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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Environment...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (September 2013)



John Muir Chapter

Sierra Club - John Muir Chapter
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April 14, 2009

MEMO

TO: Senate Committee on the Environment
FROM: Eric Uram, Conservation Chair, Sierra Club- John Muir Chapter

RE: Comments regarding SB 126 - Relating to the Environmental Results and the Environmental Improvement Programs.

Thank you for the opportunity to provide our position on SB 126 on behalf of the 15,000 Wisconsin members of the Sierra Club's John Muir Chapter.

SB 126 covers two very different programs. The Environmental Results Program, known as Green Tier that provides recognition for beyond compliance behavior and regulatory incentives for self-regulation. The other program, Environmental Improvement, known as the Compliance Audit Program, encourages self-regulation but without requiring participants to meet a clean slate (no recent violations) nor make a commitment to beyond compliance behavior.

Green Tier is the "high road" program. The Sierra Club joins others in commending Green Tier participants and the DNR for their commitments and successes. The Compliance Audit Program is the "low road" and causes the Sierra Club concern.

The Sierra Club has been actively involved in both the state and national dialogues on "beyond compliance" behaviors. Because of the legal and regulatory structure of permitting pollution as a right held by industry and consumer alike, environmental groups have always struggled with the challenge of how to advance the level of environmental protection and restoration significantly beyond what is achieved under current policy and practice. Sierra Club members generally typify the beyond compliance performer and we would like to see more of this behavior institutionalized.

The EPA has, at this time, decided to suspend the Performance Track Program. Green Tier was designed to promote and prepare Wisconsin entities for participation in this national program. Properly designed and implemented performance/leadership programs are valuable, possibly essential, tools to achieve a level of performance necessary for sustainability. At the end of this testimony, we have included principles that need to be applied for Green Tier to excel.

The Sierra Club makes the following specific comments on the Green Tier portion of SB 126, pages 4-13.

- The following sections are supported: 1-18, 20-29 and 31-33.
- Section 19 gives the DNR secretary authority to waive clean slate (no recent violations) eligibility requirements to participate in either Tier 1 or II of Green Tier. The original purpose of this section was to allow more participants to join the program in its early years. That is why the section begins with the words: "Before January 1, 2007." Since 2007, this waiver provision has been forbidden. Instead of removing the date, provision to §299.83 (5) (e) of the statutes should be completely repealed. The Sierra Club is uncomfortable with giving this discretion to the DNR secretary given the fact the secretary is a political appointee and subject to the hire-fire decision of the Governor. As a result, the DNR secretary is subject to political pressures unrelated to protecting environmental and public health consequences of these waivers of violations.
- Section 23 provides a welcome addition to smooth the transition of participants in the predecessor program, the Environmental Cooperation Pilot Program, §299.80, Wis. Stats.
- Section 30 expands the Charter provisions of Green Tier without requiring the same eligibility requirements and participation commitments of participants to Tier 1 or 2. The Charter provision has attracted only a few participants, but they have performed rather well. The Sierra Club objects that section 30 appears to grandfather several pseudo-charters

into the Green Tier program that are unworthy of Green Tier status without additional efforts to meet the transparency, EMS and beyond compliance behaviors of the current Green Tier charters. This dilutes the value of the Green Tier recognition incentives.

The portion of SB 126 from section 34 on page 13 through the end of the bill refers only to the Compliance Audit Program.

- Environmental permit holders should be encouraged to conduct their own compliance audits as a normal part of monitoring their activities and remaining in compliance with their permits. ISO 14001 and environmental management systems (EMSs) include compliance audits.
- However, §299.85 Wis. Stats. offers unwarranted protection for violators and the opportunity to “game the system” by substituting self-enforcement for a more pro-active DNR compliance monitoring and enforcement system. Many of the advantages of the Compliance Audit Program are already available to permittees under the DNR’s “stepped enforcement” procedures. But the normal DNR procedure does not offer the certainty of a safe harbor from forfeitures and penalties that is found in §299.85.
- The Sierra Club has consistently objected to §299.85 and again requests that it be repealed.
- Sections 34-35 and 37-42 make appropriate wording changes. Section 36 should not delete lines 6-8 because departmental citations are often serious violations of the law that can be quickly resolved.
- Review of the annual reports on this program indicate that additional categories need to be added to §299.85 (9m) (b), Wis. Stats., better identify the nature of violations reported to DNR. Currently the vast majority of violations are listed as “other” which is not informative.
- Also the reviews of the annual reports for this program indicate that data on the days to accomplish correction are not captured unless the corrective action exceeds 90 days. A requirement should be added to summarize the number of corrective actions that took less than 30 days, 30-59 and 60-90 days to correct.
- But the bottom-line is that program should be allowed to sunset per §299.85 (11).

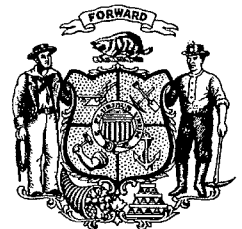
Per internal discussions, please accept the following principles as necessary elements for programs like Green Tier and Performance Track to excel.

- Enforceable rule-based programs will be an essential foundation of any future environmental / sustainability policy regime.
- Sustainability encompasses consideration of resources, energy, public health, economics, and community..
- Achievement of sustainability will not be achieved solely by setting minimums for emissions and discharge.
- Environmental and sustainability considerations must be embedded in all decisions for material use, energy use, chemical use, waste generation, and end-of-life disposition.
- Achievement of sustainability will require a substantially higher level of performance in many areas beyond environmental protection and restoration.
- Community leaders can play a critically important role in demonstrating how such higher level of integrated performance can be achieved.
- Leaders should not be seen as permanent outliers from the community, but as leaders who show the way to the larger community.
- Government at all levels should create an environment that encourages, supports where necessary, and learns from the community of leaders as they achieve performance outcome beyond the status quo.
- Learning from the leadership community should be used to create new baselines for performance for the larger community as a whole.

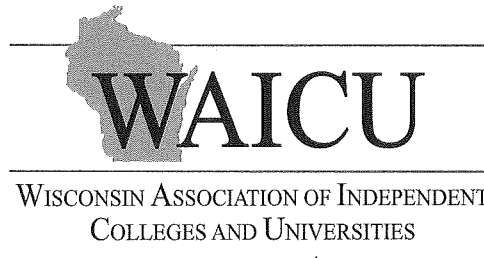
The EPA Performance Track Program had its strengths and weaknesses, and certainly has its supporters and detractors within our community. Green Tier should not repeat the mistakes made by Performance Track. As of now, EPA is proposing to reanalyze their program. We feel this is an opportune time to review Green Tier and insure this program will achieve the desired results and not become a safe haven for political favoritism and meaningless dialogue that fails to invite all segments of the community-at-large to participate. For the reasons stated above, we believe that performance-based programs have great potential if they have the correct focus and are based on sound principles. These programs should never provide escape mechanisms from strict regulatory requirements or oversight. They should always support leadership that demonstrates what is truly possible. On the behalf of Sierra Club, we offer to assist in manners you and WDNR deem appropriate for enhancing the role of Green Tier as EPA considers the role of performance and leadership in the development of any extra-regulatory programs through their review of Performance Track.



WISCONSIN STATE LEGISLATURE



ALVERNO COLLEGE
BELOIT COLLEGE
CARDINAL STRITCH UNIVERSITY
CARROLL UNIVERSITY
CARTHAGE COLLEGE
CONCORDIA UNIVERSITY
EDGEWOOD COLLEGE
LAKELAND COLLEGE
LAWRENCE UNIVERSITY
MARIAN UNIVERSITY



MARQUETTE UNIVERSITY
MILWAUKEE INSTITUTE OF ART & DESIGN
MILWAUKEE SCHOOL OF ENGINEERING
MOUNT MARY COLLEGE
NORTHLAND COLLEGE
RIPON COLLEGE
ST. NORBERT COLLEGE
SILVER LAKE COLLEGE
VITERBO UNIVERSITY
WISCONSIN LUTHERAN COLLEGE

TESTIMONY

on

2009 Senate Bill 126

By

Dr. Rolf Wegenke, President

Wisconsin Association of Independent Colleges and Universities

Senate Committee on the Environment

April 14, 2009

Chairperson Miller and members of the committee, my name is Rolf Wegenke. I am the President of the Wisconsin Association of Independent Colleges and Universities, or WAICU, representing the 20 private colleges and universities in Wisconsin and their more than 59,000 students.

I am here today to enthusiastically support Senate Bill 126 that would extend the DNR's Environmental Improvement Program past its current sunset of July 1, 2009. WAICU's members are currently conducting voluntary environmental compliance audits under the program. The experience of my members exemplifies the type of environmental benefits the state is realizing through this program, and illustrates precisely the reasons this program needs to be extended.

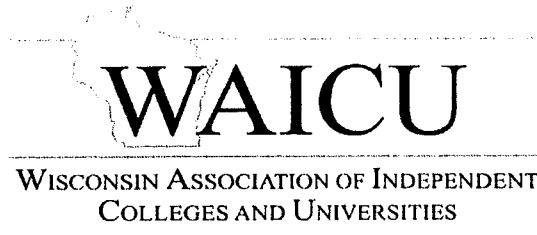
At WAICU-member colleges and universities, we teach an environmental ethic and an environmental aesthetic. This teaching is readily apparent in courses with the word "environmental" in their names, but in reality, the environmental ethic and aesthetic pervade the curriculum and student life. This commitment to environmental stewardship reached a culmination last year when WAICU entered into a joint agreement with Region V of the U.S. Environmental Protection Agency, and the Wisconsin DNR to undertake, at WAICU members' expense, environmental health and safety audits, and to remediate any issues identified—also at the colleges' expense.

WAICU's initiative goes beyond a simple one-time identification and remediation of compliance issues: it is a unique program that creates a corps of rigorously trained "peer auditors" from each of the participating campuses, who then conduct the audits of the other campuses. Once the audits are completed, each college is left with at least one trained auditor plus an electronic auditing template that gives each institution tools for future compliance needs.

This project is unique in its scope, execution, and completion and has been recognized at national conferences and other national organizations for pioneering the use of flexible electronic templates to identify, manage, and document findings in a complex environmental audit; and using trained auditors from peer institutions to conduct the audits.

The DNR Environmental Improvement Program made all of this possible and that is why WAICU supports the provisions of Senate Bill 126 that would extend this program beyond its July 1, 2009 sunset date.

ALVERNO COLLEGE
BELOIT COLLEGE
CARDINAL STRITCH UNIVERSITY
CARROLL COLLEGE
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VITERBO UNIVERSITY
WISCONSIN LUTHERAN COLLEGE

**Embargoed until:
September 26, 2008**

Wisconsin's Private Colleges Launch Voluntary Environmental Health and Safety Inspections WAICU's Green Initiative Includes EPA and DNR Support

(Madison) Wisconsin's private colleges are stepping forward with a green initiative that has won the support of the Environmental Protection Agency (EPA) and the Wisconsin Department of Natural Resources (DNR). The colleges and universities will perform voluntary self-audits to assure compliance with major environmental laws.

The pact, initiated by the Wisconsin Association of Independent Colleges and Universities (WAICU), calls for the schools to conduct the audits, which will be done by trained personnel from other colleges following state and federal guidelines. As part of the agreement, the schools have committed to promptly correcting any violations.

