



# Petroleum Environmental Cleanup Fund Award (PECFA) Program

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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 into the environment from commercially-owned underground storage tanks, and farm and residential tanks larger than 1,100 gallons. The state administers the federal requirements and also applies state regulations to certain smaller tanks.

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 \$3.8 million in 2014-15, and totaled \$5.5 million in 2015-16. 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. Prior to 2013-14, 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. Under 2013 Wisconsin Act 20, the 2013-15 biennial budget act, the DSPS responsibilities were transferred to DNR.

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 13,700 PECFA sites. As of November 1, 2016, \$1.54 billion in PECFA awards had been made for partial or full cleanup at 13,470 occurrences. Of the total payments, \$1.44 billion (93% of payments) had paid for completion of cleanup of 12,667 occurrences (94% 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.

Under 2015 Wisconsin Act 55, the 2015-17 biennial budget act, eligibility was eliminated for new sites as of July 20, 2015. The Act also specified that no claims for reimbursement of eligible costs can be submitted after June 30, 2020.

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

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## Eligibility Criteria and Deadlines

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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 fewer gallons, if the system is on a parcel of 35 or more acres of contiguous land devoted primarily to agricultural use, and 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.

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.

Under 2015 Act 55, PECFA eligibility is not available for any site if a person: (a) did not notify DNR of the petroleum discharge and the potential for submitting a claim before July 20, 2015 [as passed by the Legislature this deadline would have been July 1, 2017, but was item-vetoed by the Governor to "July 20"]; and (b) does not submit a claim for the reimbursement of eligible costs before July 1, 2020.

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

1. Have notified DNR of the discharge and of the possibility of submitting a PECFA claim by July 20, 2015, and prior to conducting a site investigation or remedial action;
2. Complete an investigation to determine the degree and extent of environmental damage caused by the petroleum discharge;
3. Prepare a remedial action plan that identifies the specific activities proposed to be conducted;
4. 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
5. 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 discharge 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.

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### **Cleanup Requirements**

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Section 292.11 of the statutes requires that persons who possess or control a hazardous sub-

stance that 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, provided 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 NR 140 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 contamination. As of June 30, 2016, 5,891 PECFA-eligible sites have been placed on the GIS registry of closed sites, including 1,793 sites with a groundwater enforcement standard exceedance, 1,044 with soil contamination only, and 3,054 with both groundwater and soil con-

tamination.

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## PECFA Award Payments

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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 and administrative code chapter NR 747.

Under 2015 Act 55, an owner or operator must submit a claim for reimbursement within 180 days after incurring the eligible costs, or else the costs are no longer eligible for reimbursement. For costs incurred prior to enactment of 2015 Act 55, the deadline was February 1, 2016.

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.

Prior to 2015, DNR made progress payments after certain milestones were completed, such as completion of a site investigation and remedial action plan. After enactment of the 2015 Act 55 requirement that an owner or operator submit a claim within 180 days of incurring eligible costs, DNR reimburses up to two claims annually per occurrence.

### 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.

Exclusions from eligible costs include any cost incurred before August 1, 1987 (the date PECFA began), or after June 30, 2020, (the last day to submit a claim for eligible costs), costs for activities conducted outside Wisconsin, and costs determined by DNR to be unreasonable or unnecessary.

Administrative rule 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 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. DNR updates the schedule of usual and customary costs in January and July of every year.

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 performed 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) incurred prior to obtaining certain approvals from DNR; and (d) that exceed reimbursement caps established by the Department for specific activities at the site.

### **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 of \$20,000 for a site investigation and development of a remedial action plan, 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. DSPS did not conduct public bidding for sites after May, 2011. DNR has not conducted public bidding since July, 2013.

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. DNR data shows that, since the usual and customary cost schedule was implemented in May, 2006, through June 30, 2016, 3,142 sites used that process and received public bid waivers. Of this total, 326 sites received waivers from DNR under this process in 2014-15, and 364 received waivers in 2015-16. These sites 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 insurance 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 that have not been closed 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 January through June, 2016, were due to DNR in July, 2016. In July, 2016, DNR received semi-annual reports for 498 PECFA sites, which included estimates of approximately \$22.3 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 2.5% in 2016); 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 2016, DNR was aware of 47 sites where claims were

submitted to DSPTS before 2013 that had a reduction of reimbursement of interest costs under this provision. DNR had not identified additional sites under this provision.

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 121<sup>st</sup> 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.

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### **Abandoned Tank Removal Program**

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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 petroleum 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 \$472,700 between 2009-10 and 2015-16 to remove 181 underground petroleum tanks at 59 sites. Expenditures totaled \$73,900 in 2014-15 and \$49,600 in 2015-16. (In addition, \$24,000 was encumbered at the end of 2015-16.) Removal costs to date have averaged approximately \$2,700 per tank, including an average of \$3,300 per tank in 2014-15 and 2015-16. Gas stations have an average of three tanks per site.

