



Petroleum Environmental Cleanup Fund Award (PECFA) – Claim and Cost Eligibility Overview

What is PECFA?

PECFA is a reimbursement program created by the state of Wisconsin for returning a portion of incurred environmental response costs to owners of eligible petroleum product systems, including home heating oil systems. Program funding is generated from a portion of a \$0.02/gallon petroleum inspection fee. The Department of Natural Resources' Remediation and Redevelopment Program (hereafter referred to as the "DNR") administers PECFA and oversees the environmental response actions.

Who may submit a claim?

The responsible party, owner or operator, agent or an assignee may submit a claim. The owner may, with the DNR's written approval, designate an "agent". The agent must agree to complete and pay for the response actions up to the point of closure. Both the owner and agent submit the claim and the award is made payable to both. The reimbursement check is sent to the agent.

What are the basic steps for submitting a claim?

To submit a claim, the claimant must do the following:

1. Hire a consultant to conduct the Wis. Admin. Code ch. NR 700-required site investigation. Consultants must be registered with the DNR as a PECFA consultant, and must submit notification to the DNR, no later than 14 days after execution or termination of a written contract with a responsible party for investigating a discharge from a petroleum product storage system, per Wis. Admin. Code § NR 747.60.
2. Comply with the Usual & Customary costs (Wis. Admin. Code § NR 747.325) that apply to all occurrences previously or newly reported to the state, for work performed after May 1, 2006 except in cases where work was performed: 1) under a previously established cap under Wis. Stats. § 292.63(3)(cp); 2) as part of an emergency action, within initial 72 hours after the onset of the need for the action; or 3) for home oil tank systems
 - The maximum allowable cost for a site investigation and the development of the remedial action plan is \$20,000. If the site investigation is anticipated to exceed the \$20,000 cap, written approval from the DNR shall be obtained prior to incurring any costs above \$20,000, and notification to the owner shall be made before the owner has incurred liabilities above the \$20,000 maximum.
 - Commodity bidding is not required where a reimbursement amount is determined either by the Usual & Customary cost schedule, is less than \$1,000 or by a variance issued by the DNR.
3. Initiate a claim by filling out a [PECFA-Remedial Action Fund Application \(4400-291\)](#)

What costs are eligible under the PECFA program?

The following is a partial list of items eligible for reimbursement. Although the final determination of eligibility is made at the time of claim review by the DNR, this list is a general guide for claimants. Please see Wis. Stats. § 292.63 and Wis. Admin. Code ch. NR 747 for additional information.

1. Investigation and assessment for degree and extent of contamination caused by a petroleum product storage system or a home oil tank system.
2. Preparation of a remedial action plan.
3. Removal of petroleum products from surface waters, groundwater or soil.
4. Removal of contaminated soils.
5. Laboratory services for testing specific to eligible actions, including full VOC testing.
6. Costs of equipment mobilization.
7. Treatment and disposal of contaminated soils.
8. Charges for maintenance of equipment used for petroleum products recovery and remedial action.
9. State or municipal permits for installation of remedial equipment.
10. Actual costs for the purchase or rental of temporary building structures to house remedial equipment.
11. Restoration or replacement of a private or public potable water supply.
12. Contractor or subcontractor costs for remedial action.
13. Fees up to a specific amount for a certified public accountant, contractor, or other independent preparer for compiling a claim.
14. Compensation to third parties for bodily injury and property damage due to a petroleum product discharge from underground storage tank systems.

What costs are ineligible under the PECFA program?

The following is a partial list of items determined to be ineligible for reimbursement by the DNR. Although the final determination of eligibility is made at the time of claim review, this list is a general guide for claimants. Please see Wis. Stats. § 292.63 and Wis. Admin. Code ch. NR 747 for additional information.

1. Any costs submitted without absolute proof of payment at time of claim submittal.
2. Overtime labor charges, except for DNR approved emergency actions.
3. Costs for cleanups from a non-residential heating or boiler tank system and discharges from mobile fueling tanks or vehicle fuel storage tanks.
4. Used oil remediation costs not from internal combustion engines.