"We're taking this step to show our communities that we are not only dedicated to operating responsibly," said WAICU president Dr. Rolf Wegenke, "but to let them know we care about the environment and want to be good neighbors."

Wegenke praised Wisconsin Governor Jim Doyle for leading the state's commitment to environmental issues. "It is in the spirit of this Governor's proactive environmental stance that WAICU is stepping forward to do the right thing and do what is best for Wisconsin," said Dr. Wegenke.

EPA and DNR officials are also praising the WAICU schools for the voluntary inspections. The EPA has encouraged facilities to conduct their own audits, correct problems, and implement continuous improvement programs.

Wisconsin's DNR inspectors will review the disclosure reports and work with the EPA to confirm compliance with both state and federal environmental laws. DNR Secretary Matt Frank supports the WAICU plan and says it is a "credible way to assure high levels of statewide compliance."

Both Secretary Frank and EPA officials say the program will have a positive impact on Wisconsin's environment by eliminating potential problems before they occur. "We welcome this opportunity to work with Wisconsin private colleges on a smart, comprehensive approach to environmental management," said Tinka Hyde, EPA's Regional Director, Office of Enforcement and Compliance Assurance.

The audits began this month and the goal is to inspect four colleges per semester. Auditors will be looking at compliance levels with federal environmental standards including the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and the Community Right-to-Know-Act.

The participating schools in this agreement include: Alverno College, Beloit College, Cardinal Stritch University, Carroll University, Carthage College, Concordia University, Edgewood College, Lakeland College, Marian University, Marquette University, Milwaukee School of Engineering, Mount Mary College, Northland College, Ripon College, St. Norbert College, and Silver Lake College.

Linda Bochert, attorney at law with the Madison firm of Michael Best & Friedrich, LLP serves as WAICU's legal counsel for this project. Turning Bird Consulting, Ltd. of Lancaster, Pennsylvania Mt. Pleasant, South Carolina, and Milwaukee serves as the project consultant.

WAICU was founded in 1961 and is the official organization of Wisconsin's twenty private colleges and universities and their 58,000 students.

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THE WISCONSIN INDEPENDENT

Newsletter of the Wisconsin Association of Independent Colleges and Universities (WAICU)

WINTER 2008-2009 VOL. 40 NO. 4

WAICU

WISCONSIN ASSOCIATION OF INDEPENDENT
COLLEGES AND UNIVERSITIES

Alverno College
Beloit College
Cardinal Stritch University
Carroll University
Carthage College
Concordia University
Edgewood College
Lakeland College
Lawrence University
Marian University
Marquette University
Milwaukee Institute of Art & Design
Milwaukee School of Engineering
Mount Mary College
Northland College
Ripon College
St. Norbert College
Silver Lake College
Viterbo University
Wisconsin Lutheran College

INDEPENDENT INSIGHTS

When words are not enough: Doing well by doing good

The poet Alexander Pope (1688-1744) famously wrote: "The learn'd is happy nature to explore/ The fool is happy that he knows no more." The natural world is not something "over here" and education something "over there." The caricature of the academic world as so mired in the abstractions of the library and the laboratory that it is of no practical use is not even close to reality. Scientific breakthroughs alone—which

have for the most part arisen in colleges and universities—are laying the caricature to a well-deserved and overdue rest.

However, when we consider the natural world—perhaps today we would say the environment—there is more to be learned and more to be taught. At WAICU-member colleges and universities, we teach an environmental ethic and an environmental aesthetic. We



We all have a responsibility to the environment. We must, and do, practice what we teach.

continued on page 7

Libby Burmaster: a "Friend of Independent Higher Education"

State Superintendent of Public Instruction Elizabeth Burmaster has been awarded the prestigious "Friend of Independent Higher Education" award.

WAICU president Dr. Rolf Wegenke praised Burmaster for her honesty in dealing with the challenges facing education and focusing always on the highest standards of excellence.

In accepting the award, Burmaster praised WAICU for demonstrating that "when groups work together with a common vision...[it helps assure that] students are ready for a lifetime of learning, ready for success in the workforce, and ready to be civically engaged citizens."

The WAICU award is the association's top honor recognizing recipients for their commitment to education. Past winners include U.S. Representative Thomas Petri, Governor Jim Doyle, and former University of Wisconsin System president Katharine Lyall. Burmaster is the first winner since 2003. ■



WAICU president Dr. Rolf Wegenke and State Superintendent Elizabeth Burmaster

Making the most of a campus visit

The campus visit is a vital part of any student's college search.

There is no such thing as the best college, but there is such a college that is best for you.

WAICU and its member colleges and universities, through its *Guide to Admissions and Financial Aid*, and WisconsinMentor.org, our interactive site for students and counselors, can help educate on available majors, admission requirements, student volunteer activities, sports, living arrangements, and more. Indeed, WAICU's Student Access Center (studentaccess@waicu.org, 1-800-4DEGREE or 1-800-433-4733) has no other mission than to help publicize the facts. But, "feel" is just as important as the facts. And this is where the campus visit comes in.

As students decide on colleges which they will visit, they should be sure to include a wide range of colleges, including additional schools that may not have been, initially, a first choice. It will provide them with a broader perspective to compare each college to their interests and goals. Then, they should visit and visit again.


As students get ready to apply, encourage them to:

- Call ahead and ask the college to put together a schedule of activities including a campus tour, admission appointment, faculty visit, and lunch in the dining hall. You do not have to settle for a generic campus tour.
- While on the college campus, ask students about academic life, their relationships with faculty, and opportunities they have outside of the classroom.
- Read the college newspaper. Don't let negative articles about parking and food deter you—complaints are common at every college. The student newspaper is a good way to learn what the hot-button issues are on campus. It's also an indication of what students are doing when not in class.
- Save some time to walk around campus independently. Are people friendly or helpful? Sit down and observe students, faculty, and staff interactions. People-watch!

You want the "right" major and the

highest standards, but it is the people (faculty and students) who surround you who will make a major difference to your education. Connect with people who will be important to your education and you are on your way to a life-defining college experience.

Wisconsin Private College Week, July 13-July 18, 2009, is a great way to have a number of meaningful visits in a short period of time. Contact WAICU for more information. ■



The WAICU Student Access Center is supported in part by the Great Lakes Higher Education Guaranty Corporation.

MID-YEAR COMMENCEMENTS

- **Alverno College** will hold its ceremony on December 20th in the Pitman Theatre on campus.
- **Cardinal Stritch University** will hold its graduation ceremony on December 14th.
- **Concordia University** will hold its graduation ceremony on December 13th at its Mequon campus. The guest speaker will be Dr. Kurt Krueger, president of the Concordia University System.
- **Edgewood College** will hold its winter commencement on December 14th at Exhibition Hall in the Alliant Energy Center. William Wilcox, president of the CBM Credit Education Foundation, will be the guest speaker.
- **Marian University** will hold its graduation ceremony on December 13th in the Sadoff Gymnasium.
- **Marquette University** will hold its graduation exercise on December 14th in the US Cellular Arena in Milwaukee.
- **Milwaukee School of Engineering** held its fall ceremony on November 22nd. Ernest Wirtanen, a 1941 graduate of MSOE, was the guest speaker. Mid-winter commencement is scheduled for February 28, 2009.
- **Viterbo University** will hold its commencement on December 13th in the Fine Arts Center Main Theatre.

Lawton consumer website features Wisconsinmentor.org as destination

In September, Wisconsin's Lieutenant Governor Barbara Lawton launched a new consumer website (GuideForPennyPinchers.com) with money-saving tips targeted to Wisconsin families.

Lawton's tips cover a range of topics from finding the best gas prices to cutting health care costs to suggestions on saving money on education.

In the education section there is a link to WisconsinMentor.org—the interactive admission website for Wisconsin's private colleges and universities—as a student resource. Wisconsinmentor.org can also be used to apply for financial aid and receive free ACT/SAT test prep. ■

Barbara's Guide for Penny Pinchers
Tuesday, September 23, 2008

Save on Gas

Search for the Cheapest Gas Near You - by location
Find Cheap Gas in Wisconsin
Find Cheap Gas in Illinois
Find Cheap Gas in Michigan
Find Cheap Gas in Indiana
Find Cheap Gas in Ohio

Save on Travel

Travel Deals Around the World
Travel Deals Around the US
Travel Deals Around Europe
Travel Deals Around Asia
Travel Deals Around Africa
Travel Deals Around Australia
Travel Deals Around South America

Travel Deals Around the World - one with a friend, a key card to connect you with
the world
Travel Deals Around the World
Travel Deals Around the World
Travel Deals Around the World

Save in the Home



"Tray-less" cafeteria shows going green saves green

VITERBO UNIVERSITY

Like many Viterbo University students, Zach Johnson is happy the Marian Hall Dining Room eliminated trays. "It's a simple step that has had a positive impact on the environment," said Johnson, a sophomore English Education major from Hudson.

The 2007 decision to eliminate cafeteria trays has made a big impact, both environmentally and economically, at Viterbo. According to Mary Simota, director of campus dining, the switch saved more than 100,000 gallons of water that would have been used to wash the trays. The even more stunning number is that the school saved nearly three tons of food in the first two semesters. And that's just counting meals served Monday through Friday.

The old adage about someone's eyes being bigger than their stomach certainly held true in Viterbo's all-you-can-eat dining room. Before going tray-less, many students would



The "tray-less" cafeteria has saved close to three tons of food in two semesters.

take multiple plates of food and several beverages, much of which wasn't consumed.

Now, students can still eat as much as they want, but are limited to what they can carry. While a few students may consider this an inconvenience, Johnson said most understand the benefits.

The tray-less cafeteria move is just one part of a larger effort by Viterbo's president, Richard Artman, to embrace environmental responsibility. A university task force is drafting a list of recommendations that will promote conservation and sustainability. By next year the group will suggest a variety of short-term, low-cost projects that can easily be implemented as well as potential longer-term options.

Going tray-less was an innovation of Viterbo's food service provider, Aramark. Viterbo and Aramark have expanded the green initiative even further by using eco-friendly dishwashing soap and other supplies. Those steps have also reduced food waste and energy usage, resulting in even more savings.

"The tray-less transition has gone really well," Simota said. "And saving water and food makes everyone feel good." ■

New transfer program eases admission process

MOUNT MARY COLLEGE



Mount Mary policy streamlines student transfer process

A new agreement between Mount Mary College and the University of Wisconsin System now makes it easier for students to transfer to the private college.

Upon successful completion of their studies at one of the two-year UW campuses,

students will now be able to transfer all of their credits to Mount Mary College.

While students could transfer before, there were no guarantees that all of their UW credits would be accepted. The agreement, signed this summer, is aimed at students who have applied to complete their four-year baccalaureate degree at Mount Mary College.

"This agreement will help facilitate the smooth transfer of UW students to Mount Mary," said Dr. Eileen Schwalbach, Mount Mary's acting president. "The UW System provides students from across the state with an outstanding freshman and sophomore curriculum

designed to prepare them to complete their studies and earn bachelor's degrees in their chosen fields," added Schwalbach. "We're pleased to welcome these students to our campus, which has both a diverse student

body and engaging academic offerings." Majors from occupational therapy to fashion design to teaching have long been recognized for their excellence at the Milwaukee college.

UW students who have at least a 2.0 grade point average will be eligible to fully transfer their credits for admission to Mount Mary College. Students interested in specific programs such as education or pre-nursing (which serves as a gateway to the Columbia College of Nursing program) will be able to use the new transfer guidelines that outline course equivalencies between the schools. This will assist students in choosing coursework for a seamless transition to Mount Mary.

