

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/29/2001**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - miscellaneous**

Extra Copies:

**Pre Topic:**

DOA:.....Wong -

**Topic:**

Green tier program with environmental improvement program added

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 01/30/2001	csicilia 01/31/2001		_____			
/P1			jfrantze 01/31/2001	_____	lrb_docadmin 01/31/2001		
/P2	traderc 02/02/2001	csicilia 02/02/2001	martykr 02/02/2001	_____	lrb_docadmin 02/03/2001		State
/1	traderc 02/03/2001	jdye 02/03/2001	kfollet 02/03/2001	_____	lrb_docadmin 02/03/2001		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	traderc 02/05/2001	csicilia 02/05/2001	jfrantze 02/05/2001	_____	lrb_docadmin 02/05/2001		

FE Sent For:

<END>

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1/2 cjs 2/5  
01

8/2/5 2/5

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DOA:.....Wong -

**Topic:**

Green tier program with environmental improvement program added

**Instructions:**

See Attached *The environmental improvement program <sup>(-2109)</sup> draft is based on  
ASA 7 to 1999 AB 356 .*

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	traderc	1/1 cjs 1/31 01	2/1/31	2/1/31 1/31			

FE Sent For:

<END>

## Tradewell, Becky

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**From:** Wong, Manyee  
**Sent:** Sunday, January 28, 2001 2:47 PM  
**To:** Tradewell, Becky  
**Subject:** RE: Green tier and EIP

Hi Becky,

I have provided DNR with parts of the draft but have not gotten any feedback from them yet. I did call Jeff Smoller from DNR for clarifications on several issues. And he said the committee wanted the problem to be self-implementing without DNR having to do rules. I guess if that is the case, we will have to put into statutes specific benefits for participation in the program. But keep the language that allows DNR to do rules if needed to clarify benefits in statute.

We will need to go ahead on a draft that merged the two concepts together. Most likely, the Lt. Governor's decision will be the final one since Gov. Thompson is leaving. In the merged version, we do want to entirely do away with the environmental improvement program being a separate program. However, we want all the components of the environmental improvement program to remain unchanged even though it's being merged. Here is my proposed framework which hopefully will respond to your comments/concerns below.

### Green Tier Initiative

Tier 1 - Intent is to encourage businesses to focus on self audits and self correction of environmental violations

- Include all concepts in the environmental improvement draft
- Allow participants be who did not find any violations in their audit be considered as participants in the program as well as long as they submit their audit/report to DNR for review.
- Also, in this tier, participants have the flexibility to conduct audits on any of their facilities. (Becky: In response to your comments below regarding concerns on the reporting all violations - under the environmental improvement program, if an entity submits the report/audit, the entity must reveal all violations discovered in the report/audit to DNR. In other words, the entity can't choose which violation to report. Am I correct? If so, this tier will require that the entity reveal all violations that are found under report/audit submitted)

*audits to report.*

*Under EIP person may choose which*

*Benefits:*

- For all participants - acceptance into the Green Tier program
- For participants who conduct an environmental audit every two years, submit their reports to the department, and correct any violations in good faith, the following:
  - numbered certificate of recognition
  - identification of the entity as a participant in Green Tier on the Department's Green Tier web site
  - identification of the entity as a participant in Green Tier in news releases that the Department will issue to local newspapers at least annually; and
  - use of the green tier logo for public relations such as newsletters and brochures.

Tier 2 - Intent is to encourage businesses to establish a comprehensive environmental system and self audit

- Keep all current concepts in the draft
- Include language similar to proposed language s. 299.85 (3), (3m), (5), (6), (6m), (7), (8), (9), and (10) under the environmental improvement program

**Note:** As mentioned in my previous email, I was confused as to what happens to a participant of Green Tier 1 if an environmental audit discovered any environmental violations (minor or major). I talked to Jeff Smoller from DNR on Friday about this and he said the Green Tier advisory committee has envisioned a process same as the one in statutes for the environmental cooperation pilot program, particularly s. 299.80 (12), (13), (14), and (15). I read through these statutes and they seem to be pretty much the same as the language in the draft for the environmental improvement program. As least in concept, they seem to be the same except for the requirements of proposed penalties and public notice and comments. Please incorporate the ideas of penalties, public notice, and public hearing into this section so it is consistent with tier 1.

- Becky: As currently drafted, participants in this tier must submit an audit every year to the department. As such, they will have to reveal all violations found in the report to the department. Am I correct?

*Benefits:*

- Please put in all benefits listed in the paper "Concepts for Green Tier Legislation" for this tier of the program
- In the concept paper, DNR states that it will reduce the frequency of inspection within each media specific program as a benefit to the participant.

Tier 3 - Intent is to encourage businesses to go beyond compliance and self audit

- Keep all current concepts in the draft
- Instead of the process utilized in tier 1 and 2 (i.e., proposed language s. 299.84 (3) under the environmental improvement program), a performance contract be the avenue used to address issues such as environmental violations.

*Benefits:*

- Please put in all benefits listed in the paper "Concepts for Green Tier Legislation" for this tier of the program.

Note: Participation in any tier is not dependent on participation in other tiers. Anyone can choose to participate in any tier as long as they meet the specified criteria. In my past email, I have indicated the possibility that tier 1 participation be a prerequisite to other tiers. After you comments, I decided to toss the idea. And I think what I proposed here now should work. Let me know if you see any inconsistencies or problematic areas. I think if I see something drafted up, I would be better able to identify problems. For now please go ahead with my instructions. I don't think we should wait for DNR. At this point in time, I am not relying on DNR's responses as they never give them to me in a timely manner. DOA will be making all needed changes and decisions from now on.

Let me know if you have questions. I will be here till 3:30 p.m. today if you need to call me.

Thanks.  
Manyee

-----Original Message-----

**From:** Tradewell, Becky  
**Sent:** Friday, January 26, 2001 1:11 PM  
**To:** Wong, Manyee  
**Subject:** RE: Green tier and EIP

Manyee,

I guess that I will enter a new request so that we have both versions available. I am not certain whether I should actually start drafting a "merged" version until I have a better idea about what the response is to the green tier preliminary draft. Otherwise, I will end up having to make changes to both drafts. But I will give some more thought on how to merge the programs.

In the merged version, do you want to do away with EIP as a separate program entirely? You should know, I think, that last session the EIP draft was the result of extensive negotiations between various parties and, as numerous changes would seem to be necessary to merge the programs, I am not certain what those parties reactions would be to the merger. For example, if the draft requires entities to report all violations (rather than just the ones they choose to report), that would be a big change

I am not sure that I made this clear before, I think that green tier already has the self-audit concept in it. Therefore, I am not certain that any changes need to be made to green tier to get self-audit into it. Or, relatively easily, the self-audit aspects of green tier could be expanded. But merging LRB-1830 and LRB-2109 is a different matter.

Please see my additional comments below (in red).

Becky

-----Original Message-----

**From:** Wong, Manyee  
**Sent:** Friday, January 26, 2001 11:32 AM  
**To:** Tradewell, Becky  
**Subject:** RE: Green tier and EIP

*Based on ASA 3 to 1999 AB 356*

DOA:.....Wong - Environmental improvement program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** an environmental improvement program, environmental  
 2 performance evaluations, environmental management programs, providing  
 3 immunity from civil penalties for certain violations of environmental  
 4 requirements, access to certain information, and providing a penalty.

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**OTHER ENVIRONMENT**

This bill creates the environmental improvement program, administered by DNR, under which a participant may be able to avoid forfeitures (civil monetary penalties) for an environmental violation that the participant reports to DNR.

