

1989 Assembly Bill 275

Date of enactment: April 18, 1990

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1989 WISCONSIN ACT 255

AN ACT *to repeal* 101.143 (3) (a) 2, 101.143 (4) (e) 1. a to d and 101.143 (6) (a); *to renumber and amend* 101.143 (4) (d) 2, 101.143 (4) (d) 3, 101.143 (4) (e) 1. (intro.) and 101.143 (6) (b); *to amend* 101.143 (4) (d) (title) and 1, 101.143 (4) (d) 4, 101.143 (4) (e) 2, 101.143 (4) (e) 3, 101.143 (4) (em) 1, 101.143 (4) (es) 1, 101.143 (4) (es) 3 and 101.143 (7) (a); and *to create* 101.143 (1) (cs), 101.143 (4) (c) 6, 101.143 (4) (d) 2. a and b, 101.143 (4) (d) 3. a and b and 101.143 (7) (am) of the statutes, **relating to:** discharges from petroleum product storage tanks.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 101.143 (1) (cs) of the statutes is created to read:

101.143 (1) (cs) "Occurrence" means a contiguous contaminated area resulting from one or more petroleum products discharges.

SECTION 2. 101.143 (3) (a) 2. of the statutes is repealed.

SECTION 3. 101.143 (4) (c) 6. of the statutes is created to read:

101.143 (4) (c) 6. Costs for remedial action activities funded under 42 USC 6991, unless the owner or operator or the person repays the funds provided under 42 USC 6991.

SECTION 4c. 101.143 (4) (d) (title) and 1 of the statutes, as affected by 1989 Wisconsin Act 31, are amended to read:

101.143 (4) (d) (title) Awards for claims; underground systems. 1. ~~Except as provided in par. (e), the~~ The department shall issue an award under this paragraph for a claim filed after July 31, 1987, for eligible costs, under par. (b), incurred on or after August 1, 1987, and before July 1, 1995, by ~~an~~ the owner or operator of an underground petroleum product storage tank system.

SECTION 5. 101.143 (4) (d) 2. of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 101.143 (4) (d) 2. (intro) and amended to read:

101.143 (4) (d) 2. (intro.) The department shall issue the award under this paragraph without regard to fault ~~for each petroleum product storage system~~ in an amount equal to the amount of the eligible costs that exceeds a deductible amount of \$5,000 ~~for eligible costs incurred before July 1, 1993, or \$10,000 for eligible costs incurred on or after July 1, 1993.~~ An award issued under this paragraph may not exceed \$195,000 ~~for eligible costs incurred before July 1, 1993, or \$190,000 for eligible costs incurred on or after July 1, 1993 for each occurrence.~~ the following for each occurrence:

SECTION 6. 101.143 (4) (d) 2. a and b. of the statutes are created to read:

101.143 (4) (d) 2. a. For an owner or operator of an underground petroleum product storage tank system that is located at a facility at which petroleum is stored for resale or an owner or operator of an underground petroleum product storage tank system that handles an annual average of more than 10,000 gallons of petroleum per month, \$1,000,000.

b. For an owner or operator other than an owner or operator under subd. 2. a, \$500,000.

SECTION 7. 101.143 (4) (d) 3. of the statutes, as created by 1989 Wisconsin Act 31, is renumbered 101.143 (4) (d) 3. (intro.) and amended to read:

101.143 (4) (d) 3. (intro.) The department may not issue awards under this paragraph to an owner or operator for eligible costs incurred ~~because of petroleum products discharges occurring~~ in one year that total more than

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~~\$195,000 for eligible costs incurred before July 1, 1993, or \$190,000 for eligible costs incurred on or after July 1, 1993, for each location. the following:~~

SECTION 8. 101.143 (4) (d) 3. a and b. of the statutes are created to read:

101.143 (4) (d) 3. a. For an owner or operator of 100 or fewer underground petroleum product storage tank systems, \$1,000,000.

b. For an owner or operator of more than 100 underground petroleum product storage tank systems, \$2,000,000.