Mount Mary College is an undergraduate women's college which also admits men into the nursing program in partnership with Columbia College of Nursing. ■

Visual resources design group expands clients and offerings

MILWAUKEE INSTITUTE OF ART & DESIGN

The Visual Resources Design Group at the Milwaukee Institute of Art & Design has an impressive client list.

Equally impressive, though, are the caliber of the students in this honors-level class and its core mission. For a nominal fee, regional nonprofit organizations can benefit from the work of the students in two- and three-dimensional design, digital, and multimedia services.

Each semester, eight students majoring in Communication Design or Illustration are selected through a highly competitive process for the class taught by director Fran Balistreri, a multitalented designer, artist, and educator who has received numerous national awards.

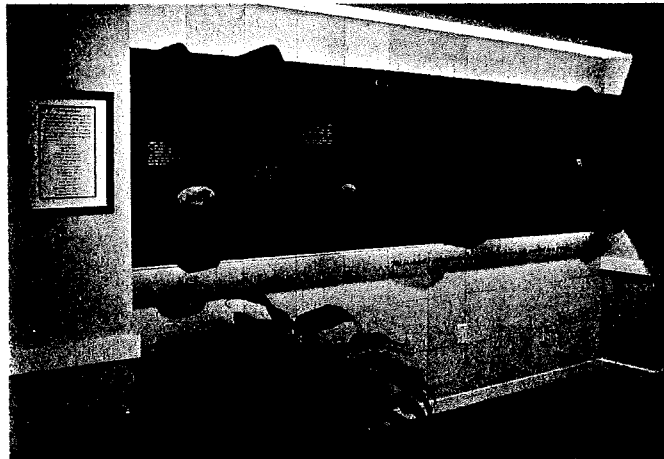
"The class allows students to take their theoretical and practical education and apply it to real-world experience through community service," said Balistreri.

Since 1992, Visual Resource's client list has grown to 300 and includes the Milwaukee Bar Association, Marquette

Association received a new identity and logo for its sesquicentennial celebration.

Visual Resources is currently on its fourth project for ProHealth Care, having designed donor recognition walls for Oconomowoc Memorial Hospital and Angels Grace Hospice as well as a donor wall for the Waukesha County Community Dental Clinic. The design group is now working on a theme and identity for a fund-raising campaign and 100th anniversary event for Waukesha Memorial Hospital.

Kathie D. Strombom, executive vice president of the hospital's foundation, said, "From our first presentation in front of the class, to the students' presentations of their



Donor Recognition Wall designed by MIAD's Visual Resources Design Group for ProHealth Care's AngelsGrace Hospice

University Biomedical Engineering Co-op, American Diabetes Association, ProHealth Care, Wisconsin Paralyzed Veterans of America, and WAICU.

This spring, the Milwaukee Bar

designs, we were uplifted by the group's enthusiasm, talent, and freshness and amazed by their talents. We always know that our work is going to be unique and thoughtfully created." ■

Grant improves teaching and learning through technology

SILVER LAKE COLLEGE



Silver Lake emphasizes real-world training in new program.

Silver Lake College has been chosen by the U.S. Department of Education to receive a prestigious Title III Grant. A priority of

the nearly \$2-million-dollar award will be to strengthen the college's information technology structure.

"This award signals the U.S. Department of Education's belief that we are prepared to respond to the needs of our students," said Silver Lake College president Dr. George Arnold.

The funds will also be used to implement a professional development program that helps college personnel capitalize on new technology through better training. Additionally, the grant will fund a new liberal arts competency assessment system and a new analytical research system for future student educational needs.

The final part of the initiative will create a hands-on system benefitting Silver Lake's students and faculty. Students will be able

to choose at least one experiential learning option during their studies. Faculty will also have access to an externship opportunity linking their academic field to practical applications.

That emphasis on "real-world" training is the cornerstone of Silver Lake College's broader effort to integrate a liberal arts education and professional studies. While experiential study options have been offered before, students will now have better access to more comprehensive experiential learning options. "That access," said the grant's primary author, Dr. Julie Mayrose, "means students will be better prepared to connect classroom lessons with the real world."

Dr. Mayrose hopes the same philosophy of practical training will also benefit faculty through externships where elements of their academic disciplines can be updated in creative ways. "An English professor may work shoulder-to-shoulder with web journalists or a biologist could work in the biomass industry," said Dr. Mayrose.

Silver Lake was the only Wisconsin post-secondary school added as a Title III grant recipient this year. ■

Years of silence help students find their voice

MARIAN UNIVERSITY

As part of a mandatory first-year seminar, students in Marian University's freshman class have begun their own journey of self-reflection by reading *Planet Walker* by Dr. John Francis.

Planet Walker is the story of how Dr. Francis took a vow of silence for 17 years and spent 22 years traveling only by foot after witnessing the devastation caused by a 1971 oil spill in San Francisco Bay.

Because of his commitment to silence and walking, Dr. Francis made life-altering decisions on behalf of the environment, earth stewardship, and world peace. Marian students are being challenged to interpret the message they find in *Planet Walker* and to evaluate how they could integrate some of the same philosophies into their own lives.

The book has two core messages, one about the environment and the other about Francis' personal journey to self-discovery. "The journey is the self-discovery, and the students can equate this to their college experience," said Jennifer Krueger, direc-

tor of First-Year Experience. "They ask questions about how their decisions affect the world around them."

This is the second year a common book has been used in the first-year seminar and throughout the campus community. The seminar focuses on what it means to have a liberal arts education and to develop students' critical thinking skills. This is always done within the context of an issue related to social justice, such as environmentalism.

Faculty, staff, and in fact, the entire student body are also encouraged to read the book, which, this year, is on global warming.

First-year student Samantha Radke wrote, "John took this journey to find who he really is, which makes me more conscious of who I am. Now, I will treat my life as a journey and try to evaluate my



Dr. John Francis, author of *Planet Walker*

experiences in a positive and constructive way because if you take life for granted, you are missing an opportunity to make a difference." ■

Medical master's program will focus on minority healthcare

CARROLL UNIVERSITY

Improving healthcare for Hispanics is the primary target of a new physician assistant training program planned for Carroll University. Development of the program will be funded by a nearly \$600,000 grant from the Health Resources and Services Administration of the U.S. Department of Health & Human Services agency.

According to the U.S. Department of Labor, physician assistants rank among the fastest-growing occupations and demand is expected to keep growing through 2014. "We look forward to providing more student opportunities in healthcare to address Wisconsin's needs," said Carroll president Dr. Douglas Hastad, "and to working

with a wide variety of community partners."

Based on current capacity, Wisconsin's three physician assistant training programs will not fill the state's needs over the next decade. Carroll's program is expected to reduce the shortfall by 60 percent.

The Carroll program will focus on primary care with an emphasis on Hispanic

health issues and a goal of supporting Healthiest Wisconsin 2010, a statewide plan to eliminate healthcare disparities.

Carroll is seeking approval to award a Master of Science in Physician Studies degree; that program is in the process of accreditation review.

There has been extensive community support for the program. Dr. Russell Harland of Brookfield, a 1983 Carroll graduate and co-medical director of critical care medicine at ProHealth Care, will chair a group of healthcare professionals as curriculum advisors.

Other community partners include the City of Milwaukee Health Department; La Casa de Esperanza, a Hispanic agency in Waukesha; and LifeCare Hospitals of Wisconsin in Pewaukee. ■



Carroll's new physician assistant program is expected to help ease the provider shortage.

Pedal power trumps horsepower in free bike program

RIPON COLLEGE

To: Ripon College
From: A 1998 GMC Jimmy
Subject: What's with all the two wheelers?

So I'm sitting in Lot N a few weeks back, cooling off from an exhilarating errand to Walgreens, when I see a student cruise by on a Trek mountain bike. "How quaint," I think. But then there's another, and another—all riding the same bike.

Turns out you guys have started the Ripon Velorution Project, where freshmen who pledge to leave their automobiles at home get a free bike, helmet, and lock.

I guess I was in denial, because I assumed only a desperate few would indulge such a silly offer. Imagine my surprise when I hear on the radio that more than half of the freshman class took the deal.

Who do you think you are? For a few gallons of gas plus insurance, registration, and maintenance I put out 190 horsepower at 4,400 RPM. What can a cyclist do? Like, 0.8 on a good day?

Sure, bikes are infinitely cheaper and easier to store and maintain, have zero emissions, contribute to the health and well-being of the rider, and are pound-for-pound

additional green space. What gives? Is it me?

I think I speak for all automobiles when I say you must abandon this free bike nonsense. It'll never catch on. You'll be back.

Right?

Until then,

Jimmy '98

Editor's note: Ripon's innovative bike program has been profiled in dozens of national and regional print and television news outlets, including USA TODAY, Bicycling Magazine, and The

Chronicle of Higher Education. The program has inspired other colleges around the nation to implement or expand similar initiatives. ■



One truck's e-mail lament over a popular bike program

the most efficient mode of transportation ever conceived, but do they have a 6-disc CD changer?

As if that wasn't enough, now you've closed a pair of streets that bisect campus to create a pedestrian-only main campus with

Media focus on WAICU environmental efforts

Several national newspapers as well as the Wisconsin media have taken notice of two recent WAICU environmental projects.

In cooperation with the Environmental Protection Agency (EPA) and the Wisconsin Department of Natural Resources (DNR), the colleges and universities launched an environmental self-audit program in September. WAICU-member colleges and universities will, at their own expense, audit their campus for compliance with federal and state environmental laws, and, again at their own expense, remediate any problems found. WAICU president Dr. Rolf Wegenke explained, "with our commitment to the environment, we wanted to be proactive and not wait for the government inspectors to show up." The audit story was picked up by media as diverse as Yahoo News in India, newspapers in areas as diverse as San Francisco and Philadelphia, and several Wisconsin television and radio stations.

DNR Secretary Matt Frank endorsed the audit plan saying it is a "good way to assure high levels of state-wide compliance."

The second "bright idea" saw WAICU colleges and universities replacing more than 25,000 light bulbs with high-efficiency compact fluorescents (CFLs). The effort will save money, energy, and reduce the carbon footprint of participating members. The program cost was underwritten by a Focus on Energy grant. ■



WAICU "going green" theme resonates with the news media.

When words are not enough *continued from page 1*

teach that with the “is” there needs to be an “ought”; that from the “is” there should arise the “ah.” Such teaching can turn up in separate courses with the word “environmental” in their names, but in reality, the environmental ethic and aesthetic pervade the curriculum and student life.

Colleges and universities also teach by how they operate. In the last edition of the *Independent*, I addressed the question, “Why can’t colleges and universities be more like businesses?” by talking about our return on investment (ROI) and productivity. Now, I want to explain how Wisconsin’s private colleges’ and universities’ business practices are also educational, are actually a species of teaching.

The article on page six, *Media focus on WAICU environmental efforts*, tells the story. WAICU, by entering into a voluntary agreement with the U.S. Environmental Protection Agency (EPA) and the Wisconsin Department of Natural Resources (DNR) to undertake environmental health and safety audits and to remediate any issues identified—both at our own expense—is actually teaching. So too is our partnership with Focus on Energy about more than light bulbs and reducing energy usage and costs—it is about teaching.