A public or private entity that is subject to environmental laws (regulated entity) may participate in the environmental improvement program if the regulated entity satisfies several requirements. To participate, a regulated entity must conduct an environmental performance evaluation that satisfies requirements specified in the bill or have an environmental management system that satisfies requirements specified in the bill. An environmental performance evaluation is a systematic and objective review of the effects of a facility on the environment, including an evaluation of compliance with one or more environmental laws. An environmental management system is a set of procedures designed to evaluate the effects of a facility on the environment and to achieve improvements in those effects.



To participate in the program, the regulated entity must submit a report to DNR describing the results of the environmental performance evaluation or describing findings from the environmental management system. At the time of submitting the report, more than two years must have elapsed since the regulated entity was prosecuted or issued a citation for violating an environmental law. The report must describe all violations of environmental laws revealed by the environmental performance evaluation or environmental management system and the actions taken or proposed to be taken to correct the violations. If the regulated entity proposes to take more than 90 days to correct the violations, the regulated entity must submit a proposed compliance schedule and proposed penalties that the regulated entity would agree to accept (stipulated penalties) if it violates the compliance schedule.

The bill requires DNR to provide public notice and a period for public comment on any compliance schedule and stipulated penalties proposed by a regulated entity. After that period, DNR may approve the compliance schedule as submitted or propose a different compliance schedule. If the parties cannot agree on a compliance schedule, DNR may impose a compliance schedule, which may be appealed by the regulated entity. DNR also reviews proposed stipulated penalties. If the parties cannot agree on stipulated penalties, there are no stipulated penalties.

The bill generally prohibits this state from beginning an action to collect a forfeiture for a violation of an environmental law that is disclosed by a regulated entity that satisfies the requirements for participation in the environmental improvement program for at least 90 days after DNR receives the report of the violation. Similarly, the bill generally prohibits the state from beginning an action to collect a forfeiture while a regulated entity is complying with a compliance schedule. If the regulated entity corrects the violation within the 90-day period or within the time provided in the compliance schedule, the bill generally prohibits the state from bringing an action to collect forfeitures for the violation. If a regulated entity violates a compliance schedule, and there are stipulated penalties, the regulated entity must pay the stipulated penalties. The bill authorizes this state to begin an action to collect forfeitures from a regulated entity that satisfies the requirements for participation in the environmental improvement program at any time under several circumstances, including cases in which a violation presents an imminent threat or may cause serious harm to public health or the environment or in which DNR discovers the violation before the regulated entity reports the violation.

The bill does not prevent the state from prosecuting a criminal violation by a regulated entity that qualifies for participation in the environmental improvement program, but the bill requires DNR and DOJ to take into account the efforts of the regulated entity to comply with environmental laws in deciding whether to begin a criminal enforcement action and what penalty should be sought.

TODAY

*Very slow*

DOA:.....Wong - Green tier initiative

*(will be more text here)*

*LPS: redo this header to reflect request sheet*

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

*Note*

*inserts*

*Do NOT GEN*

1 AN ACT...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 15.347 (3) of the statutes is created to read:

3 15.347 (3) GREEN TIER COUNCIL. There is created in the department of natural  
4 resources a green tier council consisting of 15 members appointed by the secretary  
5 of natural resources. The secretary shall appoint members representing  
6 environmental organizations, businesses, and local governmental units.

\*\*\*\*NOTE: We usually specify a specific number of members to make it easier to keep track of membership and vacancies. Please let me know if you would prefer a different number of members or if you would like to specify the length of terms.

7 SECTION 2. 20.143 (1) (eg) of the statutes is created to read:

1 20.143 (1) (eg) *Green tier and environmental management system grants.*  
 2 Biennially, the amounts in the schedule for green tier and environmental  
 3 management system grants under s. 560.125.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 SECTION 3. 299.83 of the statutes is created to read:

5 **299.83 Green tier program. (1) DEFINITIONS.** In this section:

✓  
Insert  
2-5

6 (a) <sup>am</sup> "Covered facility or activity" means a facility or activity that is included, or  
 7 intended to be included, in the green tier program.

8 (b) "Environmental management system" means an organized set of  
 9 procedures to evaluate environmental performance and to achieve measurable or  
 10 noticeable improvements in that environmental performance through planning and  
 11 changes in operations.

12 (c) "Environmental performance," unless otherwise qualified, means the  
 13 effects, whether regulated under chs. 160 and 280 to 299 or unregulated, of a facility  
 14 or activity on air, water, land, natural resources, and human health.

✓  
Insert  
2-14 (From 2109)

15 (d) "Environmental requirement" means a requirement in chs. 160 or 280 to  
 16 299, a rule promulgated under one of those chapters, or a permit, license, other  
 17 approval, or order issued by the department under one of those chapters.

18 (e) "Green tier contract" means a contract entered into by the department and  
 19 a participant in ~~covered~~ <sup>tier III</sup> of the green tier program, and that may be signed by other  
 20 interested parties, that specifies the participant's commitment to superior  
 21 environmental performance and the incentives to be provided to the participant.

22 (f) "Green tier program" means the program under this section.

23 (g) "Superior environmental performance" means one of the following:

✓  
Insert  
2-22 (From 2109)

1           1. That an entity limits the discharges or emissions of pollutants from, or in  
2 some other way minimizes the negative effects on air, water, land, natural resources,  
3 or human health of, a facility that is owned or operated by the entity or an activity  
4 that is performed by the entity to an extent that is greater than is required by  
5 applicable environmental requirements.

6           2. That an entity minimizes the negative effects on air, water, land, natural  
7 resources, or human health of the raw materials used by the entity or the products  
8 or services produced or provided by the entity to an extent that is greater than is  
9 required by applicable environmental requirements.

10           3. That an entity voluntarily engages in restoring or preserving natural  
11 resources.

12           4. That an entity helps other entities to comply with environmental  
13 requirements or to accomplish the results described in subd. 1. or 2.

14           (h) "Violation" means a violation of an environmental requirement.

15           (2) ELIGIBLE PARTICIPANTS: Any public or private entity may apply to the  
16 department to participate in the green tier program. A group of public or private  
17 entities may together apply to the department to participate in the green tier  
18 program. An applicant for the green tier program shall identify the facilities or  
activities that it intends to include in the program.

Inserts  
3-19 from 1109  
3-19-A

19           (5) ELIGIBILITY FOR <sup>seek to</sup> ~~participation~~ <sup>Any regulated entity may participate in tier I of the green tier program.</sup>  
20           (a) An applicant is eligible for <sup>tier II or tier III of</sup> level <sup>tier II</sup> one of the  
21 green tier program if the applicant satisfies the requirements in pars. (b) to (d). If  
22 an applicant consists of a group of private entities, each requirement in pars. (b) to  
23 (d) applies to each entity in the group.

24           (b) <sup>Use upper case for the Roman numeral</sup> To be eligible to participate in <sup>tier II</sup> level one, an applicant shall demonstrate all  
25 of the following:

1           1. That, within 60 months before the date of application, no judgment of  
2 conviction was entered against the applicant, any managing operator of the  
3 applicant, or any person with a 25% or more ownership interest in the applicant for  
4 a criminal violation involving a covered facility or activity that resulted in  
5 substantial harm to public health or the environment or that presented an imminent  
6 threat to public health or the environment.

7           2. That, within 36 months before the date of application, no civil judgment was  
8 entered against the applicant, any managing operator of the applicant, or any person  
9 with a 25% or more ownership interest in the applicant for a violation involving a  
10 covered facility or activity that resulted in substantial harm to public health or the  
11 environment.