SECTION 9. 101.143 (4) (d) 4. of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

101.143 (4) (d) 4. The department shall recalculate all awards issued under ~~s. 101.143 (4) (d), 1987 stats. this paragraph, or under s. 101.143 (4) (e) 1 and 2, 1987 stats., before August 9, 1989 the effective date of this subdivision [revisor inserts date], according to all of the requirements of subds. 1 and 2 before August 9, 1989 those provisions at the time that the award was made, except that the award shall be based on 100%, rather than 50% or 75%, of the eligible costs and except that the award shall be subject to the maximum amounts under subds. 2 and 3. The department shall issue an award under this subdivision for the difference between the award as recalculated under this subdivision and the award issued under s. 101.143 (4) (d), 1987 stats., or under s. 101.143 (4) (e) 1. and 2., 1987 stats., before August 9, 1989 before the effective date of this subdivision [revisor inserts date].~~

SECTION 10c. 101.143 (4) (e) 1. (intro.) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 101.143 (4) (e) 1. and amended to read:

101.143 (4) (e) 1. The department shall issue an award under this paragraph for a claim filed after August 9, 1989, for eligible costs, under par. (b), incurred by the owner or operator of a petroleum product storage system that is not an underground petroleum product storage tank system or for eligible costs, under par. (b), incurred on or after August 9, 1989, and before October 26, 1990 July 1, 1995, by an the owner or operator if the owner or operator does all of the following: of an underground petroleum product storage tank system.

SECTION 10e. 101.143 (4) (e) 1. a to d. of the statutes, as created by 1989 Wisconsin Act 31, are repealed.

SECTION 10g. 101.143 (4) (e) 2. of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

101.143 (4) (e) 2. The department shall issue the award under this paragraph without regard to fault for each petroleum product storage system in an amount equal to the amount of the eligible costs that exceeds a deductible amount of \$50,000 \$5,000 for eligible costs incurred before July 1, 1993, or \$10,000 for eligible costs incurred on or after July 1, 1993. An award issued under this paragraph may not exceed \$950,000 \$195,000 for eligible costs incurred before July 1, 1993, or \$190,000

for eligible costs incurred on or after July 1, 1993, for each occurrence.

SECTION 10i. 101.143 (4) (e) 3. of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

101.143 (4) (e) 3. The department may not issue awards under this paragraph to an owner or operator for eligible costs incurred because of petroleum products discharges occurring in one year that total more than \$2,000,000 \$195,000 for eligible costs incurred before July 1, 1993, or \$190,000, for eligible costs incurred on or after July 1, 1993.

SECTION 10k. 101.143 (4) (em) 1 of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

101.143 (4) (em) 1. The department shall issue an award for a claim filed after May 17, 1988, for eligible costs, under par. (b), incurred on or after August 1, 1987, and before July 1, 1995, by a person who owns a home oil tank system.

SECTION 10m. 101.143 (4) (es) 1 of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

101.143 (4) (es) 1. The department shall issue an award for a claim filed after August 9, 1989, for eligible costs, under par. (b), incurred on or after August 1, 1987, and before July 1, 1995, by an owner or operator or a person owning a home oil tank system in investigating the existence of a discharge or investigating the presence of petroleum products in soil or groundwater if the investigation is undertaken at the written direction of the department of industry, labor and human relations or the department of natural resources and no discharge or contamination is found.

SECTION 11. 101.143 (4) (es) 3 of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

101.143 (4) (es) 3. If an award has been made under this paragraph and a discharge or contamination is found in a subsequent investigation, the department shall reduce the award under par. (d) or (e) by the amount paid under this paragraph.

SECTION 12. 101.143 (6) (a) of the statutes, as affected by 1989 Wisconsin Act 31, is repealed.

SECTION 12g. 101.143 (6) (b) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 101.143 (6) and amended to read:

101.143 (6) (a) An owner or operator covered under sub. (4) (e) (d) shall provide to the department proof of financial responsibility for the first \$50,000 \$5,000 of eligible costs incurred because of a petroleum products discharge. The proof of financial responsibility shall be in a form determined by the department to provide assurance equal to that provided under 40 CFR 280.97 (b) (1) 2. b. that may include a bond, an irrevocable letter of credit, a deposit or an escrow account made payable to or established for the benefit of the department.

(b) The department, after consultation with the petroleum storage environmental cleanup council, shall deter-

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mine whether proof of financial responsibility submitted under ~~subd. 1 par. (a)~~ satisfies ~~subd. 1 par. (a)~~.

SECTION 13. 101.143 (7) (a) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

101.143 (7) (a) No common law liability, and no statutory liability which is provided in a statute other than this section, for damages resulting from a petroleum product storage system or home oil tank system is affected by this section. ~~The~~ Except as provided in par. (am), the authority, power and remedies provided in this

section are in addition to any authority, power or remedy provided in any statute other than this section or provided at common law.

SECTION 14. 101.143 (7) (am) of the statutes is created to read:

101.143 (7) (am) An award under this section is the exclusive method for the recovery of the amount of eligible costs equal to the amount of the award that may be issued under this section.