These are some of the things we are teaching: that all organizations—including colleges—and all individuals—including college administrators—have a responsibility for the environment; that we care about the health and safety of our students, staff, and neighbors; that we are eager partners with others who share this ethic; that it is possible to do well by doing good; that words are not enough; that we must and do practice what we teach.

Good teachers speak of the “teaching moment.” For WAICU-member colleges and universities, every moment—and everything we do, including the way we operate our institutions—is a teaching moment.



Dr. Rolf Wegenke
WAICU president



WAICU BULLETIN BOARD

KUDOS

- **Marquette University** president **Fr. Robert A. Wild, S.J.**, is the 2008 recipient of the Chief Executive Leadership Award for Region V of the Council of Advancement and Support of Education. Wild will receive his award at the region’s annual meeting in December. Region V includes Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
- **Kathleen O’Brien**, senior vice president for Academic Affairs at **Alverno College**, has won the 2008 Outstanding Achievement Award from Wisconsin Women in Higher Education Leadership (WWHEL).
- **Lori Neurohr**, a second-grade teacher at Kohler Elementary School with degrees from **Lakeland College** and **Cardinal Stritch University**, will represent Wisconsin in the National Teacher of the Year competition.
- **Daniel Johnson**, a Greendale third-grade teacher who earned his teaching certificate through **Carroll College**, has won a 2008 Milken National Educator Award.
- **Mandy Price**, a 2008 graduate of **Carroll College**, received the national Student Voluntary Service Award from the Association for Operations Management in September.
- The Waukesha School District recognized **Carroll University** with a 2008 Most Valuable Partner Award in honor of the Horizontes en Carroll pre-college program, which encourages economically disadvantaged youth to consider a college education.
- **Cathy Mathweg**, **Marian University’s** Dean of Academic Advising and Academic support, was awarded the 2008 Wisconsin Academic Advising Association Leadership Award.
- **Carroll University’s** American Chemical Society (ACS) Students Affiliates’ chapter has been recognized with an Outstanding Award by the ACS Committee on Education. This is the tenth time in fourteen years the school has won the Outstanding Award.

APPOINTMENTS AND ELECTIONS

- **Marla Flores** of Cudahy, a student at **Wisconsin Lutheran College**, has been appointed to the state Higher Educational Aids Board. **Jerry Curren**, a trustee at **Edgewood College**, has been reappointed to the board.
- **Mary Oling-Sisay**, vice president of student affairs at **St. Norbert College**, has been elected vice president of Wisconsin Women in Higher Education Leadership (WWHEL).

PRESIDENTIAL MENTORS

- Presenters at the Presidents Institute sponsored by the Council of Independent Colleges in January will include **Richard Artman**, president of **Viterbo University**; **Mary Meehan**, president of **Alverno College**; and **Lynn Joyce**, presidential spouse at **Ripon College**.

NEW PROGRAMS AND MAJORS

- The Leadership Center at **Cardinal Stritch University** has launched the African-American Leadership Program, a nine-month experience designed to unleash the talent of African-American professionals for personal, organizational, and regional gain.
- **Marquette University** has approved the establishment of a Center for Real Estate, to be housed in the College of Business Administration. The CRE will focus on advancing real estate knowledge and enhancing business practices through education, research, and outreach to local and national audiences. Marquette is also bringing back 11 past participants to serve as mentors and for continuing education in its ACRE program. ACRE, Associates in Commercial Real Estate, is Marquette’s industry-supported initiative that recruits and trains minorities for commercial real estate careers.
- **Marian University’s** Master’s in Leadership will include a concentration in Criminal Justice Administration starting next spring. The program is designed for criminal justice professionals who want to develop leadership expertise and enhance their knowledge of the

continued on page 8

THE WISCONSIN INDEPENDENT

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WAICU BULLETIN BOARD *continued from page 7*

profession.

• **Lawrence University's** class of 2012 will be the first to complete a newly launched Senior Experience program. When it is fully implemented, every Lawrence senior will plan and execute a significant project such as a major research paper, collaborative creative work, or academically based field experience as a graduation requirement. The program will be financed by a \$350,000 grant from the Andrew W. Mellon Foundation.

• **Cardinal Stritch University** has launched an entirely online version of its Master of Business Administration program. In the online format, students will have the convenience of working from their computer while completing one course at a time. A 24/7 High Tech/High Touch Concierge Support Service will be utilized to make the online experience as smooth as possible.

• **Mount Mary College** will expand its successful Urban Education Fellows Program, which trains professionals who already have a bachelor's degree for new

careers as teachers. The two-year program helps students earn their teacher's license and a Master of Arts degree in education.

EDUCATIONAL COLLABORATIONS

• After almost a decade apart, **St. Norbert College** and the National Politeknik University in Kharkov, Ukraine, have signed a "Friendship Agreement" as a foundation of future cooperation. The new agreement allows both to explore joint faculty projects, student exchanges, and friendship exchanges by sports teams and campus musical groups.

• In cooperation with Columbia St. Mary's Hospital, **Mount Mary College** has added a major in Diagnostic Medical Sonography to its undergraduate offerings.

George Peabody (1795-1869)

"Education: A debt due from
present to future generations."

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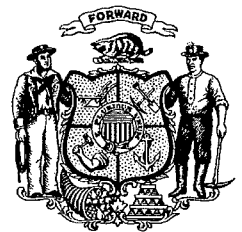
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WISCONSIN STATE LEGISLATURE



Senate Environment Committee
Senate Bill 126
Testimony of Mark McDermid for
Wisconsin Department of Natural Resources

Thank you Chair Miller and members of the Senate Environment Committee. It is a pleasure and an honor to appear before you in support of Senate Bill 126. This bill enables Wisconsin to continue in a leadership role for environmental leadership programs in the United States. The reauthorization, improvement and expansion of the Green Tier and Environmental Audit programs affirms Wisconsin's commitment as one of only 5 states with a statutory foundation for environmental performance management. As you know, this does not replace existing, traditional regulatory programs to address environmental issues. But this legislation does affirm what we have learned over the past five years, that Green Tier can provide additional tools to institutionalize superior environmental performance and build relationships that yield advantages for both business and the environment.

Green Tier has been a fundamental part of Governor Doyle's Grow Wisconsin Plans and Next Generation Manufacturing initiatives. The Governor and the DNR Secretary have used the tools in Green Tier to reinforce the commitment to build economic growth while improving Wisconsin's quality of life and environmental performance. Green jobs, green recovery and green branding have become a routine part of our interactions with business to explore how we can increase our competitive position and to increase profitability. Sustainability is no longer just a concept but something that is institutionalized through the tools in the Green Tier law.

Wisconsin first undertook this bold environmental management experiment back in 1996 with the passage of the pilot program. All six of the companies that enrolled in that first pilot are still participating today. The Department has sent annual progress reports to you describing the pilot program's environmental results, economic gains and transparency in environmental decision making. For example, our partners at 3M in Menomonie are the world leader in film production, in part, because of the permitting process which is not only the fastest in the US it is also one of the most environmentally effective in the US. We have a group of pilot program participants that consistently outperform the rest of the state in both environmentally and economically.

In 2004, Governor Doyle combined with bipartisan legislative leadership challenged DNR to expand what was learned in the pilot program by passing the Green Tier law. The Department pursued a balanced and deliberate approach to expanding participation. At present, there are 27 companies with 39 facilities participating in Tier 1 and Tier 2 of Green Tier. In addition, we have 5 charters that are designed to collaboratively work on a broad range of environmental issues ranging from mercury reduction for municipal waste water to superior environmental practices in the agricultural community. The current participants range from 3 employees to over 30,000 employees. While it is still early by comparison to the pilot program, we are seeing environmental and economic results. Let me share two examples. First, as Genmar Yacht Group eliminated hazardous materials in their supply chain they saved \$1.9 million. Second, at Winsert, they eliminated 100% of their process waste water and 100% of their hazardous waste. Through all participants, we can see equally as impressive environmental and economic gains.

The Department looks forward to working with the Senate and Assembly as this legislation moves forward and we are prepared to answer any questions about the program, legislation as proposed and results that have been achieved to date.



GREENTIER

Compliance Audits An Environmental Improvement Program

Pub CO-507 rev 8/2008

The voluntary compliance auditing provisions of Wisconsin Act 276, the Green Tier law, are designed for progressive businesses and other regulated entities that strive to keep in compliance with all Wisconsin Department of Natural Resources (DNR) and U.S. Environmental Protection Agency (EPA) regulations. These provisions are modeled after EPA's audit policy and encourage businesses to voluntarily audit their own environmental compliance and commit to correct violations. By using this program, Wisconsin businesses face substantially less financial risk and limited liability for violations disclosed as part of the audit.

The law contains specific protections that prevent use of the law to deflect penalties for known or serious violations. Practices employed for economic gain without sufficient regard for environmental consequences are not eligible.

Purpose and Intent

The program is intended to encourage compliance audits that improve both awareness of regulatory requirements and compliance with those requirements. The program also builds working relationships between companies and the Department of Natural Resources (DNR) that are based on performance and open communications.

Participation

Participation requires four straightforward steps:

1. Notify DNR 30 days before beginning the environmental compliance audit. Notification should include: the date of the audit, the site or facility or operations or practices to be audited, the general scope of the audit, and a signed statement acknowledging that any violations discovered before the audit begins are not eligible for the civil forfeiture limitations.
2. Conduct an environmental compliance audit within 365 days of the 30-day notice to DNR.
3. Submit an audit report to the DNR that identifies any violations and includes a plan for corrective action. This report should be submitted within 45 days after the final audit report is completed.
4. Ensure the following compliance status when the audit report is submitted:
 - no civil suit filed against the company by the State in the prior two years;
 - no citation issued by DNR or a local governmental unit in the prior two years.

Audit Report

The audit report explains the environmental compliance audit, who conducted it, when it was completed and activities and operations examined. The report will identify:

- violations revealed in the audit and the length of time the violations may have existed;
- actions taken to remedy the violations; and
- commitments to remedy the violations within 90 days, or a compliance schedule to be approved by DNR.

The proposed compliance schedule should have the shortest reasonable period for remedy, explain reasons for the violation, and describe the measures the business will take to minimize the effects of violations and prevent reoccurrence. The audit report may also contain proposed stipulated penalties for failure to comply with the compliance schedule.

A facility may request confidentiality (to protect trade secrets) for any information collected during the audit, except for environmental discharge data.

Enforcement

The potential liability for civil forfeiture is significantly reduced for violations which are first identified in an environmental compliance audit.

- The State may not bring a civil lawsuit to collect forfeitures for violations identified in the audit report for at least 90 days after the report is submitted, or for the time period given in the compliance schedule presuming the entity follows that schedule.
- If the regulated entity corrects the identified violations within 90 days or within the approved compliance schedule, DNR may impose not more than a \$500 forfeiture per violation, regardless of the number of days that violation existed.
- Rather than refer these matters to the Department of Justice for enforcement, DNR is authorized to issue citations as noted in the law.

Exclusions

This law does not apply if any of the following are true:

1. The disclosed violation presents an imminent threat or may cause serious harm to public health or the environment;
2. DNR discovers the violation before the regulated entity submits its report;
3. The violation results in a substantial economic benefit that gives the regulated entity a clear competitive business advantage;
4. The violation is identified through monitoring or sampling required by permit, statute, rule, judicial or administrative order or consent agreement;
5. The violation is a repeat violation of the same requirement at the same facility committed in the same manner, unless it was caused by a change in business processes or activities;
6. The violation is discovered by the regulated entity before beginning the environmental compliance audit.