12           3. That, at the time of application, no case is pending for a violation involving  
13 a covered facility or activity that resulted in substantial harm to public health or the  
14 environment or that presented an imminent threat to public health or the  
15 environment.

16           (c) <sup>Environmental performance tier II</sup> To be eligible to participate in ~~level one~~, an applicant shall submit an  
17 application that describes all of the following:

18           1. The applicant's past environmental performance with respect to each  
19 covered facility or activity.

20           2. The applicant's current environmental performance with respect to each  
21 covered facility or activity.

22           3. The applicant's plans for activities that enhance the environment, such as  
23 improving the applicant's environmental performance with respect to each covered  
24 facility or activity.

① Environmental management system.  
(d) To be eligible to participate in <sup>tier II</sup> level one, an applicant shall do all of the

1  
2 following:

③ 1. <sup>Demonstrate that it has</sup> Have implemented, or commit itself to implementing within one year of  
4 application, for each covered facility or activity, an environmental management  
5 system that is all of the following:

6 a. Based on the standards for environmental management systems issued by  
7 the International Organization for Standardization or determined by the  
8 department to be functionally equivalent to an environmental management system  
9 that is based on those standards.

10 b. Determined by the department to be appropriate to the nature, scale, and  
11 environmental impacts of the applicant's operations related to each covered facility  
12 or activity.

13 2. Include, in the environmental management system under subd. 1., goals in  
14 at least 2 of the following areas:

15 a. Improving the environmental performance of the applicant, with respect to  
16 each covered facility or activity, in aspects of environmental performance that are  
17 regulated under chs. 160 and 280 to 299.

18 b. Improving the environmental performance of the applicant, with respect to  
19 each covered facility or activity, in aspects of environmental performance that are not  
20 regulated under chs. 160 and 280 to 299.

21 c. Voluntarily restoring or preserving natural resources.

22 3. Explain to the department the rationale for the choices of goals under subd.  
23 2. and describe any consultations with residents of the areas in which each covered  
24 facility or activity is located or performed and with other interested persons  
25 concerning those goals.

1 4. Conduct, or commit itself to conducting, annual audits of the environmental  
 2 management system under subd. 1., with every 3rd audit performed by an outside  
 3 auditor approved by the department, and commit itself to submitting an annual  
 4 report on the audit to the department.

5 5. Commit itself to submitting to the department an annual report on progress  
 6 toward meeting the goals under subd. 2.

7 (1) <sup>CS</sup> ~~PROCESS FOR LEVEL ONE~~ <sup>tier II</sup> (a) Upon receipt of an application for participation  
 8 in ~~level one~~ <sup>tier II</sup> of the green tier program, the department shall provide public notice  
 9 about the application in the area in which each covered facility or activity is located  
 10 or performed.

11 (b) After providing public notice under par. (a) about an application, the  
 12 department may hold a public informational meeting on the application.

13 (c) The department shall approve or deny an application within 60 days after  
 14 providing notice under par. (a) or, if the department holds a public informational  
 15 meeting under par. (b), within 60 days after that meeting. The department may limit  
 16 the number of participants in ~~level one~~ <sup>tier II</sup> of the green tier program, or limit the extent  
 17 of participation by a particular applicant, based on the department's determination  
 18 that the limitation is in the best interest of the green tier program.

19 (d) A decision by the department <sup>CS</sup> under par. (c) to approve or deny an  
 20 application is not subject to review under ch. 227.

Insert 6-20 →

21 (1) <sup>CS</sup> ~~ELIGIBILITY FOR LEVEL ONE~~ <sup>tier III</sup> (a) An applicant is eligible for ~~level one~~ <sup>tier III</sup> of the green  
 22 tier program if the applicant satisfies the requirements in pars. (b) to (d). If an  
 23 applicant consists of a group of public or private entities, each requirement in pars.  
 24 (b) to (d) applies to each entity in the group.

use upper case for Roman numerals

general.

Ⓢ Enforcement record.

tier III

1

(b) To be eligible to participate in level 2, an applicant shall demonstrate all of the following:

2  
3 1. That, within 120 months before the date of application, no judgment of  
4 conviction was entered against the applicant, any managing operator of the  
5 applicant, or any person with a 25% or more ownership interest in the applicant for  
6 a criminal violation involving a covered facility or activity that resulted in  
7 substantial harm to public health or the environment or that presented an imminent  
8 threat to public health or the environment.

9 2. That, within 60 months before the date of application, no civil judgment was  
10 entered against the applicant, any managing operator of the applicant, or any person  
11 with a 25% or more ownership interest in the applicant for a violation involving a  
12 covered facility or activity that resulted in substantial harm to public health or the  
13 environment.

14 3. That, at the time of application, no case is pending for a violation involving  
15 a covered facility or activity that resulted in substantial harm to public health or the  
16 environment or that presented an imminent threat to public health or the  
17 environment.

Ⓢ Environmental management system.

tier III

18

(c) To be eligible to participate in level 2, an applicant shall do all of the following:

20 1. Demonstrate that it has implemented for each covered facility or activity, an  
21 environmental management system that is all of the following:

22 a. Based on the standards for environmental management systems issued by  
23 the International Organization for Standardization or determined by the  
24 department to be functionally equivalent to an environmental management system  
25 that is based on those standards.



1 b. Determined by the department to be appropriate to the nature, scale, and  
2 environmental impacts of the applicant's operations related to to each covered  
3 facility or activity.

4 2. Commit itself to having an outside auditor approved by the department  
5 conduct annual audits of the environmental management system under subd. 1. and  
6 to submitting an annual report on the audit to the department.

7 3. Commit itself to annually conducting an audit of compliance with  
8 environmental requirements that are applicable to the covered facilities and to  
9 submitting the results of the audit to the department.

10 (d) <sup>Ⓢ Superior environmental performance = tier III</sup> To be eligible to participate in ~~level 2~~, an applicant shall demonstrate a  
11 record of superior environmental performance, and describe the measures that it  
12 proposes to take to maintain <sup>Ⓢ</sup> and improve its superior environmental performance.

13 (a) <sup>Ⓢ Letter of intent. tier III</sup> To apply for participation in ~~level 2~~ of the green  
14 tier program, an entity shall submit a letter of intent to the department. In addition  
15 to providing information necessary to show that the applicant satisfies the  
16 requirements in sub. <sup>Ⓢ</sup> (a), the applicant shall do all of the following in the letter of  
17 intent:

18 1. Describe the involvement of interested persons in developing the proposal  
19 for maintaining or improving the applicant's superior environmental performance,  
20 identify the interested persons, and describe the interests that those person have in  
21 the applicant's participation in the green tier program.

22 2. Outline the provisions that it proposes to include in the green tier contract.

23 (b) <sup>Ⓢ Limitation.</sup> The department may limit the number of letters of intent that it processes  
24 based on the staff resources available.

① Notice.

1 (c) When the department decides to process a letter of intent, the department  
2 shall provide public notice about the letter of intent in the area in which each covered  
3 facility or activity is located or performed.

② Public meeting.

4 (d) After providing public notice under par. (c) about a letter of intent, the  
5 department may hold a public informational meeting on the letter of intent.

③ Request to participate.