5. Costs associated with environmental audits, real estate transaction, construction projects, or long-term loan transactions.
6. Costs for investigations to locate petroleum product storage systems or home oil systems to determine if a tank is eligible for PECFA.
7. Costs incurred after the DNR determines no further action is needed, except for abandonment of monitoring wells and case closure.
8. Costs not integral to the remediation of a petroleum product discharge.
9. Costs related to improper or incompetent remedial activities and services.
10. Costs above those necessary to bring a site to the required level of remediation.
11. Costs determined by the DNR to be excessive.
12. Costs to fix or replace damaged buildings, sewer lines, water lines, electrical lines, phone lines, fiber optic lines, or other utilities on the property.
13. Costs of reinstalling damaged remedial equipment and reinstalling or modifying remedial equipment for purposes other than effective remediation.
14. Interest costs accrued due to improper or incomplete filing of claims or a lack of response to DNR requests for additional information, except if delayed by DNR processes.
15. Costs for sampling and testing for heavy metals, except lead when the discharge is from a leaded gasoline system or lead and cadmium when the source is used motor oil.
16. Costs associated with the analysis of inappropriate constituents not associated with an eligible petroleum product.
17. Costs for remedial action activities funded under 42 US 6991, unless the owner or operator or the person owning the home oil tank system repays the funds provided under 42 USC 6991.
18. Expenditures required by the DNR in order to meet groundwater protection standard(s) not related to a petroleum product discharge covered under PECFA.
19. Costs associated with the loss of business, loss of interest or dividends, or interest costs from a loan other than for remediation.
20. Costs associated with the closure of a tank system, tank closure assessments, and removal of a tank system previously been closed in-place with inert materials or other substances.
21. Costs associated with the abandonment of wells not related to the remedial action.
22. Costs, other than costs for compensating third parties for bodily injury and property damage, which the DNR determines to be unreasonable or unnecessary to carry out the remedial action activities.
23. Costs associated with third-party actions by adjoining property owners for the installation of monitoring wells or other clean-up related items unless a court judgment has been obtained.
24. Costs associated with third-party damages from a discharge originating from an aboveground storage tank.
25. Attorney fees associated with third-party actions.

26. Any costs associated with an appeal of a determination specific to the scope of Wis. Admin. Code ch. NR 747.
27. Attorney fees including, but not limited to, legal advice, appeals, or other representation on behalf of the responsible party or agent.
28. Supervisory or management costs that the DNR determines to be unreasonable or unnecessary in carrying out the remedial activities.
29. Costs incurred by a responsible party associated with project administration such as consultant selections, monitoring or supervising subcontractors or consultants.
30. Any costs, excluding for an emergency action, incurred before a confirmed discharge is reported to the DNR.
31. Costs for any work performed where a contract is not in place with an environmental consultant as required in Wis. Admin. Code § NR 747.33(2) (a) 1.
32. Costs incurred for commodity services exempted under Wis. Admin. Code § NR 747.33(6) (b) 1, if the costs are incurred prior to the DNR approval, and the approval requirement is not subsequently waived by the DNR.
33. Costs which exceed the \$20,000 limit for a site investigation and remedial action plan, and which are incurred prior to approval by the DNR.
34. Costs for performance bonds.
35. Costs incurred that exceed caps established by the DNR unless written DNR approval is received prior to performance of the corresponding work.
36. Costs incurred on or before August 1, 1987, for a remediation.¹
37. Costs for cleanup resulting from spills from petroleum transportation equipment.¹
38. Costs for investigations or remedial action activities conducted outside the state of Wisconsin.¹
39. Tank emptying, cleaning, disposing, removing, and closing costs after November 1, 1991.¹
40. Laboratory rush charges, unless related to an approved emergency action.¹
41. Air travel.¹
42. Costs associated with tank system upgrades or retrofits, and any corresponding compliance with other state or federal rules or laws, and future business plans.¹
43. Costs for repairing, retrofitting, or replacing a petroleum product storage system or home oil tank system, such as for tank bedding materials or fill for setting tanks, lines of canopies.¹
44. Costs associate with capital improvements, reinstallation of electrical power, dispensers, pumps, or other items for retrofits, upgrades, or new construction, unless written DNR approval is received prior to performance of the corresponding work.¹
45. Costs associated with concrete, blacktop replacement, on-site landscaping, or other improvements: except for depreciation costs for third-party actions, or for asphalt or concrete

¹ Ineligible costs #36 through 51 may be subject to penalties under Wis. Admin. Code § NR 747.30(3)(b) if included in a submitted claim.

patching associated with well abandonment, or where written DNR approval is received prior to performance of the corresponding work.¹

46. Costs associated with razing of buildings, removal of roads, removal of footings and foundations, or other destruction of structures, or other redevelopment costs, unless written DNR approval is received prior to performance of the corresponding work.¹
47. The opportunity cost of money, or interest income or dividend income lost because of a decision to use internal funding for remediation.¹
48. Subcontractor markups.¹
49. Costs associated with general administrative support and office operation which are expected to be included in the hourly staff rates, such as indirect and overhead costs.¹
50. Costs reimbursed by insurance companies, unless performing in an agent role.¹
51. Costs associated with fees required by any other state agency.¹

What if a submitted claim includes ineligible costs?

Any ineligible costs submitted as part of a claim will be denied by the DNR for reimbursement at claim review per Wis. Admin. Code § NR 747.30(2). In addition, claims may be returned to the claimant per Wis. Admin Code § NR 747.30(4) for recalculation, revision and resubmittal prior to scheduling a review. Costs deemed ineligible at claim review may be appealed within 30 days under Wis. Admin. Code § NR 747.53 as a first step, prior to a potential action of a contested case hearing per Wis. Stats. § 227. See [Important Information for Appealing a PECFA Claim Decision \(RR-941\)](#) for more information.

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REFERENCE TABLES

Table 1. PECFA coverage for new and upgraded systems.

Tank System Type	Site Condition	Old Contamination Covered?²	Insurance Required for:³	When is Insurance Required?
New Underground System	Clean or Contaminated	Yes, if contamination was confirmed before 1/1/96	New discharges from systems after 1/1/96	Required as of 1/1/96
Upgraded ⁴ Underground System	Contaminated at time of upgrade	Yes, if contamination is confirmed before upgrade is completed or before 1/1/96	New discharges from system when confirmed after both upgrade and 1/1/96	Required on 1/1/96, if upgraded before that date; or After upgrade if work is completed after 1/1/96
Upgraded Underground System	Clean at time of upgrade	Not applicable	New discharges from system when confirmed after both upgrade and 1/1/96	
New Aboveground System	Clean or Contaminated	Yes, if contamination confirmed before 12/23/2001	Insurance is not mandated, but new discharges from system when confirmed after 12/22/2001 will be the responsibility of the owner	
Upgraded Aboveground System	Clean at time of upgrade	Not applicable		
Upgraded Aboveground System	Contaminated at time of upgrade	Yes, if contamination is confirmed before upgrade is completed		

² If the tank system has been upgraded, the onus is on the claimant to prove that the contamination is from the old system. Comingled contamination is subject to a cost split methodology as provided for under Wis. Admin. § NR 747.30(5)(b)

³ Upgraded systems require private insurance for costs not covered by the PECFA program

⁴ An upgraded system, by definition, is a system that has all of the following: Corrosion protected tank(s), corrosion protected line(s), spill containment devices, and overflow devices.

Table 2. Maximum Awards, Annual Maximums and Deductibles (for sites where the investigation started on or after 1/22/2001)

Type of Tank	Owner	Maximum Award Per Occurrence	Total Annual Award	Deductible⁵
Home heating oil	All	\$7,500	N/A	25% of eligible costs
Underground	Non-marketer (the system does not store products for resale and handles 10,000 or less gallons per month)	\$190,000	\$190,000	\$10,000 per occurrence
Underground	Marketer (the system stores products for resale) or Non-marketer with system that handles more than 10,000 gallons per month	\$190,000	\$190,000	\$10,000 per occurrence
Aboveground	The system does not store products for resale and handles 10,000 or less gallons per month	\$190,000	\$190,000	\$10,000 per occurrence
Aboveground	The system stores products for resale or handles more than 10,000 gallons per month	\$190,000	\$190,000	\$10,000 per occurrence
Farm	Underground and aboveground vehicle fuel systems of 1,100 gallons or less storing products not for resale	\$100,000	\$100,000	\$2,500 plus 5% of eligible costs, but not more than \$7,500 per occurrence
Public School/Technical College District	Heating oil for consumptive use on premise	\$190,000	\$190,000	\$25% of eligible costs

⁵ Deductibles may be reduced and/or deferred in accordance with Wis. Stats. §292.63(4)(ee)

Table 3. Maximum Awards, Annual Maximums and Deductibles (for sites where the investigation started before 1/22/2001)

Type of Tank	Owner	Maximum Award Per Occurrence	Total Annual Award	Deductible ³
Home heating oil	All	\$7,500	N/A	25% of eligible costs
Underground	Non-marketer (the system does not store products for resale and handles 10,000 or less gallons per month)	\$500,000	\$1,000,000	\$2,500 plus 5% of eligible costs, but not more than \$7,500 per occurrence. ⁶
Underground	Marketer (the system stores products for resale) or Non-marketer with system that handles more than 10,000 gallons per month	\$1,000,000	\$1,000,000 ⁷	\$2,500 plus 5% of eligible costs, but not more than \$7,500 per occurrence. ⁶
Aboveground	The system does not store products for resale and handles 10,000 or less gallons per month	\$500,000	\$1,000,000 ⁷	\$15,000 plus 2% of eligible costs over \$200,000 ⁸
Aboveground	The system stores products for resale or handles more than 10,000 gallons per month	\$1,000,000	\$1,000,000 ⁷	\$15,000 plus 2% of eligible costs over \$200,000 ⁸
Farm	Underground and aboveground vehicle fuel systems of 1,100 gallons or less storing products not for resale	\$100,000	\$100,000	\$2,500 plus 5% of eligible costs, but not more than \$7,500 per occurrence
Public School/Technical College District	Heating oil for consumptive use on premise	\$190,000	\$190,000	\$25% of eligible costs

⁶ For claims where an acceptable remedial action plan (RAP) is received on or after 11/1/99, the deductible is \$2,500 plus 5%.

⁷ There is a \$2,000,000 maximum annual award if the claimant owns or operates more than 100 petroleum tank systems.

⁸ For a “terminal” (a petroleum product storage system that is connected to a pipeline facility) the deductible is \$15,000 plus 5% of the amount by which eligible costs exceed \$200,000. For a terminal where the RAP is received after 11/1/99, the deductible is \$15,000 plus 10% of the amount by which eligible costs exceed \$200,000.