Public Notice and Reporting

DNR will issue a public notice and provide at least a 30-day comment period for corrections that exceed 90 days. The DNR may not approve a compliance schedule that exceeds 12 months. The DNR will annually report to the Legislature on the results of the compliance audit reports received.

For More Information about Green Tier

Contact DNR's Mark McDermid at 608-267-3125, or visit: <http://greentier.wi.gov/>



GREEN TIER

Advantage: Business Advantage: Environment

Green Tier

An Overview of Performance-Based Environmental Management

Pub CO-504 3/2006

Green Tier provides an opportunity for Wisconsin to combine and achieve our economic and environmental goals. Building on the leadership of our environmental and business communities, this program supports the Department of Natural Resources' mandate to protect and enhance our environment while encouraging economic growth.

Purpose and Intent

Green Tier provides incentives to regulated and unregulated entities (e.g., businesses and communities) to move beyond environmental compliance, address unregulated problems and restore natural resources. Green Tier enhances cooperation with communities and industries and provides an improved legal standing for this cooperation.

Green Tier encourages voluntary environmental performance that exceeds minimum standards. The program strives to lower the overall transaction costs associated with environmental performance. It provides recognition and incentives for participation that are proportionate to the environmental performance achieved.

Green Tier has two tiers, or participation levels. **Tier 1** is an entry level, designed to encourage innovation, collaboration and new environmental goal-setting. **Tier 2** involves more rigorous participation requirements, places greater emphasis on superior environmental performance, and uses contracts as a means of giving customized regulatory flexibility proportional to environmental performance.

Participation Incentives for Tier 1 and Tier 2

- Initial and annual recognition of participation by the Department of Natural Resources (DNR).
- Use of the Green Tier logo.
- Assignment of a specific DNR professional as a point of contact within the agency.
- Lowest allowable level of inspection frequency once a formal environmental management system (EMS) has been adopted.

Tier 1 Participation Criteria

- A strong environmental compliance record, with no recent civil or criminal judgments or DNR citations.
- Commitment to a formal EMS that has been or will be implemented.
- Annual performance reviews, with results submitted to the DNR.
- Prompt follow-up action to any findings of non-compliance discovered during the annual reviews.
- Continual improvement of environmental performance.

Tier 2 Participation Criteria

Participation in Tier 2 requires an even stronger environmental compliance record than is required in Tier 1. Tier 2 participants also must implement an EMS prior to Tier 2 entry.

Tier 2 participants negotiate customized environmental contracts with the DNR and interested stakeholders, including the public. These flexible agreements carry the force of law and enable significant environmental improvements. Tier 2 contracts may be the most innovative and valuable part of Green Tier, as they support both government efficiency and business competitiveness.

Charters

Charters provide opportunities for a business sector or a geographic association to join together to establish and reach collective environmental goals. Groups of companies, a trade association or public sector entities can join together with state agencies in "Green Tier Charters" to pursue common goals that might not be achievable under the existing regulatory system. The signed charter forms the framework for members to partake as Tier 1 or Tier 2 participants.

Deferred Civil Enforcement

Both Green Tier levels allow for deferred DNR enforcement of any violations discovered in annual performance reviews. The DNR will not start civil action if violations are corrected within 90 days of the review, and possibly up to 12 months in some situations. Deferred enforcement does not apply if the violation involves an imminent threat to public health and the environment, or if the DNR discovers the violations before the company implements an environmental management system.

Results

Participating companies regularly share information concerning their environmental compliance and overall system performance to help the DNR and other parties improve the Green Tier program. The purpose of this information-sharing is to assure that the environmental results achieved through the program are proportional to the amount of regulatory flexibility granted to companies at each tier. Green Tier provides for a comprehensive approach to learning. The La Follette School of Public Affairs (UW-Madison) gathers and assesses information about the administrative, environmental, economic and community experience at both tiers of the program.

For More Information about Green Tier

Contact DNR's Mark McDermid at 608-267-3125, or visit: <http://greentier.wi.gov/>



GREENTIER

Advantage: Business Advantage: Environment

The Environmental Case for Green Tier

Moving From Compliance to Performance

Pub CO-505 3/2006

Major regulatory programs have done a great deal to protect Wisconsin's air, land and water in the past 30 years. Since their inception, these regulatory programs have focused primarily on compliance and enforcement. Through the 1970s and 1980s, this focus was necessary to halt severe environmental abuses. Now, our environmental challenges are different. Our regulatory focus on compliance may be limiting the capacity of regulators and the regulated community to pursue innovative approaches to environmental management.

Under our traditional environmental regulatory system, we have utilized a "one-size-fits-all" approach to environmental protection. Command-and-control regulations have prescribed specific technologies in an attempt to control environmental behaviors. Lacking flexibility to try new environmental approaches, companies have adhered to inefficient practices that often fail to yield meaningful environmental results.

Competitive pressures on Wisconsin's business community, combined with state budget deficits, compel us to seek a new model that can unite competitive pressure with environmental goals to achieve superior environmental performance. Green Tier offers the opportunity to enhance the protection and management of our natural resources, as well as our economic and institutional assets.

Changes in Business Practice

Measurable Improvement in Environmental Performance – Using Green Tier, Wisconsin's business community can promote and apply new initiatives to improve environmental performance beyond current standards. These initiatives may include application of new pollution control technologies, production process changes, or introduction of sustainability strategies that yield both economic and environmental benefits. It is important to note that Green Tier participants commit to measurable environmental improvements. This is a substantial improvement over the current "compliance monoculture" that persuades companies to meet only minimum performance requirements.

Higher Assurance of Compliance – Participating companies conduct annual assessments of their environmental performance, including their regulatory compliance status. Results of these assessments are provided to the Department of Natural Resources (DNR). These assessments reduce the potential for noncompliance, help facilities move above the compliance threshold, and improve overall environmental performance.

Focus on Environmental Management Systems

Participants in Green Tier implement formal environmental management systems (EMSs). An EMS makes the environment a formal part of business decision making, challenging a company to move from continual compliance to continual improvement. An EMS requires proactive planning by company managers, attention to the environment by all employees, and examination of business processes that pose a potentially significant environmental impact (even if the processes are not regulated). Using EMSs, Green Tier participants are likely to identify and minimize potential environmental risks not addressed by our existing compliance-based programs.

Improvements Across Business Sectors – Green Tier allows groups of businesses or public entities to join together in establishing charters (i.e., environmental agreements) and shared environmental performance goals. Green Tier Charters leverage the efforts of the DNR to encourage measurable environmental improvements at multiple facilities simultaneously.

Redirection of Agency Resources

Focusing on Facilities that Need Assistance – Business participation in Green Tier reduces the administrative burden placed on DNR. This can allow DNR staff to focus on facilities that need help to achieve or maintain compliance with environmental regulations. DNR can focus efforts where expertise is most needed.

Increased Access to Information

Annual Reporting – Green Tier participants give details about their environmental performance in annual reports. These reports document the company's regulatory compliance issues, stakeholder involvement activities, and progress in meeting measurable performance improvements. EMS implementation at participating facilities drives continual performance improvements. Over time, these improvements are expected to exceed the reductions in hazardous air pollutants, non-renewable energy consumption and hazardous waste generation achieved through pre-Green Tier pilot programs.

Providing Information, Seeking Feedback – Communities, neighbors, and other interested parties have increased access to information about facilities enrolled in the Green Tier program, and they have greater opportunities to share comments and concerns. Participating facilities commit to working closer with their local communities and those potentially affected by their operations.

For More Information about Green Tier

Contact DNR's Mark McDermid at 608-267-3125, or visit: <http://greentier.wi.gov/>



The Business Case for Green Tier Realizing Business Value in Regulatory Innovation

Pub CO-506 3/2006

In the past, Wisconsin companies have had little incentive to improve their environmental performance beyond minimum legal requirements. The Green Tier program, through a system of legally binding charters and contracts, shifts the focus away from regulatory minimums and forges a link between superior environmental performance and economic gain.

Green Tier encourages companies to think creatively about ways they can improve environmental performance while boosting productivity, cutting costs and growing their business. Designed to recognize and reward outstanding environmental performance, Green Tier offers responsible companies the chance to modify their existing environmental programs in a manner that makes good business and environmental sense.

Green Tier builds on the experience of innovative regulatory programs and supports all companies that want to pursue enhanced environmental performance - whether they're large or small. The law accommodates both.

Are There Economic Benefits?

Green Tier provisions allow participating companies and the Department of Natural Resources (DNR) to tailor innovative, cooperative programs specific to the companies' particular operations and needs. The second level of Green Tier, available to top environmental performers, provides companies and the DNR the ability to negotiate unique contracts that can offer measurable economic benefits to the company and related community.

Permit and Decision Streamlining – Green Tier has the potential to reduce the turn-around time on permits and other DNR decisions, reducing internal environmental staff effort, legal counsel and consultant costs.

Permit Exemptions – Green Tier can allow permit exemptions in certain circumstances. Under a Green Tier-related pilot program, the DNR was able to exempt one major facility from construction permit requirements, provided certain air emissions were not exceeded. This exemption was broader than exemptions allowable under traditional regulations.

Testing and Installation of New Technologies – Green Tier enables permit exemptions and easier approval for the testing and installation of new technologies, especially for those that conserve energy or reduce emissions.

Forward Thinking – The program encourages businesses to look at ways they can improve environmental performance while generating economic gain. This forward-thinking could include meshing business practices related to accelerated depreciation of capital equipment, managing supply chains, anticipating international demands, and getting necessary regulatory approval to secure required capital.

More Efficient Monitoring, Recordkeeping and Reporting – Facilities with strong compliance records and well-managed environmental programs can negotiate with the DNR for more practical and effective monitoring and reporting procedures. Under a Green Tier-related pilot program, one facility was able to reduce its monitoring and recordkeeping efforts by about 20 hours per week. Another pilot-program facility reduced their annual monitoring reports from approximately 230 pages per year to five.

Innovative Technical Solutions – Green Tier encourages companies to develop innovative environmental and production solutions that have long-term economic and environmental benefits. Under a Green-Tier related pilot program, one company developed an imaginative proposal to re-burn coal ash normally sent to landfills. This practice dramatically reduced the ash being sent to landfills, provided a new energy source, saved over 300 railroad cars of coal, and helped reduce overall costs. These savings were achieved in less than two years.

The actual business value offered by Green Tier, measured in simple economic terms, will vary according to each business and their imagination. Wisconsin's businesses have the capacity to make Green Tier a huge success.

What is the Intangible Value?

Companies participating in Green Tier have the potential to generate a wide range of measurable economic and environmental returns. Participants are also likely to realize intangible benefits.

Regulatory Recognition – The DNR will publicly recognize participants in the Green Tier program.

Improved Agency Relations – Green Tier participation can improve communication between companies and the DNR and provide a greater appreciation of mutual goals.

Branding – Superior environmental performance achieved through Green Tier can be used to help support a company's brand equity.

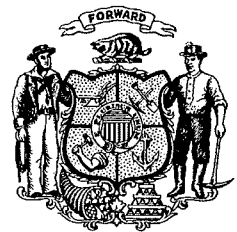
Employee Pride – Facilities that participate in innovative regulatory programs like Green Tier often see an increased level of employee pride. Typically, employees in participating companies develop a sense of ownership in environmental activities and the business in general.