6 (e) Within 30 days after the public notice under par. (c), interested persons may  
7 request ~~the~~ <sup>that the</sup> department ~~to~~ grant authorization to participate in the negotiations  
8 under par. (f). A person who makes a request under this paragraph shall describe  
9 the person's interests in the issues raised by the letter of intent. The department  
10 shall determine whether a person who makes a request under this paragraph may  
11 participate in the negotiations under par. (f) based on whether the person has  
12 demonstrated sufficient interest in the issues raised by the letter of intent to warrant  
13 that participation.

④ Negotiations.

14 (f) If the department determines that an applicant satisfies the requirements  
15 in sub. (f), the department may begin negotiations concerning a green tier contract  
16 with the applicant and with any persons to whom the department granted  
17 permission under par. (e). The department may begin the negotiations no sooner  
18 than 30 days after providing public notice under par. (c) about the applicant's letter  
19 of intent.

⑤ Termination of negotiations.

20 (g) The department may terminate negotiations with an applicant concerning  
21 a green tier contract and the decision to terminate negotiations is not subject to  
22 review under ch. 227.

⑥ Notice of proposed contract.

23 (h) If negotiations under par. (f) result in a proposed green tier contract, the  
24 department shall provide public notice about the proposed green tier contract in the  
25 area in which each covered facility or activity is located or performed.

① Meeting on proposed contract.

1 (i) After providing public notice under par. (h) about a proposed green tier  
2 contract, the department may hold a public informational meeting on the proposed  
3 green tier contract.

② Green tier contract.

4 (j) Within 30 days after providing notice under par. (h) or, if the department  
5 holds a public informational meeting under par. (i), within 30 days after that  
6 meeting, the department shall decide whether to enter into a green tier contract with  
7 an applicant. In a green tier contract, the department shall require that the  
8 participant maintain the environmental management system described in sub. (h)  
9 (c) 1. and abide by the commitments in sub. (h) (c) 2. and 3. The department shall  
10 ensure that the incentives provided under a green tier contract are proportional to  
11 the environmental benefits that will be provided by the participant under the green  
12 tier contract. The department shall include in a green tier contract remedies that  
13 apply if a party to the contract fails to comply with the contract. The term of a green  
14 tier contract is 5 years, with opportunity for renewal for additional 5 year terms upon  
15 agreement of the parties.

③ Review of decision.

16 (k) Notwithstanding s. 227.42, there is no right to an administrative hearing  
17 on the department's decision to enter into a contract under par. (j), but the decision  
18 is subject to judicial review.

⑩ ⑥

19 (a) SUSPENSION OR TERMINATION OF PARTICIPATION. The department may  
20 suspend or revoke the participation of a participant in the green tier program at the  
21 request of the participant.

22 (b) The department may terminate the participation of a participant in the  
23 green tier program if a judgment is entered against the participant, any managing  
24 operator of the participant, or any person with a 25% or more ownership interest in  
25 the participant for a criminal or civil violation involving a covered facility or activity

1 that resulted in substantial harm to public health or the environment or that  
2 presented an imminent threat to public health or the environment.

3 (c) The department may suspend the participation of a participant in the green  
4 tier program if the department determines that the participant, any managing  
5 operator of the participant, or any person with a 25% or more ownership interest in  
6 the participant committed a criminal or civil violation involving a covered facility or  
7 activity that resulted in substantial harm to public health or the environment or that  
8 presented an imminent threat to public health or the environment and the  
9 department refers the matter to the department of justice for prosecution.

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10 (d) The department may suspend or revoke the participation of a green tier  
11 participant in ~~level one~~ <sup>tier #</sup> if the participant does not implement, or fails to maintain,  
12 the environmental management system described in sub. (d) 1., fails to conduct  
13 annual audits described in sub. (d) 4., or fails to submit annual reports described  
14 in sub. (d) 5.

11  
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13  
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15 (e) The department may, after an opportunity for a hearing, revoke a green tier  
16 contract if the department determines that the participant is in substantial  
17 noncompliance with the green tier contract.

18 (f) A person who is not a party to a green tier contract, but who believes that  
19 a participant is in substantial noncompliance with a green tier contract, may ask the  
20 department to revoke a green tier contract under par. (e).

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21 (8) POWERS AND DUTIES OF THE DEPARTMENT. (a) To facilitate the process under  
22 sub. (f), the department shall develop model terms that may be used in green tier  
23 contracts.

24 (b) After consultations with interested persons, the department shall annually  
25 establish a list identifying aspects of superior environmental performance that the

1 department will use to identify which letters of intent it will process under sub. (f)  
2 in the following year and the order in which it will process the letters of intent.

3 (c) The department may promulgate rules for the administration of the green  
4 tier program. In the rules, the department may specify incentives that are consistent  
5 with federal laws and other state laws, and that the department may provide to  
6 participants in the green tier program.

7 (d) The department shall encourage small businesses, agricultural  
8 organizations, entities that are not subject to environmental requirements, local  
9 governments, and other entities to form groups to work cooperatively on projects to  
10 achieve superior environmental performance.

11 → # (dm) The department shall select a logo for the green tier program.  
12 (e) The department shall consult with the green tier council about the operation  
13 of the green tier program, priorities for the green tier program, and evaluation of the  
14 green tier program.

15 (f) The department and the department of commerce shall jointly provide  
16 information about environmental management systems to potential participants in  
17 the green tier program and to other interested persons. The department shall  
18 consult with the department of commerce about the administration of the green tier  
19 program.

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12-1-00  
From 20-2109

SECTION 4. 560.125 of the statutes is created to read:

**560.125 Green tier and environmental management system grant**

21 **program.** (1) The department shall make grants from the appropriation under s.  
22 20.143 (1) (eg) to nongovernmental organizations to help those organizations develop  
23 the ability to participate as interested persons in the green tier program under s.  
24 299.83. The department shall allocate at least \$150,000 per year for grants under  
25 this subsection.



For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 299.85 of the statutes is created to read:

**299.85 Environmental improvement program. (1) DEFINITIONS.** In this section:

(a) "Environmental management system" means an organized set of procedures implemented by the owner or operator of a facility to evaluate the environmental performance of the facility and to achieve measurable or noticeable improvements in that environmental performance through planning and changes in the facility's operations.

(am) "Environmental performance" means the effects of a facility on air, water, land, natural resources, and human health.

<sup>(M)</sup> (b) "Environmental performance evaluation" means a systematic, documented, and objective review, conducted by or on behalf of the owner or operator of a facility, of the environmental performance of the facility, including an evaluation of compliance with one or more environmental requirements.

(c) "Environmental requirement" means a requirement in any of the following:

1. Chapters 160 or 280 to 299, a rule promulgated under one of those chapters, or a permit, license, other approval, or order issued by the department under one of those chapters.

2. An ordinance or other legally binding requirement of a local governmental unit enacted under authority granted by a state law relating to environmental protection.

✓  
Insert  
2-14

✓

Use upper case for Roman numeral

1 (d) "Facility" means all buildings, equipment, and structures located on a  
2 single parcel or on adjacent parcels that are owned or operated by the same person.

3 (e) "Local governmental unit" means a city, village, town, county, town sanitary  
4 district, or metropolitan sewerage district.

Insert  
2-22

(f) "Regulated entity" means a public or private entity that is subject to environmental requirements

tier I of the green tier

Insert  
3-198

(g) ~~Requirements for participation~~ A regulated entity ~~participates in the environmental improvement program~~ <sup>is eligible</sup> for participation in the environmental improvement program with respect to a facility owned or operated by the regulated entity if all of the following apply:

10 (1.) The regulated entity conducts an environmental performance evaluation of  
11 the facility or submits findings from the facility's environmental management  
12 system.