DNR is identifying potentially eligible abandoned 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 or potential buyers of underground petroleum storage tank systems; (c) real estate agents; (d) lending institutions; (e) DATCP tank enforcement referrals to the Department of Justice; (f) DATCP-certified removers of tanks; and (g) potential home buyers.

DNR 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.

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**Total PECFA Sites**

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PECFA sites are regulated under federal and state storage tank requirements. As of July, 2016, DATCP regulated approximately 219,700 flammable and combustible liquid storage tanks. Of this number, approximately 180,800 are underground petroleum product storage tank systems

under federal and state requirements and approximately 38,900 are aboveground petroleum product storage tank systems under state requirements. Of the 219,700 tanks, approximately 73,000 are active in-use tank systems, 140,100 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 73,000 active in-use systems: (a) 50,400 are underground tank systems, of which 12,200 are regulated under federal requirements; and (b) 22,600 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 after 2012, and the reconciled databases of DNR and

**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
June, 2015 *	753	5.5	12,915	94.5	13,668
June, 2016 *	681	5.0	12,998	95.0	13,679

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

DSPS prior to 2013. The total number of sites decreased from 17,253 in June, 2012, to 14,224 in June, 2013, because when DNR assumed responsibility for all PECFA sites in July, 2013, it reconciled site data previously maintained by the two agencies, and eliminated duplicative information about sites. As of June 30, 2016, the DNR database included 13,679 sites, including 681 (5%) open (active) sites and 12,998 (95%) closed sites. Most, but not all, of these sites are eligible for the PECFA program.

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### **PECFA Administration**

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DNR administers PECFA program activities in the Bureau for Remediation and Redevelopment in the Division of Air, Waste and Remediation and Redevelopment (AWaRe). References to DNR's organizational structure include the names of divisions and programs included in the Department's September, 2016, 2017-19 biennial budget request, rather than potential revised names in DNR's late fall, 2016, reorganization plan.

In 2016-17, DNR allocates base funding of \$3,372,600 and 32.8 positions to administer its responsibilities related to cleanup of PECFA sites. This includes: (a) federal leaking underground storage tank (LUST) program funding of \$1,042,700 and 12.5 hydrogeologist and engineer positions; and (b) \$2,329,900 in segregated revenues with 20.3 positions from the petroleum inspection fund.

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) 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.

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### **PECFA Program Costs**

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Table 2 presents a summary, by fiscal year, of PECFA program expenditures from 1988-89 through 2015-16 and the estimated amounts in 2016-17. The PECFA program has paid cumulative awards totaling \$1.54 billion through the end of 2015-16 (\$1.15 billion cash allotment from petroleum inspection fees and \$388 million from revenue obligations proceeds) for partial or final cleanups at 13,447 occurrences. (There can be more than one occurrence at a site.) DNR paid

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

	PECFA Awards	Rev. Bond Awards	Rev. Bond Debt Payment	Commerce/ DSPS 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	3,807,700	0	29,824,200	0	1,815,500	35,447,400
2015-16 **	5,525,600	0	28,744,200	0	2,281,700	36,551,500
2016-17 ***	<u>3,574,400</u>	<u>0</u>	<u>31,084,400</u>	<u>0</u>	<u>2,329,900</u>	<u>36,988,700</u>
Total	\$1,156,723,100	\$388,358,700	\$455,060,000	\$43,870,700	\$15,638,300	\$2,059,605,800
Percent	56.2%	18.9%	22.1%	2.1%	0.7%	100.0%

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

\*\*2015-16 includes estimated expenditures. As of December 1, 2016, DNR has not finalized actual amounts.

\*\*\*2016-17 includes the estimated amount for DNR PECFA awards and debt service, and appropriated amount for DNR administration.

\$3,807,700 in PECFA claims in 2014-15, and \$5,525,600 in 2015-16. The appropriation is biennial, so in 2015-16, DNR was able to spend all of the \$4,550,000 in expenditure authority for 2015-16, and \$975,600 from the 2016-17 appropriation. DNR indicates that the increase in claims paid in 2015-16 was due, in large part, to the 2015 Act 55 requirement that claims be submitted within 180 days of incurring the costs, or by February 1, 2016, whichever is later.

In 2016-17, there is \$3,574,400 available for expenditure from the remaining amount of the biennial PECFA awards appropriation. It is possible that the amount available in 2016-17 for PECFA awards will be insufficient to pay all claims anticipated to be received during the year.