For More Information about Green Tier

Contact DNR's Mark McDermid at 608-267-3125, or visit: <http://greentier.wi.gov/>



WISCONSIN STATE LEGISLATURE



4/14/09

Testimony

SB 126, Green Tier Reauthorization

I am happy to be here today with Sen. Kedzie, Rep. Clark and Rep. Tauchen to speak in favor of SB 126 which reauthorizes the Green Tier program. (Environmental Results Program)

Green Tier is based on a collaborative system of contracts and charters crafted jointly by participating businesses and the DNR. These contracts and charters streamline environmental requirements in many cases and encourage new environmental technologies

Green Tier was initially authorized for a 5 year period which ends in July of 2009. In the past 5 years, Green Tier has proved itself to be an innovative and successful program, achieving superior environmental results, warranting the removal of that sunset date.

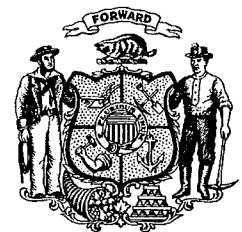
A Green Tier Advisory committee was created as part of the original legislation. That committee has been working with the Green Tier program since the beginning and has developed a set of legislative recommendations for program improvements. This bill is based on the recommendations of the Green Tier Advisors.

The legislation does the following:

- Removes the sunset dates for both Green Tier and the Compliance Audit Program
- Formally changes the names of the Environmental Results Program and Environmental Improvement Program to their common names of Green Tier and Environmental Compliance Audit Program
- Allows for smooth transitions for companies participating in the Environmental Cooperation Pilot Program (Green Tier's predecessor) to Tier 2 status
- Allows for reporting of violations that are discovered through a company's environmental management system, not just through an annual audit
- Allows the Department to issue a charter to an association of entities that are not yet in Green Tier to either facilitate entry to the program or take actions to achieve superior environmental performance
- Makes various technical changes recommended by the Green Tier advisors



WISCONSIN STATE LEGISLATURE



Environmental Management Systems Create Business Value through Comprehensive Performance Management

Wisconsin's Green Tier program places great value on Environmental Management Systems (EMS). Tier 1 participants must have an ISO-14001 certified or a functionally equivalent Environmental Management System (EMS) in place within the first year of participation. Tier 2 participants must have a well-developed EMS (ISO certified or functionally equivalent) at the time of application with a documented history of results.

Environmental Management Systems: An Introduction

An EMS is a tool to help your organization understand its environmental impacts and systematically operate more efficiently by reducing energy usage, minimizing waste and reducing pollution. Proactively addressing environmental impacts allows your organization to find and utilize the most cost effective corrective measures and avoid costly noncompliance fees.

A comprehensive look at your environmental impacts can also lead to innovative ways to improve conditions for employees, strengthen relationships with the community, impress existing clients and attract new ones.

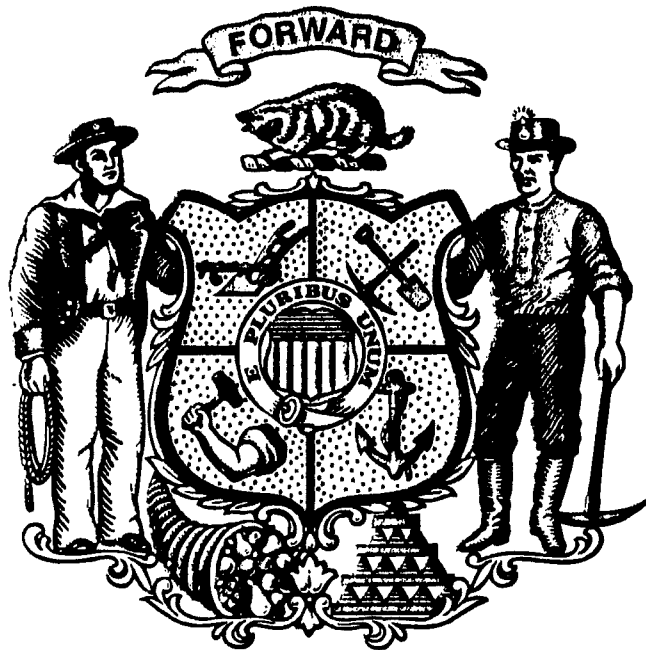
Instead of simply following mandated environmental procedures, an effective EMS guides exploration of environmental opportunities that are compatible with your organization's current practices.

Continual Economic and Environmental Improvement

An EMS is a way to manage your company's environmental impacts in a manner that creates continual environmental and economic improvement through the 'Plan, Do, Check, Act' cycle.

The Basics of 'Plan, Do, Check, Act':

- **Plan:** Formulate an environmental policy, stating environmental goals, intentions, and an overall mission. Set specific goals to improve environmental performance, detailing how goals will be met and employee responsibilities in meeting these goals.
- **Do:** Delegate responsibilities, set-up and conduct employee training, and communicate EMS goals and procedures with employees.
- **Check:** Assess environmental impacts, goal attainment and methods used to monitor and measure environmental impacts. Record past environmental issues and the mechanisms utilized to prevent recurrence.
- **Act:** Evaluate the system in terms of effectiveness and appropriateness for reaching company goals. Identify new goals and make adjustments to the EMS.



Green Tier Legislation Background

January 13, 2008

CHANGES TO LRB 3411/1:

- Remove the sunset provision contained in 299.85(11).
- On page 2, delete lines 10-13 and insert the following:
Adoption of a publicly shared environmental policy that is appropriate to the nature scale and environmental impacts of its activities, products, and services. The policy includes a commitment to compliance with environmental requirements, pollution prevention, and continual improvement in environmental performance
- On page 3, insert the following:
A process for setting environmental objectives and developing appropriate action plans to meet the objectives
- On page 3, insert the following:
Establishment of a structure for operational control and responsibility for environmental performance

While I can appreciate the language that is used in the draft, the language above is what we believe we need to accomplish an accurate comparison to the current (i.e. 2004) ISO 14001 standard. We have vetted this with auditors and have been assured the Changes requested above accurately reflect what we need to align the statute and the standard.

NEW LANGUAGE TO BE ADDED TO THE DRAFT

This set of instructions is drawn from information that was used by the Advisors during their deliberations on these draft recommendations. Further information can also be found on the Green Tier Advisors web site which has the notes from the various meetings where this package was discussed. The background narrative below tries to capture some of the points and questions that came up during those discussions.

1. Include provisions which would enable the efficient transition of Environmental Cooperation Pilot Program Companies into the Green Tier Program. The question addressed by the Advisors was whether to include the Pilot Program Participants as a part of the reauthorization. There were two choices considered. One was an integration option that rolls the companies into the Green Tier program such as a grandfathering clause that would recognize the existing cooperative agreements under Tier 2 of the Green Tier program. The second was to have the Pilot Companies go through the full process outlined in 299.83 or some modification thereof to become a Tier 1 or Tier 2 company. Another potential option, although not considered beyond initial discussions, was to simply amend 299.80 to allow the cooperative agreements to go beyond a single renewal.

Based upon discussions with the Advisors, the decision was made that the entry into the Green Tier program would not simply be done through a grandfathering clause. Each of the elements listed below were set as conditions for pilot program companies seeking to make the transition to the Green Tier Program:

- Company submits letter of intent stating desire to transition from ECPP to Tier 2.
- DNR and company redraft ECA to conform to Green Tier program requirements and benefits, ensuring continuity in requirements and incentives from ECA contract and making minor changes so as to conform to Tier II requirements and incentives

- DNR provides public notice on redrafted participation contract. After providing public notice about a redrafted participation contract, the Department may hold a public informational meeting on the redrafted participation contract.
- Company shares the results of the last audit for purposes of establishing the audit baseline.
- If commitments are unchanged from ECA, redrafted contract presumed to be "proportional."
- Limitation and/or review of decision - DNR could not deny an application from an ECPP participant unless significant issues are raised during public comment that the company is unwilling or unable to address.

In compiling the draft, we want to make sure that the provisions as they get edited leave the ECPP participants with three choices: 1) let their environmental cooperative agreement expire; 2) apply for Green Tier and start from scratch with new negotiations; or 3) transition to Tier 2 as described above. To be clear, entry into Tier 1 would be through the traditional process.

2. Include provisions that would expand the potential use of Charters by:

Enabling the extension of flexibility to other regulatory entities that are parties to the charter in order to provide incentives for Tier 1 or Tier 2 participants in the Green Tier program. Based on the discussions of the Advisors, the following elements would be expected in the legislative draft:

- The following conditions would apply to the party receiving the flexibility:
 - Signatory to the charter,
 - Remain a member in good standing of the charter,
 - Meet the basic compliance screening requirements for Tier 1
 - The flexibility provisions would be subject to public notice
 - Flexibility would be subject to consideration through public hearing and comment through the charter development process.
 - The party receiving the flexibility would have to have regulatory authority in the environmental area which is the subject of the charter and the flexibility to be granted through the charter.
- The following conditions would apply to flexibility extended through the charter:
 - The flexibility provisions in the charter would have to contribute to the intent of the charter.
 - The flexibility would be limited to that which is needed to extend the terms of a Tier 2 participation contract
 - The terms of the charter must identify how the flexibility will be monitored and results measured.
 - The flexibility extended would be subject to a proportionality test.

General Background:

The provisions would extend or create flexibility for other regulatory entities that are parties to a charter (e.g. municipalities, special districts and/or other agencies that may be working within delegated responsibilities from DNR that could be a part of the charter relationship even if the signatory to whom flexibility is extended is not a Tier 1 or Tier 2 participant). The presumption, however, is that this is for the purpose of providing incentives to Tier 1 and Tier 2 participants.

For this measure of flexibility to apply, the party receiving the flexibility would have to be a signatory to the charter, remain a member in good standing of the charter, and meet the basic compliance screening requirements for Tier 1 and the flexibility provisions would be subject to the same public notice and

flexibility subject to consideration through that process. The party receiving the flexibility would have to have regulatory authority in the environmental area which is the subject of the charter and the flexibility to be granted through the charter. Specifically, the flexibility provisions would need to be reflected in the charter and would have to contribute to the intent of the charter.

Rationale

The reason for this proposed change is to give some practicality to the flexibility incentive, create a concrete situation in which flexibility can be granted, and yield greater results through charters. Charters pull together many parties who have something to contribute to the solution of environmental problems, to more efficiently administer environmental processes and/or more effectively address environmental issues. Co-regulators may be fully prepared to help improve environmental performance but would not have a need to pursue Tier 1 or Tier 2 participation. Their interests in the charter are related to the regulatory stake that they would have in the work of the charter and in many potential cases would relate to areas where there is overlapping decision making and may relate to the timing of regulatory decisions that are not well timed for those that are regulated.

Example

One working example exists in the Clear Waters Initiative in which the Cities of Madison and Sun Prairie along with Dane County and the Department work together to address storm water issues. While it is clear that the charter can extend flexibility to Tier 1 and Tier 2 parties to the charter, the charter may be limited in the ability to have the co-regulators, other than DNR, set a different methodology for decision making because of requirements set by the Department. The new statutory authority would enable the use of charters to establish an alternate or flexible way in making decisions. Specifically, one of the co-regulators might be able to make decisions differently for the superior performers on issues that are a part of the overall regulatory scheme for storm water control.

