or upgraded tanks would continue to be eligible for PECFA for specified time periods if they meet certain criteria.</p> <p>Owners of underground tanks are required to provide proof of financial responsibility for the first \$5,000 of eligible costs incurred because of a petroleum products discharge.</p>

APPENDIX II

PECFA Payments by County, as of June 30, 2014

County	Number of Sites	Total Payments	County	Number of Sites	Total Payments
Adams	41	\$5,857,819	Manitowoc	200	\$25,868,879
Ashland	72	8,652,400	Marathon	278	32,207,931
Barron	90	8,139,874	Marinette	124	10,922,361
Bayfield	91	9,537,623	Marquette	56	5,662,359
Brown	462	58,373,425	Menominee	5	1,130,324
Buffalo	44	4,333,201	Milwaukee	2,318	220,762,046
Burnett	42	5,475,608	Monroe	136	19,104,907
Calumet	103	11,776,687	Oconto	97	13,249,433
Chippewa	169	12,201,950	Oneida	162	29,161,495
Clark	121	15,015,227	Outagamie	387	46,980,467
Columbia	186	21,772,326	Ozaukee	219	22,787,014
Crawford	46	4,564,603	Pepin	15	745,565
Dane	876	126,141,959	Pierce	70	5,460,008
Dodge	229	30,697,699	Polk	102	8,966,969
Door	93	9,006,591	Portage	141	13,533,897
Douglas	185	22,639,434	Price	79	12,676,675
Dunn	58	5,876,448	Racine	399	42,748,018
Eau Claire	170	12,498,864	Richland	90	8,502,698
Florence	18	2,531,992	Rock	230	25,677,798
Fond du Lac	295	37,725,988	Rusk	58	8,633,712
Forest	36	3,989,608	Saint Croix	117	9,927,122
Grant	128	14,398,494	Sauk	202	22,797,567
Green	70	9,025,926	Sawyer	96	9,056,709
Green Lake	93	11,314,951	Shawano	133	15,423,037
Iowa	35	4,709,355	Sheboygan	294	37,654,112
Iron	44	5,295,421	Taylor	89	14,069,370
Jackson	76	8,947,300	Trempealeau	77	9,531,299
Jefferson	204	25,277,263	Vernon	107	10,814,140
Juneau	98	11,701,586	Vilas	116	17,314,300
Kenosha	254	35,597,231	Walworth	212	25,604,275
Kewaunee	68	7,434,496	Washburn	31	2,154,154
LaCrosse	183	19,996,691	Washington	226	34,563,966
Lafayette	50	7,645,818	Waukesha	732	72,647,607
Langlade	66	9,352,317	Waupaca	137	15,661,632
Lincoln	74	7,800,122	Waushara	65	8,826,613
			Winnebago	388	46,730,381
			Wood	<u>222</u>	<u>29,481,283</u>
			Total	13,280	\$1,532,346,416

APPENDIX III

Petroleum Inspection Fund Appropriations, 2011-12 Through 2014-15

Agency/Statutory Citation	Appropriation Name	2011-12 Expenditures	2012-13 Expenditures	2012-13 Positions	2013-14 Expenditures	2014-15 Base Funding	2014-15 Positions
Natural Resources 20.370							
(2)(bq)	Vapor recovery administration	\$77,701	\$73,589	1.00	\$95,499	\$96,700	1.00
(2)(br)	Air management - mobile sources	1,384,623	1,042,192	4.50	1,357,945	1,363,600	4.50
(2)(dw)	Environmental repair, petroleum spills and PECFA administration	1,650,939	1,556,901	18.75	2,615,023	3,425,400	31.95
(2)(eu)	PECFA Awards	see DSPS	see DSPS	see DSPS	4,795,786	4,500,000*	0.00
(2)(ew)	Abandoned tank removal	see DSPS	see DSPS	see DSPS	24,020	100,000	0.00
(3)(ms)	Pollution prevention	12,367	84,900	1.00	122,400	119,200	1.00
(6)(er)	Vapor recovery equipment removal grant	0	0	0.00	511,756	0	0.00
(8)(mq)	Mobile source air pollution	873,179	876,810	0.50	875,500	893,600	0.50
(9)(mq)	Mobile source air pollution	<u>18,875</u>	<u>29,241</u>	<u>0.50</u>	<u>171,850</u>	<u>194,400</u>	<u>2.50</u>
DNR Subtotal		\$4,017,684	\$3,663,633	26.25	\$10,569,779	\$10,692,900	41.45
Administration 20.505							
(1)(sa)	Diesel truck idling reduction grants	see DSPS	see DSPS		\$1,003,330	\$1,000,000	0.00
(1)(s)	Diesel truck idling reduction grant administration	see DSPS	see DSPS	see DSPS	75,055	74,900	1.00
Agriculture, Trade and Consumer Protection 20.115							
(1)(r)	Unfair Sales Act	\$213,600	\$213,600	2.35	222,000	231,200	2.35
(1)(s)	Weights and Measures	805,891	800,300	6.00	803,300	797,600	6.00
(1)(t)	Petroleum inspection	see DSPS	see DSPS	see DSPS	4,238,660	4,836,100	34.00
Military Affairs 20.465							
(3)(r)	State emergency response board	462,020	462,002	0.00	462,013	462,100	0.00
(3)(s)	Major disaster assistance	2,559,410	617,993	0.00	524,455	711,200	0.00