### Type of Tank System

The majority of PECFA occurrences for which at least one payment has been made had



**Table 3: Distribution of PECFA Payments by Type of Tank (as of June 30, 2016)**

Tank Type	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
Commercial Underground	10,510	78.2%	\$1,346,972,433	87.4%	\$128,161
Aboveground	964	7.3	153,329,347	9.9	159,055
Terminal	32	0.2	16,377,029	1.1	511,782
Farm under 1,100 gal	264	2.0	11,093,222	0.7	42,020
Home Heating Oil	1,445	10.7	7,932,159	0.5	5,489
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	<u>5</u>	<u>0.0</u>	<u>247,087</u>	<u>0.0</u>	49,417
Total	13,447	100.0%	\$1,541,312,089	100.0%	\$114,621

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, 2016. 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 87% of PECFA payments made as of June 30, 2016. 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 \$1.54 billion in PECFA payments for 13,447 occurrences made as of June 30, 2016. While almost 50% of the occurrences had received less than \$50,000 each, this category of occurrences constituted 8% of the total payments. Conversely, 4.4% of the occurrences

had received more than \$500,000 each, and this category of occurrences constituted 27% of the total payments. The average PECFA payment per occurrence (including closed occurrences and occurrences with cleanups in process) was \$114,621.

Table 5 shows that, for the 13,447 occurrences for which at least one PECFA payment had been made by June 30, 2016, final payments had been made for completed cleanup at 12,664 occurrences (93%). The \$1.44 billion in PECFA payments for the closed occurrences represented 93% of PECFA payments made as of June 30, 2016. The average PECFA payment for cleanup at completed occurrences was \$113,661.

Table 6 shows how the number and percentage of open occurrences and payments for open occurrences have declined from 1998 to 2016 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 cumulative 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, and to 90% for 12,107 closed sites in 2011. As of June 30, 2016, 93% of cumulative payments had been made for 12,664 closed sites.

**Table 4: Distribution of PECFA Payments – Occurrences at All Sites (as of June 30, 2016)**

Amount Per Occurrence	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
\$50,000 and less	6,654	49.5%	\$125,416,196	8.1%	\$18,848
\$50,001 to \$100,000	2,613	19.4	188,788,865	12.2	72,250
\$100,001 to \$150,000	1,183	8.8	144,783,686	9.4	122,387
\$150,001 to \$200,000	726	5.4	125,613,393	8.1	173,021
\$200,001 to \$250,000	501	3.7	112,299,143	7.3	224,150
\$250,001 to \$300,000	332	2.5	91,325,967	5.9	275,078
\$300,001 to \$350,000	261	1.9	84,704,408	5.5	324,538
\$350,001 to \$400,000	204	1.5	76,291,417	4.9	373,978
\$400,001 to \$450,000	171	1.3	72,562,143	4.7	424,340
\$450,001 to \$500,000	213	1.6	102,339,880	6.6	480,469
\$500,001 to \$550,000	107	0.8	56,043,836	3.6	523,774
\$550,001 to \$600,000	77	0.6	44,228,883	2.9	574,401
\$600,001 to \$650,000	82	0.6	51,408,318	3.3	626,931
\$650,001 to \$700,000	72	0.5	48,568,134	3.2	674,557
\$700,001 to \$750,000	47	0.3	34,146,696	2.2	726,525
\$750,001 to \$800,000	46	0.3	35,570,271	2.3	773,267
\$800,001 to \$850,000	24	0.2	19,831,757	1.3	826,323
\$850,001 to \$900,000	36	0.3	31,517,970	2.0	875,499
\$900,001 to \$950,000	22	0.2	20,303,428	1.3	922,883
\$950,001 to \$1,000,000	<u>76</u>	<u>0.6</u>	<u>75,567,699</u>	<u>4.9</u>	994,312
Total	13,447	100.0%	\$1,541,312,089	100.0%	\$114,621

**Table 5: Distribution of PECFA Payments -- Occurrences at Closed Sites (as of June 30, 2016)**

Amount Per Occurrence	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
\$50,000 and less	6,296	49.7%	\$118,321,478	8.2%	\$18,793
\$50,001 to \$100,000	2,478	19.6	178,849,387	12.4	72,175
\$100,001 to \$150,000	1,091	8.6	133,351,015	9.3	122,228
\$150,001 to \$200,000	673	5.3	116,443,487	8.1	173,022
\$200,001 to \$250,000	471	3.7	105,535,242	7.3	224,066
\$250,001 to \$300,000	310	2.4	85,277,265	5.9	275,088
\$300,001 to \$350,000	240	1.9	77,931,027	5.4	324,713
\$350,001 to \$400,000	197	1.6	73,619,952	5.1	373,705
\$400,001 to \$450,000	161	1.3	68,258,707	4.7	423,967
\$450,001 to \$500,000	204	1.6	98,111,052	6.8	480,937
\$500,001 to \$550,000	99	0.8	51,924,598	3.6	524,491
\$550,001 to \$600,000	72	0.6	41,407,252	2.9	575,101
\$600,001 to \$650,000	78	0.6	48,916,438	3.4	627,134
\$650,001 to \$700,000	65	0.5	43,862,113	3.0	674,802
\$700,001 to \$750,000	44	0.3	31,999,804	2.2	727,268
\$750,001 to \$800,000	44	0.3	34,037,870	2.4	773,588
\$800,001 to \$850,000	23	0.2	19,018,078	1.3	826,873
\$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>71</u>	<u>0.6</u>	<u>70,665,985</u>	<u>4.9</u>	995,296
Total	12,664	100.0%	\$1,439,407,297	100.0%	\$113,661