Another more hypothetical example would be the provision of industrial waste water controls that are most frequently shared with the water treatment authorities. In this example, the Department and the Water Treatment Authority could set about to consider optional ways of dealing with superior environmental performers (Tier 1 or Tier 2 participants). Flexibility would be given by the Department to the treatment authority so that they could treat superior performers (Tier 1 and Tier 2 participants) with different requirements in recognition of their superior environmental performance and recognize the capabilities of their environmental management systems. These could include the way that reports are done, the kind of monitoring that they do or the requirements that they are expected to apply to industrial clients.

3. Allow the recognition of organized, systematic environmental management programs. The provisions would allow the recognition of organized, systematic environmental management programs to be a recognized part of Green Tier (e.g. organizing chemical processors around their "Responsible Care" program to make and report on commitments to Superior Environmental Performance) but would not recognize individual companies as

Green Tier Participants. Based on the discussions of the Advisors, the following elements would be expected as a part of the legislation:

- Programs recognized through the charter would need to:
 - Utilize the standards identified for functionally equivalent environmental management systems or follow a development progression that leads participants to functional equivalency.
 - Capture and report on the environmental results that are being achieved by participants individually or in total for the program.
 - Provide links to web based information that could be used by members and non-members of the organization involved.
 - Contain provision(s) that meet or establish a progression to the development of an ISO 14000 or functionally equivalent environmental management system.
- The Department would:
 - Formally recognize the programs and publicly report the results of the programs.
 - Include participants in gatherings of Green Tier companies and provide information from Green Tier programs.
 - Supply information to potential participants through Green Tier staff and, where appropriate, regulatory staff.
 - Provide publicity for such programs as specified within the charter.
- The Department may not extend statutory incentives to participants in the programs unless such participants enroll in Tier 1 or Tier 2 independently or through the provisions of the charter.

General Background

The provision would provide recognition for the environmental program as a part of Green Tier thereby facilitating the exchange of environmental information by the participants and providing information on the DNR site that gives environmental performance information about industry participants. The benefit for the organizations is expanded exposure for the environmental programs, and the benefit for the Department is the information obtained about that performance. Several organizations have programs in place that build the capacity of their members to, first, meet compliance requirements and, second, to go beyond compliance. In almost all instances, these programs allow for a progression in the development process but some may stop short of the development of a formal environmental management system.

Rationale

This provision would allow the use of the charters for capacity building and also would encourage the work with larger groups to build the capacity to take on environmental performance management with the ultimate objective of getting participants eventually up to the Tier 1 and Tier 2 levels.

Example

At present, the Wisconsin Asphalt Pavement Association has an environmental performance program in place that reviews and documents the performance of participants every three years in collaboration with the Department. Many of the participants may not have the immediate capacity to develop and implement an environmental management system but could, over time, add incrementally to their programs to create the environmental management system and become participants in Tier 1. While that capacity is developing, the Department remains engaged with the association and participants in the development process.

4. Authorizing the creation of charters that systematically manage environmental performance on a specific issue and creation of flexibility/incentives for voluntary efforts to address the identified issue. Discussions with the Advisors anticipated the following elements in the legislation:
- The following conditions would apply to the party receiving the flexibility:
 - Signatory to the charter,
 - Remain a member in good standing of the charter,
 - Meet the basic compliance screening requirements for Tier 1
 - Remain in compliance with all state environmental requirements in order to continue receiving the flexibility.
 - Flexibility may be temporarily suspended until a participant comes back into compliance.
 - The flexibility provisions would be subject to public notice
 - Flexibility would be subject to consideration through public hearing and comment through the charter development process.
 - The following conditions would apply to flexibility extended through the charter:
 - The provisions in the charter must clearly identify the scope of both the environmental problem(s) being addressed and the terms and conditions under which the flexibility would be extended.
 - The terms of the charter must identify how the flexibility will be monitored
 - The terms of the charter must state the environmental outcomes to be achieved and contain the mechanism to measure and publicly report those outcomes.
 - The flexibility extended must be related to the environmental issue or problem that is being addressed by the charter.
 - The systematic environmental management done through the charter:
 - Would have to include planning, action, verification and correction that introduce the basic steps towards an environmental management system.
 - Contains specific commitments to accomplish the environmental outcomes sought by the charter through that system.
 - Have operational controls sufficient to communicate responsibilities, gather and report valid information and correct when progress towards goals is lagging.
 - Recognizes and provides a path towards an environmental management system functionally equivalent to ISO 14001.

General Background

The provisions would create a customized working relationship to address a given issue for which the department identifies the environmental management to be done by the voluntary participants, the recognition and flexibility that would be provided to participants and the reporting that would be done as a part of the program that would be directly related to the performance that was a commitment of the program.

In order to participate in the charter, parties would have to be a signatory to the charter, agreeing to the terms and conditions contained in the Charter. Once signatories, the expectation is that they would remain a member in good standing of the charter, meet the basic compliance screening requirements for Tier 1 and the provisions would be subject to the same public notice and flexibility subject to consideration through that process.

Rationale

Several elements coming from the Governor's Global Warming Task force are likely to rely upon voluntary approaches and Green Tier Charters could provide a legal framework within which a sustainable path is established. This would be ideal for creating specific incentives to address a specific problem.

Example

The top 25 or top 50 carbon emitters in the state could join into one program which does not require an EMS but contains other requirements and incentives tailored to those requirements and reducing their carbon emissions. There would be clear limits in place for the incentives and flexibility granted. In this instance, provisions may need to be considered if participants perform poorly regarding other media than the one addressed by the group. This could be addressed by a provision that currently applies in the case of Tier 1 and Tier 2 in which the Secretary has the discretion not to approve a participant or proceed with an agreement if it is not in the best overall interest of the program.

5. Challenge the department to extend the benefits of Green Tier by working specifically with other agencies to apply to state purchasing, the award of grants and administrative decisions by developing guidance. Discussions with the Advisors anticipate the following to be included in the legislation:
- Amend section 299.83 (1m) to state that the Department shall attempt to do all of the following:
 - Recognize Green Tier participants through the state procurement process.
 - Recognize Green Tier participants in the award of state grants through the Departments of Natural Resources, Commerce, and Agriculture.
 - Recognize Green Tier participants through administrative decisions made by state bodies provided that the development of such recognition provides public notice and within 30 days after the public notice, interested persons may request the department to grant them authorization to participate in the negotiations. A person who makes a request under this provision shall describe their interests in the issues described in the public notice. The department shall determine whether a person who makes a request under this paragraph may participate in the negotiations based on whether the person has demonstrated sufficient interest in the issues in the public notice to warrant that participation.
 - Provisions developed under this section shall apply to both participants under 299.80 and 299.83 of the statutes.

General Background

When initially conceived, this was going to extend the ability to create the statutory ability to create incentives and grant flexibility through statutory authorities in other agencies. In order to capture the discussion from the Advisors, this was scaled back to be a recommendation that would add an expectation to what the department shall attempt to do through the existing incentive capabilities of the program by tapping into the capabilities of other agencies to offer incentives through the program by adding recognition for grants, purchasing and special consideration where those agencies currently have administrative discretion in each of three areas for multiple agencies:

- Green Tier companies recognized as a part of state procurement.

- Green Tier companies recognized as a part of state grant programs through Commerce, and Agriculture
- Green Tier companies recognized through administrative decisions made by state bodies – Transportation, PSC, Insurance, etc.

The actual change to the statutes would be to amend 299.83 (1m) – Administration of the program to indicate that the department shall attempt to create incentives that draw upon recognition provided by other state agencies through procurement, grants and administrative decision making that recognizes and in appropriate circumstances gives preference to Tier 1 and Tier 2 participants.

Rationale

While there might be value in amending the statutes to give the ability to use Green Tier flexibility in other agencies, the discussion has generally indicated that there has not been enough work done to develop the incentives with the use of existing administrative flexibilities. By setting expectation in the "Administration of the program" section of the law, there could be sufficient legislative direction for the department to work with other agencies in the establishment of incentives and working through those agencies to begin developing the working relationships to consider administrative decision making that might set the foundation for consideration of statutory flexibility in subsequent changes to the law. Currently the law presumes the development and delivery of incentives through the Department and the change would make clear that this can and should be a multi-agency endeavor.

Example

There are many different kinds of state procurement preferences that are given. By executive order or perhaps by working directly with the Department of Administration purchasing preference for Green Tier may be obtained. A second example would be in the development and administration of a grant program for areas such as business development for which there are options to recognize that a company is a Green Tier participant during the evaluation and selection process. A final example that would address the administrative decision making process would be decisions in which we work with Department of Transportation (DOT) on codes for culvert placements. We would have the flexibility to work with participant and DOT (for example) to make the decisions in an expedited fashion given the superior environmental performance of the participant.

6. Clarify that the provisions that extend limited civil immunity to Tier 1 and Tier 2 participants apply to those violations that are discovered in the conduct of routine environmental management systems operations. Discussions with the Advisors anticipated that the following would be included in the legislation:
- Amending the language related to self disclosure of violations:
(6m) COMPLIANCE REPORTS AND DEFERRED CIVIL ENFORCEMENT. (a)
Compliance reports. If a violation is discovered through the environmental management system as defined under sub. (1) (dg), or through audits specified under sub. (3) (d) 4. or (5) (c) 2. or 3, the participant shall include all of the following in the report of the violation:

General Background

As currently worded the statute may limit the discovery, disclosure and self reporting of violations only to those discovered through the annual audits done to satisfy the requirements of 299.83. The current language does fail to recognize the continual auditing

and checking that occurs in a functioning environmental management system. The intent, when the original language was drafted, was to have compliance continually monitored and immediately corrected. The change would remove language that might limit this incentive only to problems discovered in audits prescribed to maintain eligibility and not address opportunities for immediate, continual improvement.

The provision would extend limited civil immunity to violations disclosed and corrected during the course of participation in the program and not just annually as a part of the report to the Department.

Rationale – the expectation of continual improvement and the presence of institutional controls is the continual review and immediate correction of problems discovered. There is little distinction that can be drawn between that which is disclosed in an annual audit and that which is disclosed by audits that occur on a regular basis and then annually disclosed. Managing this workload on a continual basis not only makes sense for the administrative overhead but also for the potential ongoing attention to managing environmental risks. Example – most audit protocols call for surveillance and follow up visits making the distinction between annual and other audits very blurry. Similarly, most EM S's in order to be judged effective have elements that require regular monitoring that can lead to early detection of problems that might languish if left for discovery as a part of the annual audit specified in the law.

7. Amend 299.85 by removing 299.85 (2)(f)

GENERAL BACKGROUND

After considerable debate, the Advisors found that the provisions as stated could actually cause a missed opportunity as a facility/company with a violation (may actually have been cited for the violation) from taking a more comprehensive look at their environmental performance under the program. There was considerable discussion about the other protections that are provided in the law that prevent such companies from using the law to deflect enforcement action where there might be serious but undiscovered violations. In fact that current provisions in the law could be serving as a deterrent to the company taking steps to discover those problems. While the discussion was spirited, in the end the Advisors felt that there were other protections in the law to mitigate risks associated with serious violations as evidenced by audits that have been done thus far and that there are true benefits to be realized by companies proactively taking steps, in concert with the Department, to put their compliance house in order.

HOW WILL THESE BE USED TO ADVANCE THE PROGRAM?