Petroleum Inspection Fund Appropriations - (continued)

Agency/Statutory Citation	Appropriation Name	2011-12 Expenditures	2012-13 Expenditures	2012-13 Positions	2013-14 Expenditures	2014-15 Base Funding	2014-15 Positions
Miscellaneous Appropriations 20.855							
(4)(r)	Petroleum allowance	\$487,218	\$194,580	0.00	\$226,785	\$600,000	0.00
(4)(w)	Transfer to transportation fund	6,258,500	6,258,500	0.00	6,258,500	6,258,500	0.00
(4)(wc)	Transfer to environmental fund – environmental management	1,704,800	1,704,800	0.00	1,704,800	1,704,800	0.00
Revenue 20.566							
566 (1)(s)	Petroleum inspection fee collection	117,547	116,657	1.00	109,785	122,100	1.00
Safety and Professional Services 20.165							
(2)(r)	Petroleum inspection	4,627,469	4,298,454	44.50	see DATCP	see DATCP	see DATCP
(2)(sm)	Diesel truck idling reduction grants	956,399	1,039,660	0.00	see DOA	see DOA	see DOA
(2)(sn)	Diesel truck idling reduction grant administration	77,944	77,691	1.00	see DOA	see DOA	see DOA
(2)(v)	PECFA Awards	6,969,963	4,070,494	0.00	see DNR	see DNR	see DNR
(2)(vm)	Abandoned tank removal	92,161	100,000	0.00	see DNR	see DNR	see DNR
(2)(w)	PECFA Administration	1,885,963	1,745,106	20.80	see DNR	see DNR	see DNR
Transportation 20.395							
(4)(dq)	Air quality - demand management	350,284	238,475	4.00	365,005	354,100	4.00
Miscellaneous - Controller's Office							
	Payment of Cancelled Checks	<u>0</u>	<u>0</u>	<u>0</u>	<u>5,645</u>	<u>0</u>	<u>0</u>
Subtotal Agencies Other than DNR		\$27,569,169	\$21,938,312	79.65	\$15,999,333	\$17,152,600	48.35
Subtotal Petroleum Inspection Fund Appropriations		\$31,586,853	\$25,601,945	105.90	\$26,569,112	\$28,345,500	89.80
Additional Expenditures							
Biennial Budget Act Transfers to the Transportation Fund		\$19,500,000	\$19,500,000	0.00	\$16,000,000	\$16,000,000	0.00
PECFA Revenue Obligation Debt Service Deposits to Trustee Account		7,833,533	29,977,521	0.00	29,969,491	30,300,000	0.00
Prior Year Encumbrances and Continuing Balances		<u>0</u>	<u>0</u>	<u>0.00</u>	<u>0</u>	<u>1,069,300</u>	<u>0.00</u>
Total Expenditures, Petroleum Inspection Fund		\$58,920,386	\$75,079,466	105.90	\$72,538,603	\$75,214,800	89.80

*Shows estimated PECFA awards expenditures of \$4,500,000. Appropriation is authorized \$8,404,215 in 2014-15.

APPENDIX IV

PECFA Legislative History Major Provisions

PECFA was created during the 1987-89 legislative session and has been modified in subsequent legislative sessions. The Appendix identifies legislative changes made to: (a) tanks which are eligible; (b) deductible and award amounts; (c) the inspection fee revenue limitation; (d) the awards appropriation (this does not include funding for Commerce and DNR administration); (e) eligible costs; (f) program termination date; (g) reports that have been required regarding PECFA; (h) eligibility criteria; (i) administrative rule requirements; and (j) administration.

1987-89 Legislative Session

Act	Description
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27	Create PECFA, segregated fund, additional petroleum inspection fee and require DNR to pay claims for the investigation and cleanup of petroleum from leaking underground storage tanks. Funding and positions in DNR vetoed by Governor (program not implemented).
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399	Repeal program created in 1987 Act 27. Create similar program in Department of Industry, Labor, and Human Relations (DILHR). Create eligibility criteria, eligible and ineligible costs, claimant requirements, the PECFA Council and other administrative provisions. Require DNR to review investigations, and proposed and final remedial activities.
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Eligible Tanks. Commercial underground, underground tanks storing products for resale and home heating oil.

Deductible and Award Limit. For commercial tanks: \$5,000 deductible, maximum award \$146,250 or 75% of costs, whichever is less, between August 1, 1987, and August 1, 1989. After August 1, 1989, maximum lowered to \$97,500 or 50% of costs, whichever is less. For home heating oil tanks: 25% deductible, maximum award of \$7,500. If the award appropriation is insufficient to fund all awards, awards may be made based on priority.

Inspection Fee Revenue Limit. Generate no more than \$7.5 million annually.

Awards Appropriation. \$7.4 million in 1988-89.

1989-91 Legislative Session

Act	Description
31	<p><i>Eligible Tanks.</i> All underground petroleum product storage tanks except: (a) tanks under 110 gallons; (b) farm and residential tanks under 1,100 gallons storing petroleum products not for resale; (c) nonresidential heating oil tanks; and (d) tanks owned by the state or federal government.</p> <p><i>Eligible Costs.</i> Third-party claims added to list of previously eligible costs.</p> <p><i>Deductible and Award Limit.</i> For owners of 100 to 999 tanks meeting certain criteria, for costs incurred after August 9, 1989, and before October 26, 1990: \$50,000 deductible and \$950,000 maximum award. All other owners: \$5,000 deductible and maximum award of \$195,000 before July 1, 1993. After July 1, 1993, and before July 1, 1995, \$10,000 deductible and maximum award of \$190,000. DILHR required to recalculate awards based on 100% of eligible costs rather than 75% or 50%. Eliminate provision allowing awards to be made based on priority.</p> <p><i>Inspection Fee Revenue Limit.</i> Generate no more than \$25.0 million annually.</p> <p><i>Awards Appropriation.</i> \$7.5 million in 1989-90 and 1990-91.</p> <p><i>Program Termination.</i> Make no awards for costs incurred after June 30, 1995.</p>
254	<p><i>Eligible Tanks.</i> Aboveground tanks included.</p>
255	<p><i>Deductible and Award Limit.</i> Decrease \$50,000 deductible created in Act 31 to \$5,000. Create a maximum award of \$1,000,000 for marketers of petroleum products and facilities handling more than an annual average 10,000 gallons per month. For all others establish a \$500,000 maximum. Create annual aggregate amount of \$2,000,000 for owners and operators of 101 or more tanks and \$1,000,000 for owners of 100 or less tanks. Decrease the maximum award to \$190,000 on July 1, 1995.</p> <p><i>Termination Date.</i> Eliminate termination date.</p>

1991-93 Legislative Session

39	<p><i>Deductible and Award Amount.</i> Modify deductible to \$5,000 or 5% copayment, whichever is greater. Allow DILHR to defer the deductible in certain cases.</p> <p><i>Eligible Costs.</i> Disallow costs normally associated with replacement or closure of a petroleum product storage system. Discontinue PECFA eligibility for sites that are cleaned up. Allow DILHR to become a party to a third-party law suit. Allow DILHR to establish a usual and customary cost schedule.</p> <p><i>Inspection Fee Revenue Limit.</i> \$57 million for 1991-92 only. Revenue could only exceed \$25 million with the approval of the Joint Committee on Finance.</p>
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Act Description

Awards Appropriation. \$24.7 million in 1991-92 and in 1992-93.

Report. Require DNR and DILHR to prepare a report on PECFA to be submitted to the Legislature and the Joint Committee on Finance.

82 *Deductible and Award Amounts.* Modify deductible to \$2,500 plus 5% of eligible costs, but not more than \$7,500 per occurrence.

Eligible Costs. Allow a claimant to assign an award to a lending institution. Include costs of bioremediation as an eligible cost. Reinstate PECFA eligibility for sites that are cleaned up. Allow the Department of Transportation to become an agent for an owner, with the prior approval of DILHR.

Report. Require DILHR and the Office of the Commissioner of Insurance to report to the Legislature and the Joint Committee on Finance regarding private pollution liability insurance.

269 *Inspection Fee Revenue Limit.* Eliminate the revenue limitation. Create a statutory petroleum inspection fee of 2¢ per gallon of petroleum inspected, of which 1.4¢ would support PECFA awards and administration.

Awards Appropriation. \$43.5 million in 1992-93.

Reports. Require DNR to provide reports on: (a) economic costs of the soil cleanup standards; and (b) feasibility of modifying the groundwater health risk standards.

1993-95 Legislative Session

16 *Inspection Fee.* Increase the petroleum inspection fee to 3¢ per gallon until July 1, 1995, or the day after publication of the 1995-97 biennial budget act, whichever is later. After that date, the fee would decrease to 1.74¢ per gallon. Create a segregated petroleum inspection fund in which all petroleum inspection revenues are deposited. Convert all appropriations funded from the fee to segregated appropriations.

Awards Appropriation. \$70.5 million in 1993-94. \$75.5 million in 1994-95. Convert the appropriation from annual to biennial.

Award Limit. Delay the decrease in the maximum award for underground tanks from July 1, 1995, to July 1, 1998. Specify that the higher awards apply to all eligible costs for investigations and remedial activities started before July 1, 1998.

Eligibility Criteria. Effective January 1, 1994, deny PECFA eligibility for certain new, upgraded, or previously cleaned up sites.

Act Description

Report. Provide \$30,000 SEG in 1993-94 to contract with a consultant to develop a standardized project cost accounting system.

416 *Inspection Fee.* Delete the decrease in the petroleum inspection fee, so that the fee will remain at 3¢ per gallon after June 30, 1995.

Awards Appropriation. Direct that annual funding be increased by \$8.5 million beginning in 1995-96.

Eligible Tanks. Expand eligibility to: (a) farm tanks of 1,100 gallons or less storing petroleum products not for resale that meet certain farm size, use and income criteria; (b) public school district and technical college district heating oil tanks for consumptive use on the premises; and (c) Indian trust land tanks if the owner or operator complies with DILHR rules regarding petroleum product storage systems. Modify the eligibility for new, upgraded or previously cleaned up sites to provide eligibility for certain tanks until January 1, 1996.

Deductible and Award Amounts. Increase the maximum award for aboveground tanks to be the same as for underground tanks for costs incurred beginning May 7, 1994, (\$500,000 or \$1,000,000 per occurrence). Modify the deductible for aboveground tanks for costs incurred beginning May 7, 1994, to \$15,000 plus 2% of eligible costs over \$200,000 for nonterminals and \$15,000 plus 5% of eligible costs over \$200,000 for terminals. Effective July 1, 1998, decrease the maximum award for aboveground tanks to \$190,000 and the deductible to \$10,000. Provide a maximum award for small farm tanks of \$100,000 with a deductible of \$2,500 plus 5% of eligible costs, but not more than \$7,500 per occurrence. Limit farm tanks to no more than 5% of the total PECFA awards appropriation in any fiscal year. Provide a maximum award for public school district and technical college district tanks of \$190,000 per occurrence with a deductible of 25% of eligible costs. Limit public school district tanks to no more than 5% of the total PECFA awards appropriation in any fiscal year. Exempt nonprofit housing organizations that assist low-income persons with housing-related problems from paying the deductible for home heating oil tanks that the organizations own.

Rules. Direct DILHR to promulgate rules to take effect by January 1, 1996, that identify the petroleum product storage system or home oil tank system which discharged a petroleum product and when a petroleum product discharge that caused a contamination occurred. The rule shall permit a clear determination of what petroleum contamination is eligible for an award after December 31, 1995. Direct DILHR to promulgate a rule establishing a priority system for paying awards for small farm tanks and for school district tanks. Authorize DILHR to promulgate a rule with requirements for the certification or registration of persons who provide consulting services to owners and operators, and revocation or suspension of the certification or registration.

Report. Require DILHR to report to the Joint Committee on Finance by September 1, 1994, on the feasibility of establishing a toll-free telephone number to answer PECFA questions.

1995-97 Legislative Session

27 *Awards Appropriation.* \$84.0 million in 1995-96 and in 1996-97.

Act Description

Inspection Fee Collection. Transfer collection of the petroleum inspection fee from DILHR to the Department of Revenue (DOR) as of January 1, 1996. DOR would collect the fee at petroleum company terminals at the same time it collects the motor vehicle fuel tax.

Administration. Transfer DILHR's Safety and Buildings Division, including PECFA administration to the new Department of Commerce (formerly Development) effective on July 1, 1996. Transfer jurisdiction over cleanup of low and medium priority petroleum storage tank site cleanups (PECFA-eligible and non-PECFA eligible) from DNR to Commerce effective on July 1, 1996, and transfer 12.0 SEG positions from DNR to Commerce. Retain jurisdiction over cleanup of high priority sites within DNR. Direct DOD and DNR to prepare a memorandum of understanding establishing the division of responsibilities, functions of the two agencies, procedures that would be implemented to ensure that actions are consistent with the hazardous substances spills law and procedures for determining which sites are high, medium and low priority sites.

Award Limit. Apply the maximum PECFA award provisions for aboveground tanks for costs incurred on or after May 7, 1994, and before July 1, 1998, retroactively to costs incurred on or after August 1, 1987 (the effective date of the program). This retroactively increased maximum PECFA awards for aboveground tanks from \$195,000 to \$500,000 or \$1,000,000.

Lender Hold Harmless Provisions. Hold lenders harmless for the full amount of otherwise eligible expenses relating to PECFA loans made by a lender regardless of any willful misconduct, gross negligence or fraud on the part of an owner or operator, the amount of which would be paid to the lender at the time that the award would otherwise be issued under the PECFA program, provided that certain conditions are met. Authorize DILHR to recover any costs from an owner for DILHR payments made to a lender under the provision. Direct DILHR to deposit any cost recoveries into the petroleum inspection fund.

1997-99 Legislative Session

27 *Awards Appropriation.* \$91.1 million in 1997-98 and in 1998-99. (The Joint Committee on Finance took action in December, 1997, under s. 13.10 of the statutes, to increase the appropriation by \$3.0 million annually to \$94.1 million in each year of the 1997-99 biennium).

Eligible Tanks. Eliminate eligibility for new and upgraded aboveground tanks after December 22, 2001. Provide eligibility for sites that have been cleaned up under PECFA until they meet federal and state upgrading standards. Provide eligibility for new and upgraded underground tanks for contamination identified by January 1, 1996. Deny eligibility for discharges that are caused by individuals or organizations who provided services or products to the current or prior owner or operator of the site.

Award Limit. Eliminate the \$500,000 annual maximum allocation for home heating oil tank awards, and instead, review and pay such claims as soon as they are received. Delay the decrease in the maximum award for underground and aboveground tanks from July 1, 1998, to December 22, 2001.

Act Description

Deductible. Calculate the deductible for an intermingled plume of contamination from aboveground and underground petroleum storage tank systems, according to the predominant method of storage at the site, measured in gallons.

Interest Cost Reimbursement. Limit PECFA reimbursement for interest costs for loans secured on or after the effective date of the Act to the prime rate plus 1% and limit reimbursement of loan origination fees to no more than 2% of the loan principal.

Eligible Costs. Authorize Commerce to make additional PECFA payments for certain costs to enhance the approved remedial action activities or implement new remedial action activities. Authorize Commerce to promulgate administrative rules under which the Department would select service providers to provide investigation or remedial action services in specified areas. Require a claimant or consultant who submits a PECFA claim that includes certain ineligible costs, as identified in administrative rule, to pay a penalty equal to half the ineligible costs. Require that the owner pay the proceeds of any sales of remedial equipment or supplies purchased with PECFA funds to Commerce for deposit into the petroleum inspection fund. Specify that third party compensation for "property damage" does not include the loss of fair market value resulting from the contamination.

237 *Report.* Direct DNR, Commerce and DOA to submit reports to the Joint Committee on Finance at the Committee's September, 1998, and March, 1999, s. 13.10 meetings that document the progress of the agencies towards meeting the requirements of the memorandum of understanding (MOU) for administration of petroleum-contaminated sites.

Appeals. Allow a person to appeal a decision of Commerce related to PECFA by choosing arbitration, rather than an administrative hearing if the amount at issue is \$20,000 or less.

1999-01 Legislative Session

9 *Awards Appropriation.* \$94.1 million in 1999-00 and \$94.1 million in 2000-01.

Revenue Obligations. Authorize the Building Commission to issue revenue obligations of up to \$270 million, to be repaid from petroleum inspection fees, to fund the payment of PECFA claims.

Administration. Authorize Commerce to promulgate rules to assess and collect fees to recover its costs of approving requests by owners or operators for case closure and providing other assistance requested by claimants at petroleum sites. Direct that any fees charged by Commerce and DNR on or after the effective date of the Act for the approval of case closures and other requested assistance not be reimbursable expenses under the PECFA program.

Direct the Secretary of the Department of Administration to determine how federal LUST funding should be allocated to DNR and Commerce, and to submit a report of its determination to the Joint Committee on Finance for approval at its December, 1999, s. 13.10 meeting.

Act	Description
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Classify a petroleum site as high-risk (instead of high priority previously) if it meets one or more of the following criteria: (a) repeated tests show that the discharge has resulted in a concentration of contaminants in a private or public potable well that exceeds a preventive action limit, as defined in s. 160.01(6); (b) petroleum product that is not in dissolved phase is present with a thickness of 0.01 feet or more, as shown by repeated measurements; (c) there is a groundwater enforcement standard exceedence within 1,000 feet of a public drinking water well or within 100 feet of any other well used to provide water for human consumption; or (d) there is a groundwater enforcement standard exceedence in fractured bedrock. Provide DNR with jurisdiction for administering the cleanup at high-risk petroleum sites, and also all sites with contamination from non-petroleum hazardous substances. Classify all other petroleum sites, excluding unranked sites, as medium- or low-risk under the jurisdiction of Commerce. Categorize a site with contamination solely from petroleum products and additives to petroleum products (such as lead or oxygenates) as a site with contamination solely from petroleum products. Direct that DNR transfer sites to Commerce based on the new classification of sites by December 1, 1999. If the definition of high-risk sites results in classifying more than 35% of sites as high-risk by December 1, 1999, direct Commerce to promulgate emergency rules that establish standards that classify no more than 35% of petroleum sites as high-risk, excluding unranked sites and sites with contamination from non-petroleum hazardous substances.

Award Prioritization. Review and pay claims related to eligible farm tanks as soon as they are received.

Deductible. Changes the deductible for underground petroleum product storage tank systems and farm tanks to retain the prior \$2,500 plus 5% of eligible costs, but eliminate the \$7,500 maximum deductible. Increase the deductible for aboveground storage tanks located at terminals to \$15,000 plus 10% of the amount by which eligible costs exceed \$200,000. Apply the changes in deductible beginning with remedial action plans that are submitted on or after November 1, 1999. Authorize Commerce to promulgate rules describing a class of owners or operators for whom the deductible is based on financial hardship.

Risk-Based Analysis. Direct Commerce and DNR to jointly promulgate rules specifying a method for determining the risk to public health, safety and welfare and to the environment posed by discharges of petroleum products. Require that the method include individualized consideration of the routes for migration of petroleum product contamination at each site. Direct DNR and Commerce to apply the method to determine the risk posed by a discharge for which the Departments receive notification, effective with remedial action activities that began on or after November 1, 1999. Commerce and DNR were required to submit permanent rules to the Legislature under s. 227.19 no later than June 1, 2000. (Administrative rules Comm 46 and NR 746 contain these provisions.)

Remedial Action Plans and Maximum Award. Require Commerce to review the remedial action plan for a low- or medium-risk site, and DNR and Commerce to jointly review the remedial action plan for a high-risk site, and determine the least costly method of completing the remedial action activities and complying with groundwater enforcement standards. Require the agencies (Commerce at a low- or medium-risk site or DNR and Commerce at a high-risk site) to determine whether natural attenuation will complete the remedial action activities in compliance with groundwater enforcement standards. Require Commerce to notify the owner or operator of a low- or medium-risk site, and DNR and Commerce to notify the owner or operator of a high-risk site, of their determination of the least costly method of completing the remedial action activities and complying with groundwater enforcement standards and that reimbursement for remedial action is limited to the amount necessary to implement

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that method. Require Commerce to conduct an annual review for low- or medium-risk sites, and Commerce and DNR to jointly conduct an annual review for high-risk sites and make the same determinations of the least costly method, use of natural attenuation and limit on maximum reimbursement. Commerce and DNR are authorized to review and modify established maximum reimbursement amounts for remedial action activities if the Departments determine that new circumstances, including newly discovered contamination at a site, warrant the review. Establish an effective date for the maximum award provisions of November 1, 1999, for remedial action activities that begin on or after that date.

Interest Cost Reimbursement. Limit PECFA reimbursement for interest costs for loans secured on or after November 1, 1999, based on the applicant's gross revenues in the most recent tax year, to be: (a) the prime rate minus 1% if gross revenues are up to \$25 million; and (b) 4% if gross revenues are over \$25 million.

Site Bidding and Insurance. Authorize Commerce to promulgate rules that require a person to pay a specified fee as a condition of submitting a bid to provide a service for a cleanup under the PECFA program. Deposit any fees collected in the petroleum inspection fund. Authorize Commerce, if it imposes a fee, to use the PECFA awards appropriation to purchase insurance to cover the amount by which the costs of conducting the cleanup service exceed the amount bid to conduct the cleanup service.

Require DNR or Commerce, whichever agency has jurisdiction over the site, to estimate the cost to complete a site investigation, remedial action plan and remedial action for an occurrence. If that estimate exceeds \$60,000, direct Commerce to implement a competitive public bidding process to assist in determining the least costly method of remedial action. Require that Commerce may not implement the bidding process if: (1) Commerce and DNR choose to waive the use of the bidding requirement if an enforcement standard is exceeded in groundwater within 1,000 feet of a well operated by a public utility or within 100 feet of any other well used to provide water for human consumption; or (2) Commerce or DNR waives the requirement after providing notice to the other agency.

Authorize Commerce to disqualify a public bid for remedial action activities at a PECFA site if, based on information available to the Department and experience with remedial actions at other PECFA projects, the bid is unlikely to establish a maximum reimbursement amount that will sufficiently fund a cleanup necessary to meet applicable site closure requirements.

Authorize Commerce to disqualify a public bidder from submitting a bid for remedial action activities at a PECFA site if, based on past performance of the bidder, the bidder has demonstrated an inability to finish remedial actions within previously established cost limits.

Report. Require Commerce and DNR to submit a report to the Governor, appropriate standing committees of the Legislature, the Joint Audit Committee and the Joint Committee on Finance every January 1 and July 1 that relates to petroleum storage tank cleanups that are in progress. Require that the report provide information for each petroleum cleanup that is underway, and other information about the program. Direct Commerce to submit a report to the Joint Committee on Finance and the Joint Committee for Review of Administrative Rules, by March 1, 2000, that recommends actions Commerce could take to reduce interest costs incurred by claimants, including a review of the schedule for progress payments for claims submitted under the program.

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Usual and Customary Costs. Require Commerce to establish a schedule of usual and customary costs for items that are commonly associated with PECFA claims and to use it in certain situations. Require Commerce to evaluate the operation of the usual and customary cost schedule and report on the results of the evaluation to the Joint Audit Committee, the Joint Committee on Finance and the appropriate standing committees of the Legislature by December 1, 2000.

Administrative Rules. Require Commerce and DNR are required to promulgate joint rules related to procedures, cost-effective administration and inter-agency training practices and submit permanent rules to the Legislature by June 1, 2000. Require DNR to submit any changes required in its rules necessary to implement the joint DNR and Commerce rules by June 1, 2000. Commerce and DNR included some of the changes in Comm 46 and 47 and NR 746.

Financial Management. Require Commerce to make specified improvements to its financial management of the PECFA program, primarily related to reconciling its financial database with state accounts maintained by DOA.

Emergency Situation. Require that in order to submit a PECFA claim for an emergency situation, the owner or operator must have notified DNR and Commerce of the emergency before conducting the remedial action and DNR and Commerce must have jointly authorized emergency action. Repeal the portion of the definition of emergency as a situation where the owner or operator acted in good faith in conducting the remedial action activities and did not willfully avoid conducting the investigation or preparing the remedial action plan.

2001-03 Legislative Session

16 *Awards Appropriation.* \$75.0 million in 2001-02 and \$68.0 million in 2002-03.

Revenue Obligations. Increase authorization for revenue obligations from \$270 million by \$72 million to \$342 million, to fund the payment of PECFA claims.

Interest Cost Reimbursement. Effective September 1, 2001, if an applicant submits a final claim more than 120 days after receiving notification from DNR or Commerce that no further action is necessary at the site, interest costs incurred more than 60 days after receiving the notice are not eligible for reimbursement. If an applicant received written notification from DNR or Commerce before September 1, 2001, that no further action is necessary, and the applicant submits a final claim more than 120 days after September 1, 2001, interest costs incurred by the applicant after the 120th day after September 1, 2001, are not eligible costs. If an applicant does not complete the site investigation within five years after the applicant notified Commerce or DNR about the discharge, or by October 1, 2003, whichever is later, the applicant is ineligible for reimbursement of interest costs incurred after the later of those two dates.

Appeals Process. If a person files an appeal of a decision of Commerce concerning a PECFA claim, and if the amount at issue is \$100,000 or less, the person may request arbitration rather than appeal. The arbitrator would be a person designated by the Department under rules promulgated by the Department. If a person chooses arbitration, the arbitrator would hold a hearing and issue a decision

Act Description

within five business days after the conclusion of the hearing. The decision of the arbitrator would be final and stand as the decision of the Department.

Farm Tank Eligibility. Allow an owner or operator who formerly owned a PECFA-eligible farm tank to submit a PECFA claim at any time after he or she transferred ownership of the land, if the land meets other program criteria, including the acreage test and the gross farm profits test on the date of the initial notification of the discharge.

Annual Progress Payments. Allow an owner or operator to submit a claim annually if the owner or operator has incurred \$50,000 or more in unreimbursed eligible PECFA costs and at least one year has elapsed since submission of the last claim.

2003-05 Legislative Session

33 *Awards Appropriation.* \$68.0 million in 2003-04 and \$68.0 million in 2004-05.

Revenue Obligations. Increase authorization for revenue obligations from \$342 million by \$94 million to \$436 million, to fund the payment of PECFA claims.

2005-07 Legislative Session

25 *Awards Appropriation.* \$40.4 million in 2005-06 and \$37.6 million in 2006-07.

Petroleum Inspection Fee. Decrease the petroleum inspection fee by 1¢ from 3¢ to 2¢ per gallon, effective May 1, 2006.

85 *Petroleum Inspection Fee.* Change the date on which the petroleum inspection fee would decrease from 3¢ to 2¢ per gallon, to April 1, 2006, instead of May 1, 2006.

2007-09 Legislative Session

25 *Awards Appropriation.* \$20 million in 2007-08 and \$20 million in 2008-09.

Revenue Obligations. Decrease authorization for revenue obligations from \$436 million by \$49,076,000 to \$386.9 million, to delete authority that was not used.

Act Description

2009-11 Legislative Session

- 28 *Awards Appropriation.* \$10.1 million in 2009-10 and \$9.1 million in 2010-11.
- 240 *Report Requirement.* Delete the requirement that Commerce and DNR submit semi-annual reports to the Governor and Legislature.

2011-13 Legislative Session

- 32 *Awards Appropriation.* \$4.55 million in 2011-12 and \$4.55 million in 2012-13. (The Joint Committee on Finance took action in February, 2013, under s. 13.10 of the statutes, to increase the appropriation by \$3.2 million in 2012-13.)
- Administration.* Transfer Commerce's Environmental Regulatory Services Division, including PECFA administration, to the new Department of Safety and Professional Services (DSPS, formerly Regulation and Licensing) effective on July 1, 2011.

2013-15 Legislative Session

- 20 *Awards Appropriation.* \$8.65 million in 2013-14 and \$4.55 million in 2014-15.
- Administration.* Transfer the DSPS responsibilities related to PECFA administration to DNR, effective on July 1, 2013. Transfer 16.8 SEG and 6.5 FED positions from DSPS to DNR.