**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
June 30, 2015	698	5.2	97.4	6.3
June 30, 2016	783	5.8	101.9	6.6

  

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
June 30, 2015	12,641	94.8	1,438.7	93.7	13,339	1,536.1
June 30, 2016	12,664	94.2	1,439.4	93.4	13,447	1,541.3

**Table 7: Distribution of PECFA Payments -- Occurrences at Active Sites (as of June 30, 2016)**

Amount Per Occurrence	Number of Occurrences	% of Occurrences	Total Payments	% of Payments	Average Payment Per Occurrence
\$50,000 and less	358	45.7%	\$7,094,717	7.0%	\$19,818
\$50,001 to \$100,000	135	17.2	9,939,477	9.8	73,626
\$100,001 to \$150,000	92	11.7	11,432,670	11.2	124,268
\$150,001 to \$200,000	53	6.8	9,169,907	9.0	173,017
\$200,001 to \$250,000	30	3.8	6,763,901	6.6	225,463
\$250,001 to \$300,000	22	2.8	6,048,702	5.9	274,941
\$300,001 to \$350,000	21	2.7	6,773,381	6.6	322,542
\$350,001 to \$400,000	7	0.9	2,671,465	2.6	381,638
\$400,001 to \$450,000	10	1.3	4,303,437	4.2	430,344
\$450,001 to \$500,000	9	1.1	4,228,828	4.1	469,870
\$500,001 to \$550,000	8	1.0	4,119,238	4.0	514,905
\$550,001 to \$600,000	5	0.6	2,821,631	2.8	564,326
\$600,001 to \$650,000	4	0.5	2,491,880	2.4	622,970
\$650,001 to \$700,000	7	0.9	4,706,022	4.6	672,289
\$700,001 to \$750,000	3	0.4	2,146,892	2.1	715,631
\$750,001 to \$800,000	2	0.3	1,532,400	1.5	766,200
\$800,001 to \$850,000	1	0.1	813,679	0.8	813,679
\$850,001 to \$900,000	5	0.6	4,373,765	4.3	874,753
\$900,001 to \$950,000	6	0.8	5,571,087	5.5	928,514
\$950,001 to \$1,000,000	<u>5</u>	<u>0.6</u>	<u>4,901,714</u>	<u>4.8</u>	980,343
Total	783	100.0%	\$101,904,793	100.0%	\$130,147

As of June 30, 2016, partial PECFA payments had been made for \$102 million at 783 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 46% of the active sites with partial payments had received less than \$50,000 as of June 30, 2016, they represented 7% of total partial payments. Approximately 6% of occurrences with partial payments received over \$500,000 in PECFA payments as of June 30, 2016, and the payments for these occurrences represented 33% of PECFA partial payments. The average PECFA payment for partially reimbursed occurrences at active sites was \$130,147. 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 2,367 occurrences and \$222.0 million, representing 17.6% of total occurrences and 14.4% of total payments made as of June 30, 2016. 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**

Department of Safety and Professional Services data about the categories of PECFA costs for claims paid between January 1, 1994, and June 30, 2012, included information about claims totaling \$1,332.0 million for 12,380 occurrences. The DSPS data on PECFA claims indicated that the biggest cost components during that time period included: (a) 40% for consultant services; (b)

20% for loan interest and other loan-related expenses for loans secured to clean up PECFA sites; and (c) 10% for costs of soil treatment, such as payments to landfills for disposal of contaminated soil.

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**

Prior to enactment of 2015 Act 55, the PECFA program did not have a statutory end date. Under 2015 Act 55, persons must have notified DNR of the petroleum discharge and the potential for submitting a PECFA claim before July 20, 2015, in order to be eligible under the program. In addition, s. 292.63(3) of the statutes requires that a person submit a PECFA claim before July 1, 2020, in order to be eligible for reimbursement under the program. Finally, an owner or operator must submit a claim for reimbursement within 180 days after incurring the eligible costs.

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 the past several years, approximately 50 sites annually had established PECFA eligibility. DNR estimated that, in 2015, approximately 75 site owners or operators submitted applications for eligibility before the July 20, 2015, deadline. Contaminated petroleum sites identified after the July 20, 2015, deadline continue to be subject to

the state hazardous substances spill cleanup requirements, but are no longer eligible for reimbursement under the PECFA program. DNR does not separately track the number of sites identified after July 20, 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 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 2015 and 2016 included: (a) developing DNR staff teams to work with consultants and owners or operators to develop a plan to achieve completion of site cleanup before the July 1, 2020, deadline for submittal of claims; (b) developing a timeline for each site to achieve milestones to reach site closure; (c) providing one DNR project manager for each site as the point of contact for remediation and reimbursement issues; (d) holding regular DNR staff meetings to review the status of each PECFA site in each region; (e) hiring 10 to 12 limited-term employees to increase active monitoring of sites with phone calls, mailings and meetings to move sites toward completion; (f) administering a system of semi-annual electronic reporting by responsible parties to better track open sites; (g) increasing use of a streamlined enforcement process at stalled sites;

(h) encouraging greater use of the uniform and customary cost schedule; and (i) using a PECFA agent process to make PECFA reimbursement payments directly to consultants at certain sites where the owners have authorized it.

### 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.

Since July 1, 2013, DNR has not performed any study of the overall future financial liability of the PECFA program. In the fall of 2016, DNR was aware of approximately 675 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 July, 2016, DNR received semi-annual site status reports for 498 PECFA sites, which included estimates of approximately \$22.3 million in additional cleanup costs for the sites.

### PECFA Bonding

Between 1999 and 2007, total PECFA revenue obligation authority of \$386,924,000 was authorized. All of the \$387 million in PECFA revenue obligation authority was issued between March, 2000, and December, 2008, was used to pay PECFA claims, and eliminated the claim backlog. No bonding authority is available for future issuance.

In October, 2016, DOA refinanced the remaining short-term obligations to longer-term fixed-rate debt. As of December 1, 2016, the total amount of outstanding revenue obligations (the amount the state owes in principal) was \$76.1 million with a weighted average annual interest

cost of 4.14% through July 1, 2017, then 4.0% through the July 1, 2019, final payment of principal.

Table 8 shows the actual annual payments to the revenue obligation trustee for petroleum inspection fee revenue obligation debt service for 2004-05 through 2015-16 and estimated payments for 2016-17 through 2018-19. Debt service payments for 2009-10 through 2011-12 were lower than in prior years because the state refinanced the debt to defer principal payments. The state resumed paying principal payments in 2012-13.

The state made payments of \$29.8 million to the revenue obligation debt service trustee account in 2014-15 and \$28.7 million in 2015-16. The state expects to make debt service payments to the trustee account of approximately \$31.1 million in 2016-17. The estimated debt service

**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	29.8	139.1
2015-16	28.7	112.6
2016-17 est.	31.1	76.1
2017-18 est.	28.6	55.1
2018-19 est.	25.9	27.2
July 1, 2019	0.0	0.0

\*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.

amounts for 2016-17 through 2018-19 reflect the fixed principal and interest payment schedule established in the DOA October, 2016, refinancing of short-term commercial paper to fixed-rate obligations that will be retired on July 1, 2019.

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### **Petroleum Inspection Fund**

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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.

Approximately 3.8 billion gallons of petroleum are inspected annually (including gasoline, diesel and heating oil). Each one cent of petroleum inspection fee generates revenues of approximately \$38 million annually. The current 2¢ per gallon fee generated \$74.8 million of revenue in 2015-16. It is anticipated the state will collect approximately \$76.6 million in petroleum inspection fees in 2016-17.

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 \$16.5 million on July 1, 2017.

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 required payments for debt service costs are shown in Table 8.

In 2014-15, revenue from the petroleum inspection fee, bulk tank fees and interest income totaled \$80.2 million, including approximately \$7 million in one-time receipts collected from a past-due account. Expenditures totaled \$72.1 million, including: (a) \$29.8 million for revenue obligation debt service costs (shown as a reduction to available revenue); (b) \$26.3 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. In 2015-16, estimated revenue totaled \$75.0 million, and estimated expenditures totaled \$77.5 million, including (a) \$28.7 million for revenue obligation debt service costs; (b) \$27.8 million for appropriations with 89.55 positions; and (c) \$21.0 million for a transfer to the transportation fund under one-time provisions of 2015 Act 55. As of December 1, 2016, DNR had not finalized 2015-16 actual revenues or expenditures.

**Table 9: Petroleum Inspection Fund Estimated Condition, 2013-14 Through 2016-17**

	2013-14 Actual	2014-15 Actual	2015-16 Estimated*	2016-17 Estimated
Opening Balance -- July 1	\$14,721,200	\$13,530,700	\$21,786,300	\$19,261,200
<b>Revenues</b>				
Petroleum Inspection Fee	\$71,119,900	\$80,157,100	\$74,804,900	\$76,600,000
Revenue Obligation Debt Service	-29,969,500	-29,824,200	-28,744,200	-31,084,400
Petroleum Bulk Tank Fees and Other	228,200	232,000	209,100	250,000
Total Revenues	\$41,378,600	\$50,964,900	\$46,269,800	\$45,765,600
Total Revenue Available	\$56,099,800	\$64,095,600	\$68,056,100	\$65,026,700
<b>Expenditures and Reserves</b>				
PECFA Awards	\$4,795,800	\$3,807,700	\$5,525,600	\$3,574,400**
PECFA Administration	1,660,500	1,815,500	2,281,700	2,329,900
Petroleum Inspection	4,238,700	4,857,100	4,369,300	4,515,200
Transportation Fund	6,623,500	6,584,300	6,584,600	6,629,000
Other Programs	9,250,600	9,244,700	9,033,700	9,723,300
Expenditure of prior year encumbrances	0	0	0	764,100
Total Expenditures	\$26,569,100	\$26,309,300	\$27,794,900	\$27,535,900
Less Transfer to Transportation Fund	\$16,000,000	\$16,000,000	\$21,000,000	\$21,000,000
Cash Balance	\$13,530,700	\$21,786,300	\$19,261,200	\$16,490,800
Encumbrances, Continuing Balances	-\$1,069,300	-\$296,600	-\$764,100	\$0
Closing Available Balance -- June 30	\$12,461,400	\$21,489,700	\$18,497,100	\$16,490,800

\*2015-16 includes estimated revenues and expenditures. As of December 1, 2016, DNR had not finalized actual amounts.

\*\*Shows estimated expenditures of \$3,574,400 as the amount remaining in the biennial appropriation.

It is anticipated that in 2016-17, revenue from the petroleum inspection fee and other revenues will total \$76.9 million, and expenditures will total \$79.6 million, including: (a) \$31.1 million for revenue obligation debt service costs; (b) \$27.5 million for appropriations with 89.55 positions; and (c) \$21.0 million for a one-time transfer to the transportation fund.

Approximately 53% (\$82.4 million) of the expenditures from the petroleum inspection fund in the 2015-17 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 56.35 positions. In addition, approximately 35% (\$55.2 million) will be for DOT appropriations and the transfer to the trans-

portation fund. The remaining 12% includes \$18.8 million for other programs and \$0.7 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 2016-17, DNR is authorized 31.95 positions in the Division of Air, Waste, and Remediation and Redevelopment (AWaRe) for environmental repair, petroleum spills, and PECFA administration. The Department allocates approximately 20.3 of the positions for the PECFA administrative activities described earlier, and the



remaining 11.65 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 \$2,782,000 and 6.5 positions from the petroleum inspection fund for air program activities in 2016-17. 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, \$1,522,200 and 5.5 positions are appropriated in the Bureau of Air Management in the AWaRe Division, and \$988,700 and 1.0 position is in the Division of Customer and Employee Services. (For more information, see the Legislative Fiscal Bureau informational paper entitled, "Air Management Programs.")

DNR has base funding of \$271,100 and 3.0 positions in 2016-17 from the fund for pollution prevention activities in the Public Safety and Business Support program.

DNR administered a gasoline vapor recovery equipment removal grant program, created in 2013 Act 20. The program provided 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 and spent a total of \$850,800. (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 Wisconsin Act 25, is currently operated by the Division of Energy, Housing and Community Resources within the

Department of Administration. For 2016-17, the program is budgeted base funding of \$1,000,000 for grants, and \$76,200 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, 2020. In 2015-16, \$778,700 was awarded to 16 large fleet motor carriers for 171 units and \$221,200 was awarded to 31 small fleet motor carriers for 44 units.

### **Department of Agriculture, Trade and Consumer Protection**

DATCP has base funding in 2016-17 of \$4,515,200 from the petroleum inspection fund with 36.05 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, 2016, 22.0 of the positions are field inspectors conducting petroleum product sampling, storage tank inspections and weights and measures inspections. The remaining 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 \$886,500 in 2016-17 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, 2016, 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 \$234,000 from the fund in 2016-17 with 2.1 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 wholesale 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 Business Trade Practices Bureau, 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 in base funding in 2016-17 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) 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. Appropriated amounts unspent in a fiscal year from the local emergency planning committee grant appropriation revert to the petroleum inspection fund.

DMA is also provided base funding of \$711,200 in 2016-17 from the petroleum inspection fund in a continuing appropriation 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) repair of damage to roads and bridges. Since the major disaster assistance appropriation is continuing, appropriated amounts that are unspent in a fiscal year do not revert to the petroleum inspection fund. Rather, unspent amounts remain with the appropriation to support future disaster relief.

The major disaster assistance appropriation began 2015-16 with a balance of \$148,900. During 2015-16, the appropriation received \$711,200

from the petroleum inspection fund, expended \$424,100, and concluded 2015-16 with a balance of \$436,100.

### **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 gallons per month. DOR processes applications and pays them from a sum-sufficient appropriation. Expenditures were \$351,700 in 2015-16.

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 2015-17 biennium).

The ongoing transfer has been supplemented by specified one-time transfers from the petroleum inspection fund in the 2007-09 through 2015-17 biennia. This included \$21,000,000 each year in 2015-16 and 2016-17. 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 \$127,200 in 2016-17 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 (ongoing appropriation for vehicle emissions inspection and supplemental transfers) are described under "Miscellaneous Appropriations."

In addition, 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 2016-17, base funding of \$370,500 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 \$255 million has been or will be transferred from the petroleum inspection fund to other funds by the end of 2016-17. 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	0	21,000,000	0	0	21,000,000
2015-16	0	21,000,000	0	0	21,000,000
2016-17	<u>0</u>	<u>21,000,000</u>	<u>0</u>	<u>0</u>	<u>21,000,000</u>
Total	\$109,432,700	\$140,800,000	\$4,000,000	\$760,000	\$254,992,700

## 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, 2016.
- Appendix III lists appropriations from the petroleum inspection fund from 2013-14 through 2016-17.
- Appendix IV summarizes the major provisions of recent legislation that 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, 2016

County	Number of Sites	Total Payments	County	Number of Sites	Total Payments
Adams	43	\$5,953,457	Milwaukee	2,367	\$221,962,263
Ashland	73	8,710,612	Monroe	136	19,154,998
Barron	91	8,230,114	Oconto	97	13,307,724
Bayfield	91	9,640,288	Oneida	163	29,194,230
Brown	469	58,458,370	Outagamie	389	47,068,833
Buffalo	45	4,338,015	Ozaukee	222	22,896,462
Burnett	42	5,553,287	Pepin	15	745,565
Calumet	104	11,822,647	Pierce	72	5,465,416
Chippewa	171	12,285,339	Polk	105	9,134,445
Clark	125	15,169,031	Portage	143	13,587,057
Columbia	190	22,159,461	Price	80	12,870,813
Crawford	46	4,564,603	Racine	405	42,829,775
Dane	881	126,675,666	Richland	90	8,548,364
Dodge	231	30,809,875	Rock	233	25,797,677
Door	94	9,079,471	Rusk	59	8,927,888
Douglas	188	22,882,166	Saint Croix	120	9,960,678
Dunn	58	5,931,294	Sauk	204	22,949,456
Eau Claire	172	12,577,524	Sawyer	96	9,094,839
Florence	19	2,539,492	Shawano	133	15,551,741
Fond du Lac	297	37,893,972	Sheboygan	298	37,901,080
Forest	36	4,006,479	Taylor	91	14,299,508
Grant	129	14,635,082	Trempealeau	78	9,699,189
Green	71	9,098,160	Vernon	107	10,849,031
Green Lake	93	11,333,882	Vilas	116	17,415,585
Iowa	35	4,823,018	Walworth	213	25,736,159
Iron	47	5,324,333	Washburn	31	2,172,549
Jackson	77	9,069,861	Washington	230	34,836,683
Jefferson	205	25,460,847	Waukesha	739	73,057,841
Juneau	101	11,777,591	Waupaca	138	15,703,768
Kenosha	257	35,780,715	Waushara	65	8,826,613
Kewaunee	68	7,443,108	Winnebago	390	46,790,722
La Crosse	184	20,024,976	Wood	<u>229</u>	<u>29,612,440</u>
Lafayette	50	7,750,093			
Langlade	67	9,387,770	TOTAL	13,447	\$1,541,312,089
Lincoln	74	7,879,338			
Manitowoc	203	26,030,068			
Marathon	280	32,442,512			
Marinette	125	10,974,276			
Marquette	56	5,696,967			
Menominee	5	1,148,933			



**APPENDIX III**

**Petroleum Inspection Fund Appropriations, 2013-14 Through 2016-17**

Agency/ Statutory Citation	Appropriation Name	2013-14 Expenditures	2014-15 Expenditures	2014-15 Positions	2015-16 Expenditures*	2016-17 Base Funding	2016-17 Positions
<b>Natural Resources 20.370</b>							
(2)(bq)	Vapor recovery administration	\$95,499	\$24,396	1.00	\$1,907	\$84,900	1.00
(2)(br)	Air management - mobile sources	1,357,945	1,268,040	4.50	1,394,207	1,437,300	4.50
(2)(dw)	Environmental repair, petroleum spills and PECFA administration	2,615,023	2,859,032	31.95	3,593,300	3,669,200	31.95
(3)(ms)	Pollution prevention	122,400	83,843	1.00	87,259	271,100	3.00
(6)(er)	Vapor recovery equipment removal grant	511,756	339,022	0.00	0	0	0.00
(6)(fr)	PECFA Awards	4,795,786	3,807,657	0.00	5,525,587	3,574,413**	0.00
(6)(fv)	Abandoned tank removal	24,020	73,897	0.00	49,600	100,000	0.00
(8)(mq)	Mobile source air pollution	875,500	892,900	0.50	937,000	956,800	0.50
(9)(mq)	Mobile source air pollution	<u>171,850</u>	<u>165,239</u>	<u>2.50</u>	<u>31,900</u>	<u>31,900</u>	<u>0.50</u>
DNR Subtotal		\$10,569,779	\$9,514,026	41.45	\$11,620,760	\$10,125,613	41.45
<b>Administration 20.505</b>							
(1)(sa)	Diesel truck idling reduction grants	\$1,003,330	\$1,000,000	0.00	\$999,905	\$1,000,000	0.00
(1)(s)	Diesel truck idling reduction grant administration	75,055	83,284	1.00	81,475	76,200	1.00
<b>Agriculture, Trade and Consumer Protection 20.115</b>							
(1)(r)	Unfair Sales Act	222,000	233,300	2.35	230,400	234,000	2.10
(1)(s)	Weights and Measures	803,300	874,800	6.00	889,000	886,500	6.00
(1)(t)	Petroleum inspection	4,238,660	4,857,066	34.00	4,369,336	4,515,200	36.05
<b>Military Affairs 20.465</b>							
(3)(r)	State emergency response board	462,013	461,995	0.00	462,017	462,100	0.00
(3)(s)	Major disaster assistance	524,455	748,995	0.00	424,060	711,200	0.00
<b>Miscellaneous Appropriations 20.855</b>							
(4)(r)	Petroleum allowance	226,785	133,043	0.00	351,661	300,000	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

**Petroleum Inspection Fund Appropriations - (continued)**

Agency/ Statutory Citation	Appropriation Name	2013-14 Expenditures	2014-15 Expenditures	2014-15 Positions	2015-16 Expenditures*	2016-17 Base Funding	2016-17 Positions
<b>Revenue 20.566</b>							
566 (1)(s)	Petroleum inspection fee collection	\$109,785	\$113,641	1.00	\$76,943	\$127,200	1.00
<b>Transportation 20.395</b>							
(4)(dq)	Air quality - demand management	365,005	325,795	4.00	326,053	370,500	4.00
<b>Miscellaneous - Controller's Office</b>							
	Payment of Cancelled Checks	<u>5,645</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal Agencies Other than DNR		\$15,999,333	\$16,795,210	48.35	\$16,174,150	\$16,646,200	50.15
Subtotal Petroleum Inspection Fund Appropriations		\$26,569,112	\$26,309,237	89.80	\$27,794,910	\$26,771,813	91.60
<b>Additional Expenditures</b>							
Biennial Budget Act Transfers to the Transportation Fund		\$16,000,000	\$16,000,000	0.00	\$21,000,000	\$21,000,000	0.00
PECFA Revenue Obligation Debt Service Deposits to Trustee Account		29,969,491	29,824,161	0.00	28,744,200	31,084,400	0.00
Prior Year Encumbrances and Continuing Balances		<u>0</u>	<u>0</u>	<u>0.00</u>	<u>0</u>	<u>764,100</u>	<u>0.00</u>
Total Expenditures, Petroleum Inspection Fund		\$72,538,603	\$72,133,398	89.80	\$77,539,110	\$79,620,313	91.60

\*2015-16 includes estimated expenditures. As of December 1, 2016, DNR had not finalized actual amounts.

\*\*Shows estimated PECFA awards expenditures of \$3,574,413. Appropriation was authorized \$4,550,000 in 2016-17, but \$975,587 of it was spent in 2015-16 in a biennial appropriation.

## APPENDIX IV

### Recent 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 in the 2005-07 through 2015-17 legislative sessions to: (a) tank eligibility and criteria; (b) the inspection fee revenue limitation; (c) the awards appropriation; (d) eligible costs; (e) program termination date; (f) reports that have been required regarding PECFA; and (g) administration. Additional detail about the legislative changes made in the 1987-89 through 2003-05 legislative sessions can be found in the 2015 Legislative Fiscal Bureau Informational Paper #66 entitled, "Petroleum Environmental Cleanup Fund Award (PECFA) Program."

#### 2005-07 Legislative Session

Act	Description
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25	<i>Awards Appropriation.</i> \$40.4 million in 2005-06 and \$37.6 million in 2006-07.
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	<i>Petroleum Inspection Fee.</i> Decrease the petroleum inspection fee by 1¢ from 3¢ to 2¢ per gallon, effective May 1, 2006.
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85	<i>Petroleum Inspection Fee.</i> 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.
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#### 2007-09 Legislative Session

25	<i>Awards Appropriation.</i> \$20 million in 2007-08 and \$20 million in 2008-09.
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	<i>Revenue Obligations.</i> Decrease authorization for revenue obligations from \$436 million by \$49,076,000 to \$386.9 million, to delete authority that was not used.
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#### 2009-11 Legislative Session

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

**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.

**2015-17 Legislative Session**

55      *Awards Appropriation.* \$4.55 million in 2015-16 and \$4.55 million in 2016-17.

*Eligibility Deadlines.* End eligibility for the PECFA program if the owner or operator: (a) does not notify DNR of the discharge and potential for submitting a PECFA claim before July 20, 2015; and (b) does not submit a claim for the reimbursement of the eligible expenses before July 1, 2020. In addition, require that an owner or operator must submit a claim within 180 days of incurring the eligible costs, or before February 1, 2016 (the first day of the seventh month after the effective date of the budget act), whichever was later, or the costs would no longer be eligible for reimbursement.