Reauthorization, fine tuning and expansion are being recommended to accomplish three objectives:

- Create higher levels of environmental performance and increased numbers of participants delivering superior environmental performance and realizing increased business value through recognition and flexibility.
- Create certainty about the future of the program and the requirements of the program while updating provisions of the law to reflect changes in standards and practice since the law's original passage.
- Improve the administrative efficiency of the program so that more staff resources can be directed to working with prospects for and participants in the program.

The most important and significant part of our recommendations is the reauthorization of the program. The initial development done through the program indicates that real results can

be gained through the Green Tier approach. The Advisors had no difficulty reaching consensus on this point. By removing the sunset, as recommended by the advisors, a barrier to participation is also removed since prospective participants will know that the provisions will remain law unless a specific action is taken by the legislature. Prospective participants will know that their investment in the Environmental Management Systems and their commitments to superior along with the resulting incentives will not only have the force of law but will also have staying power.

Over the course of the last 3 years, much has been learned about the development of performance based programs generally and Green Tier specifically. Drawing upon the available information from other programs as well as the direct "day to day" experience here in Wisconsin, there are several items that have been recommended. We would anticipate that the fine tuning that is proposed for the program will make the expectations of the program clearer as the standards are updated and more efficient and fair as the administrative provisions are adjusted. We also expect to not only improve the information about the program but also the efficiency of the program with the suggested revisions to the reporting periods for the three programs in question (the pilot program, green tier and the compliance audit program). It is particularly important to note that the date selected (December 15) and the biennial frequency of the report will enable the mining of data that the Department currently receives and the presentation of the most current validated data so that comparisons can be made and reporting burdens minimized.

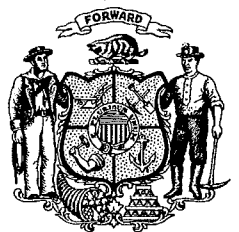
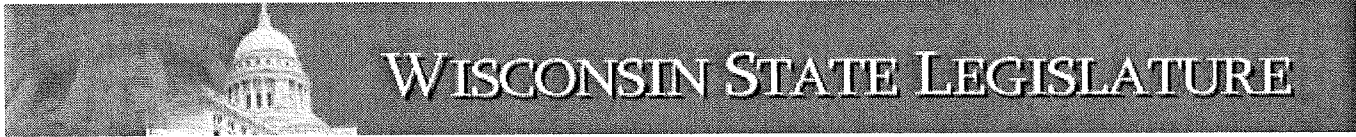
Program expansion also draws from the lessons learned. The first of the recommendations on program expansion recognizes the pioneering work that has been done by the participants in the Environmental Cooperation Pilot Program with all of the original participants having exercised their option for renewal of the agreements. The addition of the provisions would enable pilot program participants to make the transition to the Green Tier program when it made the best business sense for them to do so. Correspondingly, the transition, over time, to the Green Tier program is a step to provide focus to the delivery and management of performance based programs. Provisions have been added to expand the potential use of and value derived from charters. The revisions hold the potential for drawing in more participants, delivering greater value for participants and using charters to address broad environmental problems. The recommendations will also create higher levels of environmental performance, increased participation that results in producing superior environmental performance as well as reinforce the continuous evaluation that takes place in environmental management systems.

HOW WERE THEY DEVELOPED?

Just prior to the Advisors meeting on December 7, 2006, the Advisors started reviewing materials about potential changes to the Green Tier Legislation. In the course of developing the recommendations, there were consultations with participants, prospective participants, DNR's senior managers (Green Tier Coordinators), environmental interest groups and Cooperative Environmental Assistance staff. In addition, there was also investigatory work done with other states, USEPA and Canada to ascertain where improvements could be made and ideas taken from the experience of those other parties and/or the research that has been done on performance based programs. Concepts were debated and the resulting recommendations developed at the March, August, September and December meetings in 2007.

At the Advisors meeting on December 3, 2007 the Advisors worked through the expansions that were being contemplated for charters and local government. Subsequent to that discussion,

further work was done with the Advisors, Legislative Staff and Department staff to see what might be possible for consideration during the current legislative session. There were several ideas, including elements of both the charters and local government provisions that were not going to be ready for consideration due to the amount of time remaining in the legislative session and the work yet to be done on the recommendations. Based on the follow-up work after the December 3 meeting, the following recommendations were compiled and considered at a special meeting by conference call on January 10, 2008.



Green Tier Reauthorization

Reauthorization, fine tuning and expansion are being recommended to accomplish three objectives:

- Create higher levels of environmental performance and increased numbers of participants delivering superior environmental performance and realizing increased business value through recognition and flexibility.
- Create certainty about the future of the program and the requirements of the program while updating provisions of the law to reflect changes in standards and practice since the law's original passage.
- Improve the administrative efficiency of the program so that more staff resources can be directed to working with prospects for and participants in the program.

Reauthorization

Repeal sunset dates

- 299.83(11) – Environmental Results Program (Green Tier)
- 299.85(11) – Environmental Compliance Audit

Fine Tuning

1. Amend 299.83 to change Environmental Management System starting time to 12 months from date of acceptance into Tier 1
2. Amend 299.83 Environmental Management System Requirements to align with 2004 ISO 14001 standards.
3. Require public notice for flexibility changes to contracts or charters
4. Common due date for reports to the Legislature and Governor for the Environmental Cooperation Pilot Program, Environmental Results Program and Environmental Improvement Program (1 biennial report encompassing all 3 programs)
5. Public notice – amends language to allow for parties to agree on different time frame for noticing. Applies only to Tier 1, notice can be extended beyond the 60 days currently in statute, but not reduce to less than 30 days.

Expansion *(These elements will be worked on as an amendment to the bill)*

1. Include provisions which would enable the efficient transition of Environmental Cooperation Pilot Program Companies into the Green Tier Program. The question addressed by the Advisors was whether to include the Pilot Program Participants as a part of the reauthorization.

Each of the elements listed below were set as conditions for pilot program companies seeking to make the transition to the Green Tier Program:

- Company submits letter of intent stating desire to transition from ECPP to Tier 2.
- DNR and company redraft ECA to conform to Green Tier program requirements and benefits, ensuring continuity in requirements and incentives from ECA contract and making minor changes so as to conform to Tier II requirements and incentives
- DNR provides public notice on redrafted participation contract. After providing public notice about a redrafted participation contract, the Department may hold a public informational meeting on the redrafted participation contract.
- Company shares the results of the last audit for purposes of establishing the audit baseline.
- If commitments are unchanged from ECA, redrafted contract presumed to be "proportional."

- Limitation and/or review of decision - DNR could not deny an application from an ECPP participant unless significant issues are raised during public comment that the company is unwilling or unable to address.
2. Include provisions that would expand the potential use of Charters by:
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 The following conditions would apply to the party receiving the flexibility:
- Signatory to the charter,
 - Remain a member in good standing of the charter,
 - Meet the basic compliance screening requirements for Tier 1
 - The flexibility provisions would be subject to public notice
 - Flexibility would be subject to consideration through public hearing and comment through the charter development process.
 - The party receiving the flexibility would have to have regulatory authority in the environmental area which is the subject of the charter and the flexibility to be granted through the charter.
- The following conditions would apply to flexibility extended through the charter:
- The flexibility provisions in the charter would have to contribute to the intent of the charter.
 - The flexibility would be limited to that which is needed to extend the terms of a Tier 2 participation contract
 - The terms of the charter must identify how the flexibility will be monitored and results measured.
 - The flexibility extended would be subject to a proportionality test.
3. Allow the recognition of organized, systematic environmental management programs.
 The provisions would allow the recognition of organized, systematic environmental management programs to be a recognized part of Green Tier (e.g. organizing chemical processors around their "Responsible Care" program to make and report on commitments to Superior Environmental Performance) but would not recognize individual companies as Green Tier Participants.
 Programs recognized through the charter would need to:
- Utilize the standards identified for functionally equivalent environmental management systems or follow a development progression that leads participants to functional equivalency.
 - Capture and report on the environmental results that are being achieved by participants individually or in total for the program.
 - Provide links to web based information that could be used by members and non-members of the organization involved.
 - Contain provision(s) that meet or establish a progression to the development of an ISO 14000 or functionally equivalent environmental management system.
- The Department would:
- Formally recognize the programs and publicly report the results of the programs.
 - include participants in gatherings of Green Tier companies and provide information from Green Tier programs.
 - Supply information to potential participants through Green Tier staff and, where appropriate, regulatory staff.
 - Provide publicity for such programs as specified within the charter.
- The Department may not extend statutory incentives to participants in the programs unless such participants enroll in Tier 1 or Tier 2 independently or through the provisions of the charter.

4. Authorizing the creation of charters that systematically manage environmental performance on a specific issue and creation of flexibility/incentives for voluntary efforts to address the identified issue.

The following conditions would apply to the party receiving the flexibility:

- Signatory to the charter,
- Remain a member in good standing of the charter,
- Meet the basic compliance screening requirements for Tier 1
- Remain in compliance with all state environmental requirements in order to continue receiving the flexibility.
- Flexibility may be temporarily suspended until a participant comes back into compliance.
- The flexibility provisions would be subject to public notice
- Flexibility would be subject to consideration through public hearing and comment through the charter development process.

The following conditions would apply to flexibility extended through the charter:

- The provisions in the charter must clearly identify the scope of both the environmental problem(s) being addressed and the terms and conditions under which the flexibility would be extended.
- The terms of the charter must identify how the flexibility will be monitored
- The terms of the charter must state the environmental outcomes to be achieved and contain the mechanism to measure and publicly report those outcomes.
- The flexibility extended must be related to the environmental issue or problem that is being addressed by the charter.

The systematic environmental management done through the charter:

- Would have to include planning, action, verification and correction that introduce the basic steps towards an environmental management system.
- Contains specific commitments to accomplish the environmental outcomes sought by the charter through that system.
- Have operational controls sufficient to communicate responsibilities, gather and report valid information and correct when progress towards goals is lagging.
- Recognizes and provides a path towards an environmental management system functionally equivalent to ISO 14001.

5. Challenge the department to extend the benefits of Green Tier by working specifically with other agencies to apply to state purchasing, the award of grants and administrative decisions by developing guidance.

Amend section 299.83 (1m) to state that the Department shall attempt to do all of the following:

- Recognize Green Tier participants through the state procurement process.
- Recognize Green Tier participants in the award of state grants through the Departments of Natural Resources, Commerce, and Agriculture.
- Recognize Green Tier participants through administrative decisions made by state bodies provided that the development of such recognition provides public notice and within 30 days after the public notice, interested persons may request the department to grant them authorization to participate in the negotiations. A person who makes a request under this provision shall describe their interests in the issues described in the public notice. The department shall determine whether a person who makes a request under this paragraph may participate in the negotiations based on whether the person has demonstrated sufficient interest in the issues in the public notice to warrant that participation.
- Provisions developed under this section shall apply to both participants under 299.80 and 299.83 of the statutes.

6. Clarify that the provisions that extend limited civil immunity to Tier 1 and Tier 2 participants apply to those violations that are discovered in the conduct of routine environmental management systems operations.

Amending the language related to self disclosure of violations:

- **(6m) COMPLIANCE REPORTS AND DEFERRED CIVIL ENFORCEMENT.** (a) *Compliance reports.* If a violation is discovered through the environmental management system as defined under sub. (1) (dg), or through audits specified under sub. (3) (d) 4. or (5) (c) 2. or 3, the participant shall include all of the following in the report of the violation: