

Wisconsin Department of Natural Resources' "Green Tier" Environmental Program

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Environmental, Social and Governance (ESG) initiatives gain in popularity every day and can be driven by boards of directors, investors, shareholders, employees and communities. Couple ESG initiatives with the increasing trend of environmental sustainability generally, and now we see that many companies desire to be viewed as leaders in environmental compliance among their peers. With these two popular trends in mind, the Wisconsin Department of Natural Resources (WDNR) offers a voluntary program for Wisconsin companies seeking to improve business profitability through environmental efficiencies and lowering the potential of environmental non-compliance, while at the same time receiving regulatory flexibility from the WDNR in complying with environmental regulations. The program, known as "Green Tier," offers several benefits that can make complying with the vast array of environmental regulations more efficient and flexible. They include:

1. **Assignment of a Single Point of Contact (SPOC)** – Participants in the Green Tier Program will receive a WDNR SPOC for all environmental compliance matters. Because there are so many different environmental regulations that typically require contact with a variety of WDNR regulators and/or departments, it is much more efficient and advantageous to work with one SPOC in addressing all of a facility's environmental compliance issues.
2. **Receive Operational Flexibility** – Participants are eligible for the lowest regulatory agency inspection frequency provided by law. Further, streamlined permitting, modified monitoring and reporting requirements or alternate compliance methods are also available to participants.
3. **Deferred Civil Enforcement** - Participants also can receive deferred civil enforcement by the WDNR for minor environmental non-compliance violations, and liability protection for self-reported and self-corrected violations.

How to Participate in the Program. There are two tier levels available to participants; "Tier 1" and "Tier 2." Tier 1 requires the development and implementation of an Environmental Management System (EMS) similar or equivalent to an ISO EMS, within one year of entering the Program. Tier 1 participants must also perform an audit of the EMS every year after the first year, and have the EMS audited by a WDNR-approved external auditor every three years. In addition, Tier 1 participants must agree to perform corrective actions associated with any non-compliance that is identified during the annual audits. Tier 2 participants comprise those companies that have already developed an effective EMS with documented results and have a history of superior environmental performance. Tier 2 participants also negotiate customized environmental contracts with the WDNR identifying areas of current environmental regulations that the company wishes to modify and contains new requirements for superior environmental performance. In addition to the requirements for Tier 1 participants listed above, Tier 2 participants must conduct an annual audit of the EMS system which must be performed by an external auditor.

Who is Eligible to Participate? Tier 1 applicants are required to have an environmental compliance record without any convictions or criminal violations from the Wisconsin Department of Justice (WDOJ) within the following time frames:

1. Within 60 months prior to the application date, no convictions for criminal violations where the facility and its actions caused substantial harm to or presented a significant threat to public health or the environment;
2. Within 36 months prior to the application date, no civil judgments that resulted in harm to public health or the environment;
3. Within 24 months prior to the application date, the facility was not issued a citation from the WDNR or had a suit filed against them by the WDOJ to enforce an environmental requirement.

Tier 2 applicants are required to have an environmental compliance record without any convictions or criminal violations from the WDOJ within the following time frames:

1. Within 120 months before the application date no judgment of conviction was entered for criminal violations involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment.
2. Within 60 months before the date of application no civil judgment was entered for a violation involving a covered facility or activity that resulted in substantial harm to public health or the environment.
3. Within 24 months before the date of application the WDOJ has not filed a suit to enforce an environmental requirement, and the WDNR has not issued a citation to enforce an environmental requirement because of a violation involving a covered facility or activity.

The Green Tier program is a proactive way to improve environmental efficiencies and identify opportunities to reduce risk of non-compliance with environmental laws, while at the same time receiving regulatory flexibility from the WDNR in complying with environmental regulations. The program should be considered by companies that are interested in a high level of environmental commitment, with regulatory flexibility.

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