13 (2.) If the regulated entity conducts an environmental performance evaluation,  
14 the regulated entity notified the department in writing, no fewer than 30 days before  
15 beginning an environmental performance evaluation, of the date on which the  
16 environmental performance evaluation would begin, the site or facility or the  
17 operations or practices at a site or facility to be reviewed, and the general scope of  
18 the environmental performance evaluation.

19 (3.) If the regulated entity conducts an environmental performance evaluation,  
20 the environmental performance evaluation complies with ~~sub (4)~~ <sup>par. (d)</sup> ✓

21 (4.) If the regulated entity submits findings from the facility's environmental  
22 management system, the environmental management system complies with ~~sub (5)~~ <sup>par. (e)</sup> ✓

23 (5.) The regulated entity submits a report as required under ~~sub (6)~~ <sup>par. (b)</sup> ✓

24 (6.) At the time of submitting a report under ~~sub (8)~~ <sup>par. (b)</sup> ✓  
25 has not, within 2 years, filed a suit to enforce an environmental requirement, and the

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Insert 3-19, continued

tier I of the green tier

1 department ~~or a local governmental unit~~ has not, within 2 years, issued a citation  
 2 to enforce an environmental requirement, because of a violation ~~of an environmental~~  
 3 ~~requirement~~ involving the facility.  
 4 ~~(b)~~ <sup>(b)</sup> ~~REPORT~~ <sup>NOCS I</sup> To participate in ~~the environmental improvement~~ program with  
 5 respect to a facility, a regulated entity that owns or operates the facility shall submit  
 6 a report to the department within 45 days after the date of the final written report  
 7 of findings of an environmental performance evaluation of the facility or within 45  
 8 days after the date of findings from the facility's environmental management system,  
 9 ~~if the findings identify a violation of an environmental requirement.~~ The report shall  
 10 include all of the following:

11 <sup>1.a.</sup> ~~(a)~~ If the regulated entity conducted an environmental performance  
 12 evaluation, a description of the environmental performance evaluation, including  
 13 the person who conducted the environmental performance evaluation, when it was  
 14 completed, what activities and operations were examined, and what was revealed by  
 15 the environmental performance evaluation.

16 <sup>(b)</sup> ~~(a)~~ If the regulated entity submits findings from an environmental management  
 17 system, a description of the environmental management system, of the activities and  
 18 operations covered by the environmental management system, and of who made the  
 19 findings and when the findings were made.

20 <sup>2.</sup> ~~(b)~~ <sup>If any</sup> A description of ~~all violations~~ <sup>were</sup> of environmental requirements revealed by  
 21 the environmental performance evaluation or the environmental management  
 22 <sup>a description of those violations</sup> system, and of the length of time that the violations may have continued.

23 <sup>3.</sup> ~~(c)~~ A description of actions taken or proposed to be taken to correct ~~the~~ <sup>any</sup>  
 24 violations of ~~environmental requirements~~ <sup>described in subd. 2</sup>



Insert 3-19, continued

① ¶ (4) (d) A commitment to correct <sup>any</sup> the violations of ~~environmental requirements~~  
 ② identified in subd. 2.  
 ③ within 90 days of submitting the report or according to a compliance schedule  
 ④ approved by the department.

④ ¶ (5) (e) If the regulated entity proposes to take more than 90 days to correct ~~the~~  
 ⑤ violations of ~~environmental requirements~~, a proposed compliance schedule that  
 ⑥ contains the shortest reasonable periods for correcting the violations of  
 ⑦ ~~environmental requirements~~, a statement that justifies the proposed compliance  
 ⑧ schedule, and a description of measures that the regulated entity will take to  
 ⑨ minimize the effects of the violations of ~~environmental requirements~~ during the  
 ⑩ period of the compliance schedule.

⑪ ¶ (6) (em) If the regulated entity proposes to take more than 90 days to correct ~~the~~  
 ⑫ violations of ~~environmental requirements~~, the proposed stipulated penalties to be  
 ⑬ imposed if the regulated entity violates the compliance schedule under ~~part (e)~~. subcl. 5 ✓

⑭ ¶ (7) (f) A description of the measures that the regulated entity has taken or will take  
 ⑮ to prevent future violations of ~~environmental requirements~~ and a timetable for  
 ⑯ taking the measures that it has not yet taken. no CS I ✓

⑰ ¶ (3) (c) ~~Public Notice; Comment Period.~~ 1. The department shall provide at least  
 ⑱ 30 days for public comment on a compliance schedule and stipulated penalties  
 ⑲ proposed in a report under ~~sub (3)~~ par. (b) ✓. The department may not approve or issue a  
 ⑳ compliance schedule under ~~sub (6)~~ par. (4) ✓ or approve stipulated penalties under ~~sub (6)~~ par. (g) ✓  
 ㉑ until after the end of the comment period.

㉒ ¶ (2) (b) Before the start of the public comment period under ~~part (a)~~ subcl. 1. ✓, the department  
 ㉓ shall provide public notice of the proposed compliance schedule and stipulated  
 ㉔ penalties that does all of the following:



*Insert 3-19, continued*

- 1 (1) ¶ (a) <sup>par. (b)</sup> Identifies the regulated entity that submitted the report under ~~sub (a)~~, the
- 2 facility at which the violation occurred, and the nature of the violation.
- 3 (3) ¶ (b) <sup>2</sup> Describes the proposed compliance schedule and the proposed stipulated
- 4 penalties.
- 5 (5) ¶ (c) <sup>2</sup> Identifies an employee of the department and an employee of the regulated
- 6 entity who may be contacted for additional information about the proposed
- 7 compliance schedule and the proposed stipulated penalties.
- 8 (8) ¶ (d) <sup>2</sup> States that comments concerning the proposed compliance schedule and the
- 9 proposed stipulated penalties may be submitted to the department during the
- 10 comment period and states the last date of the comment period. <sup>no CS I</sup>

11 ¶ (d) ENVIRONMENTAL PERFORMANCE EVALUATION. If a regulated entity conducts an

12 environmental performance evaluation under <sup>par. (a) 1.</sup> ~~sub (2)(a)~~ <sup>(3) CS I</sup> the regulated entity does

13 not qualify for participation in <sup>tier I of the green tier</sup> ~~the environmental improvement~~ program unless the

14 final written report of findings of the environmental performance evaluation is

15 labeled "environmental performance evaluation report," is dated, and, if the

16 environmental performance evaluation identifies violations of ~~environmental~~

17 ~~requirements~~, includes a plan for corrective action. A regulated entity may use a

18 form developed by the regulated entity, by a consultant, or by the department for the

19 final written report of findings of the environmental performance evaluation.

20 ¶ (e) <sup>change to</sup> ~~ENVIRONMENTAL MANAGEMENT SYSTEM~~ <sup>no CS I</sup>. If a regulated entity submits findings

21 from the facility's environmental management system under <sup>par. (a) 1.</sup> ~~sub (2)(a)~~ <sup>(3) CS I</sup> the

22 regulated entity does not qualify for participation in <sup>tier I of</sup> ~~the environmental~~

23 <sup>green tier</sup> ~~improvement~~ program unless the regulated entity's efforts to prevent, detect, and

24 correct violations of ~~environmental requirements~~ are appropriate to the size of the

25 regulated entity and to the nature of its business and are consistent with any criteria

*↓*

*Insert 3-19, continued*

1 used by the federal environmental protection agency to define due diligence in  
2 federal audit policies or regulations.

*no CS I*

*par.(b)*

3 *(f)* ~~(a)~~ COMPLIANCE SCHEDULES. *(a)* If the department receives a report under *sub.*  
4 ~~(a)~~ that contains a proposed compliance schedule under *sub. (3) (e)*, the department  
5 shall review the proposed compliance schedule. The department may approve the  
6 compliance schedule as submitted or propose a different compliance schedule. If the  
7 regulated entity does not agree to implement a compliance schedule proposed by the  
8 department, the department shall schedule a meeting with the regulated entity to  
9 attempt to reach an agreement on a compliance schedule. If the department and the  
10 regulated entity do not reach an agreement on a compliance schedule, the  
11 department may issue a compliance schedule. A compliance schedule under this  
12 *paragraph* ~~subsection~~ is subject to review under ch. 227.

13 *(b)* ~~(a)~~ The department may not approve or issue a compliance schedule that  
14 extends longer than 12 months beyond the date of approval of the compliance  
15 schedule. The department shall consider the following factors in determining  
16 whether to approve a compliance schedule:

17 *(a)* ~~(a)~~ The environmental and public health consequences of the violations.

18 *(b)* ~~(a)~~ The time needed to implement a change in raw materials or method of  
19 production if that change is an available alternative to other methods of correcting  
20 the violations.

21 *(c)* ~~(a)~~ The time needed to purchase any equipment or supplies that are needed to  
22 correct the violations.

*no CS I*

23 *(g)* ~~(a)~~ STIPULATED PENALTIES. *(a)* If the department receives proposed stipulated  
24 penalties under *sub. (3) (e)*, the department shall review the proposed stipulated  
25 penalties. The department may approve the stipulated penalties as submitted or



Insert 3-19, continued

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1 propose different stipulated penalties. If the regulated entity does not agree to  
2 stipulated penalties proposed by the department, the department shall schedule a  
3 meeting with the regulated entity to attempt to reach an agreement on stipulated  
4 penalties. If no agreement is reached, there are no stipulated penalties for violations  
5 of the compliance schedule.

subd. 1. ✓

6 (2) Stipulated penalties approved under ~~part (a)~~ shall specify a period, not  
7 longer than 6 months beyond the end of the compliance schedule, during which the  
8 stipulated penalties will apply.

Ⓡ Deferred civil enforcement.

Incentives for tier I.

9 (4) ~~(2) DEFERRED CIVIL ENFORCEMENT~~ (a) 1. For at least 90 days after the  
10 department receives a report that meets the requirements in sub. (3), this state may  
11 not begin a civil action to collect forfeitures for violations of ~~environmental~~  
12 ~~requirements~~ that are disclosed in the report by a regulated entity that qualifies  
13 under sub. (3)(a) for participation in the ~~environmental improvement~~ program.  
*tier I of green tier*

14 (b) If the regulated entity corrects violations that are disclosed by a regulated  
15 entity that qualifies under sub. (3)(a) for participation in the ~~environmental~~  
16 ~~improvement~~ program in a report that meets the requirements of sub. (3) within 90  
17 days after the department receives a report that meets the requirements of sub. (3),  
18 this state may not bring a civil action to collect forfeitures for the violations.

19 (c) This state may not begin a civil action to collect forfeitures for violations  
20 covered by a compliance schedule that is approved under sub. (6) during the period  
21 of the compliance schedule if the regulated entity is not violating the compliance  
22 schedule. If the regulated entity violates the compliance schedule, the department  
23 may collect any stipulated penalties during the period in which the stipulated  
24 penalties apply. This state may begin <sup>a</sup> civil action to collect forfeitures for violations  
25 of ~~environmental requirements~~ that are not corrected by the end of the period in



Insert 3-19, continued

1 which the stipulated penalties apply. If the regulated entity violates the compliance  
2 schedule and there are no stipulated penalties, this state may begin a civil action to  
3 collect forfeitures for the violations.

(3)(f) ✓

4 ¶ (d. A) If the department approves a compliance schedule under sub. (6) and the  
5 regulated entity corrects the violations according to the compliance schedule, this  
6 state may not bring a civil action to collect forfeitures for the violations.

7 ¶ (2. (b)) Notwithstanding ~~partly~~ <sup>subd. 1. ✓</sup> this state may at any time begin a civil action to  
8 collect forfeitures for violations of ~~environmental requirements~~ if any of the following  
9 apply:

10 ¶ (a. ~~1. a.~~) The violations present an imminent threat to public health or the  
11 environment or may cause serious harm to public health or the environment.

12 ¶ (b. ~~1. b.~~) The department discovers the violations before submission of a report under  
13 sub. (3) <sup>(b) ✓</sup>

14 ¶ (c. ~~1. c.~~) The violations resulted in a substantial economic benefit that gives the  
15 regulated entity a clear advantage over its business competitors.

16 ¶ (d. ~~1. d.~~) The violations are identified through monitoring or sampling required by  
17 permit, statute, rule, regulation, judicial or administrative order, or consent  
18 agreement.

no CS I

19 ¶ ~~(3)(b)~~ <sup>(b)</sup> CONSIDERATION OF ACTIONS BY REGULATED ENTITY. If the department receives  
20 a report that complies with sub. (3) <sup>(b) ✓</sup> from a regulated entity that qualifies under sub.  
21 <sup>(3)(a) ✓</sup> for participation in <sup>tier I of</sup> the ~~environmental improvement~~ <sup>green tier</sup> program, and the report  
22 discloses a potential criminal violation of ~~an environmental requirement~~, the  
23 department and the department of justice shall take into account the diligent actions  
24 of, and reasonable care taken by, the regulated entity to comply with environmental  
25 requirements in deciding whether to pursue a criminal enforcement action and what

↓

*Insert 3-17, continued*

1 penalty should be sought. In determining whether a regulated entity acted with due  
2 diligence and reasonable care, the department and the department of justice shall  
3 consider whether the regulated entity has demonstrated any of the following:

4 ¶ (1) (a) That the regulated entity took corrective action that was timely when the  
5 violation was discovered.

6 ¶ (2) (b) That the regulated entity exercised reasonable care in attempting to  
7 prevent the violation and to ensure compliance with environmental requirements.

8 ¶ (3) (c) That the regulated entity had a documented history of good faith efforts to  
9 comply with environmental requirements before implementing its environmental  
10 management system or before beginning to conduct environmental performance  
11 evaluations.

12 ¶ (4) (d) That the regulated entity has promptly made appropriate efforts to achieve  
13 compliance with environmental requirements since implementing its  
14 environmental management system or since beginning to conduct environmental  
15 performance evaluations and that action was taken with due diligence.

16 ¶ (5) (e) That the regulated entity exercised reasonable care in identifying violations  
17 in a timely manner.

18 ¶ (6) (f) That the regulated entity willingly cooperated in any investigation that was  
19 conducted by this state or a local governmental unit to determine the extent and  
20 cause of the violation.

21 ¶ (11) (g) ACCESS TO RECORDS. (a) Except as provided in par. (c), the department shall  
22 make any record, report, or other information obtained in the administration of this  
23 section available to the public.

24 (c) The department shall keep confidential any part of a record, report, or other  
25 information obtained in the administration of this section, other than emission data

*Insert  
11-2023**↓*

*Insert 11-20 continued*

1 or discharge data, upon a showing satisfactory to the department by any person that  
2 the part of a record, report, or other information would, if made public, divulge a  
3 method or process that is entitled to protection as a trade secret, as defined in s.  
4 134.90 (1) (c), of that person.

5 (d) If the department refuses to release information on the grounds that it is  
6 confidential under par. (c) and a person challenges that refusal, the department shall  
7 inform the affected regulated entity of that challenge. Unless the regulated entity  
8 authorizes the department to release the information, the regulated entity shall pay  
9 the reasonable costs incurred by this state to defend the refusal to release the  
10 information.

11 (e) Paragraph (c) does not prevent the disclosure of any information to a  
12 representative of the department for the purpose of administering this section or to  
13 an officer, employee, or authorized representative of the federal government for the  
14 purpose of administering federal law. When the department provides information  
15 that is confidential under par. (c) to the federal government, the department shall  
16 also provide a copy of the application for confidential status.

17 <sup>(B)</sup> (13) ~~(11)~~ PENALTY. (a) Any person who knowingly makes a false statement in a  
18 <sup>material</sup> report submitted under ~~sub (c)~~ <sup>(this section)</sup> shall be fined not less than \$10 nor more than  
\$10,000 or imprisoned for not more than 6 months or both.

20 (b) For purposes of this subsection, an act is committed knowingly if it is done  
21 voluntarily and is not the result of negligence, mistake, accident, or circumstances  
22 that are beyond the control of the person.

23 (END)

*Insert  
12-18*



2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2295/P1ins  
RCT:.....

**Insert 2-5**

(a) "Approval" means a permit, license, or other approval issued by the department under chs. 280 to 295. ✓

**Insert 3-19-A**

(c) *Recognition*. If a regulated entity conducts an environmental performance evaluation that complies with sub. (3) (d) in at least 2 consecutive years, submits a report that complies with sub. (3) (b) for each environmental performance evaluation, corrects any violations described in those reports, and otherwise is eligible under sub. (3) (a) for tier I of the green tier program, all of the following apply: ✓



1. The department shall issue to the regulated entity a numbered certificate of recognition. ✓
2. The department shall identify the regulated entity, on an Internet site maintained by the department, as a participant in tier I of the green tier program. ✓
3. The department shall annually provide notice of the regulated entity's status as a participant in tier I of the green tier program to newspapers in the area in which facilities operated by the regulated entity are located. ✓
4. The regulated entity may use a green tier logo selected by the department on written materials produced by the regulated entity. ✓

**Insert 6-20**

(7) INCENTIVES FOR TIER II. (a) The department shall issue a numbered certificate of recognition to each participant in tier II of the green tier program.

(b) The department shall identify each participant in tier II of the green tier program on an Internet site maintained by the department.

\*  
\*

(c) The department shall annually provide notice <sup>of the participation of</sup> that each participant in tier II of the green tier program ~~is a participant in tier II of the green tier program~~ to newspapers in the area in which each covered facility or activity is located.

(d) A participant in tier II of the green tier program may use a green tier logo selected by the department on written materials produced by the participant.

\*

(e) The department shall assign an <sup>employee of the department</sup> individual ~~to serve as the contact~~ for a participant in tier II (with the department) for any approvals that the participant is required to obtain and for technical assistance.

(f) After a participant in tier II implements an environmental management system that complies with sub. (5) (d) 1., the department shall conduct any inspections of the participant's covered facilities or activities that are required under chs. 280 to 295 at the lowest frequency permitted under those chapters, except that the department may conduct an inspection whenever it has reason to believe that a participant is out of compliance with a requirement in an approval.

**Insert 11-9**

~~(cm) The department may suspend or revoke the participation of a green tier participant in tier I of the green tier program if the participant ceases to satisfy the requirements in sub. (3) (a).~~

le

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2295/P1dn

RCT/.....

gjs

Manyee Wong:

This is preliminary version of the draft that folds the environmental improvement program proposal into green tier. Please review the entire draft very carefully.

I have tried to minimize the changes to what was EIP. I have modified it some so that an entity that is subject to environmental requirements but that does not have any violations to report may participate. Please note that EIP, and thus Tier I in this draft, does not require an environmental performance evaluation (which is the same (I think) as an environmental audit). Reports from an environmental management system may be used instead of an audit. ←

This draft adds the incentives from DNR's concept paper for tier II, but it does not make all of the changes that you requested to tier II. Tier II is structured so differently than EIP that it will be more difficult and time-consuming to combine them as you requested. Is it necessary? Please consider that, as drafted, an entity that wanted the deferred civil enforcement could participate in tier I and also in tier II if so desired. As I pointed out on Monday, level one in the DNR concept paper does not require audits of environmental performance, only audits of the EMS. It also does not require self-reporting of violations. If tier II is left more or less as is, it will allow green tier participation on the terms that the DNR concept paper contemplates for an entity that only wishes to participate in tier II, but it would also encourage self-reporting by offering the deferred enforcement incentives for tier I.

I will continue to work on language for the incentives for tier III, but there are also other things that I must work on.

Please let me know if you have questions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.statc.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2295/P1dn  
RCT:cjs:jf

January 31, 2001

Manyee Wong:

This is preliminary version of the draft that folds the environmental improvement program proposal into green tier. Please review the entire draft very carefully.

I have tried to minimize the changes to what was EIP. I have modified it some so that an entity that is subject to environmental requirements but that does not have any violations to report may participate. Please note that EIP, and thus tier I in this draft, does not require an environmental performance evaluation (which is the same (I think) as an environmental audit). Reports from an environmental management system may be used instead of an audit.

This draft adds the incentives from DNR's concept paper for tier II, but it does not make all of the changes that you requested to tier II. Tier II is structured so differently than EIP that it will be more difficult and time-consuming to combine them as you requested. Is it necessary? Please consider that, as drafted, an entity that wanted the deferred civil enforcement could participate in tier I and also in tier II if so desired. As I pointed out on Monday, level one in the DNR concept paper does not require audits of environmental performance, only audits of the EMS. It also does not require self-reporting of violations. If tier II is left more or less as is, it will allow green tier participation on the terms that the DNR concept paper contemplates for an entity that only wishes to participate in tier II, but it would also encourage self-reporting by offering the deferred enforcement incentives for tier I.

I will continue to work on language for the incentives for tier III, but there are also other things that I must work on.

Please let me know if you have questions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

## Tradewell, Becky

---

**From:** Wong, Manyee  
**Sent:** Wednesday, January 31, 2001 1:00 PM  
**To:** Tradewell, Becky  
**Subject:** Green Tier - 1830

Hi Becky,

Please revise the appropriation language to show that the funds will be coming out from the environmental fund rather than GPR. Lower the first-year dollar amount to \$100,000. Thanks.

Manyee

## Tradewell, Becky

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**From:** Wong, Manyee  
**Sent:** Wednesday, January 31, 2001 1:57 PM  
**To:** Tradewell, Becky  
**Subject:** Green Tier

Hi Becky,

Just want to let you know that I have received some comments/recommended changes from DNR. However, their comments are based on the initial draft. At this point, I don't want to compound the complexity of the redraft by sending their comments to you at this point. I will wait for the merged draft, review it carefully and see where DNR's comments fit in with the new merged draft. I will then decide which of DNR's requested changes are relevant to include and provide you with detail instructions.

Let me know if you don't think this will work.

Thanks.  
Manyee

## Tradewell, Becky

---

**From:** Wong, Manyee  
**Sent:** Thursday, February 01, 2001 6:20 PM  
**To:** Tradewell, Becky  
**Subject:** Green Tier Draft - 2295

Hi Becky,

Just to give you a heads up. I will be sending you edits for the Green Tier draft either tonight or tomorrow morning. I had to clarify with DNR some of their requested changes as well as other issues. They were having meetings on this the past two days, so I could not get back to you sooner. Most changes are technical, but not few.

Also, in response to your questions/comments on the draft, I now understand the difference between tier 2 and 3. I have the wrong impression apparently and was further confused by Jeff Smoller's references to the environmental cooperation pilot program and how they want that process to address environmental violations reported in tier 2. Anyway, long story. I think what you have in the draft is fine. An entity can participate in both programs and get the benefits of both processes.

Since the audit under tier 2 is for the EMS process, it does not require self-reporting of violations. Although, the audit of the EMS process itself may reveal some violations which then must be included in the report, right?. In this case, I am not sure how such violations will be handle. I assume it will be handle the same as the current law (i.e., penalties or civil action). I told DNR they could not use the same process as the environmental cooperative pilot program because it requires certain statutory exemptions and is not explicitly discussed in the current draft for tier 2 (Becky, am I correct on this?). **DNR does not know about tier 1.** But with our current draft, I suppose the entity could simply be considered a participant under tier 1 and use the process in place there to avoid penalties and civil action. So I guess it works out either way under our current draft. Let me know if I am not understanding this correctly.

That's all for now. I will send you my instructions for the edits soon.

Thanks.  
Manyee

## Tradewell, Becky

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**From:** Wong, Manyee  
**Sent:** Friday, February 02, 2001 11:52 AM  
**To:** Tradewell, Becky  
**Subject:** RE: Green Tier Edits - draft 2295

Hi Becky,

Ok. I understand. I will leave it up to you to decide which technical changes are or are not suitable for inclusion in the statute. I wanted to accommodate DNR and included their requested changes because I thought the changes may provide more clarifications. If you don't think it will, them go ahead and leave them out. The only real important changes to me are the following:

- ✓ That within 24 months before the date of application, the department of justice has not filed a suit to enforce an environmental requirement, and the department has not issued a citation to enforce an environmental requirement, because of a violation involving the facility. (Include in green tier 2 and 3)
- ✓ green tier contract is may not exceed 5 years, with opportunity for renewal for additional 5 year terms for additional term renewals not to exceed 5 years each term upon agreement of the parties. (apply this to charter language as well if included)
- ✓ Submitting the results of the audit to the department. If the compliance audit is a self-audit, the entity is not eligible for reduced inspections or monitoring.

see  
w/la)  
Thanks.  
Manyee

-----Original Message-----

**From:** Tradewell, Becky  
**Sent:** Friday, February 02, 2001 11:32 AM  
**To:** Wong, Manyee  
**Subject:** RE: Green Tier Edits - draft 2295

Manyee,

As you know, we have very little time left to finalize this draft. From scanning your message quickly, it seems to me that a number of the changes that DNR has requested either are meaningless (like changing "goals" to "objectives") or are otherwise unnecessary (like the language about superior environmental performance). And some of the language (like some of the language about superior environmental performance) is not suitable for inclusion in the laws, for example, "as product stewards and supply chain managers".

I will begin working on this, but I think that it may not be possible to complete all of what DNR wants in time. I will focus on the items that are manageable and seem to make sense. Meanwhile, if they have provided you with any explanations of why they want various changes or what any of the new language means, that might be helpful to me.

Becky

-----Original Message-----

**From:** Wong, Manyee  
**Sent:** Friday, February 02, 2001 11:11 AM  
**To:** Tradewell, Becky  
**Subject:** Green Tier Edits - draft 2295  
**Importance:** High

Hi Becky,

Please incorporate the following changes to the Green Tier draft. I have tried to be as detail and clear as possible. If you have any questions or need clarifications, please give me a call. DNR wanted to include a few more definitions and thus I have made the necessary changes in the text to be consistent with these new definitions. I am not sure if I have found all of them. Please double check to ensure they are correct.



## Definitions

**Change** - "Superior environmental performance" means measurable or notable improvements in air, water, land or natural resources quality or protection of ecosystem integrity as enumerated in s. 299.83 (new section)

### **Create a new section before Section (5) Eligibility for level 2**

Superior environmental performance is actions that are greater than required by law as enumerated in the section below. For the purposes of Green Tier eligibility criteria in Sections 299.83 (8)(d) and the earning of incentives authorized under Section (incentives is also new section) \_\_\_\_\_, the following principles, actions, investments and goals may be a part of superior environmental performance:

- a. Protection of the biosphere by actions that eliminate or assist others in eliminating releases or behavior that cause environmental damage to the earth and inhabitants;
- b. Restoration, preservation or conservation of renewable or non-renewable resources in or beyond the United States;
- c. Efficient and sustainable use of renewable natural resources such as water, soil and forests;
- d. Conservation of non-renewable natural resources such as metallic and non-metallic minerals;
- e. As product stewards and supply chain managers, reduce waste and toxic materials in the design, production, delivery and use and reuse of goods and services;
- f. Energy conservation and the use of energy sources, technology and systems that reliably meet environmental, community and state needs over time;
- g. Organize diffused or uncoordinated entities that are producing environmental harm but when coordinated can do environmental good to achieve positive environmental results;
- h. Transfer of innovative technology, knowledge, skills and management expertise learned in Green Tier to public, private and non-government organizations;
- i. Ecological restoration and stewardship of land, water, wetland, soil, landscape or natural communities;
- j. Voluntarily restoring, reclaiming, preserving or managing natural resources important to the revival, protection or sustainable future of urban and rural communities;
- k. Promotion of mutual trust by fiscal and other support of civil discourse, public involvement, community learning and shared responsibility in the pursuit of superior environmental performance;
- l. Testing of technologies and practices that may help society achieve environmental goals more efficiently, effectively or safely.

Actions are reflected in the management systems and results are captured and reported as a part of those management systems to form the basis for superior environmental performance.

**Add** - "Environmental management system audit" means a review of an environmental management system as defined in s. 299.83 (1)(b) that is conducted in accordance with accepted standards and guidelines from the International Organization for Standardization, documented and communicated to management and employees, and formally reviewed by senior management.

**Add** - "Environmental auditor" means an individual who is ANSI RAB [*American National Standards Institute Registrar Accreditation Board*] certified or meets education, training, experience and performance criteria developed by the department.

**Add** - "Green Tier Charter" means a public or private entity or a group of public or private entities that qualify for green tier level 2 or 3 with rights and responsibilities granted by the department and may be bound contractually to achieve superior environmental performance.

**Add** - "Green Tier Learning System" means a system that collects, processes, and evaluates data submitted by Green Tier participants and promote sharing of these data among Green Tier participants, to the public and any interested persons in order to build trust and to achieve environmental improvement.

**Add** - "Green Tier Council" means persons from environmental organizations, businesses, municipalities and general public appointed by the department to provide advice on the green tier system.

*Note:*

*Becky, DNR also requested a definition for a "functionally equivalent environmental management system". They provided the following suggestion:*

"Functionally equivalent environmental management system" means appropriate to the function, needs and

size of the organization, but shall include:

1. Environmental policy, that includes:
  - Commitment to compliance
  - Commitment to pollution prevention
  - Commitment to continual performance improvement
2. Environmental aspects and impacts analysis
3. Planning and procedures to achieve, maintain and exceed compliance requirements
4. Legal and other requirements
5. Setting of objectives and targets, and developing appropriate action plans
6. Structure and responsibility
7. Training, awareness and competence
8. Operational control
9. Corrective, preventive and emergency action
10. Communication, including external stakeholders
11. Document control and record keeping
12. Management systems and environmental compliance audits
13. Continual improvement mechanisms, including senior management review

*This definition is very vague and seems to me raises more questions than it answers. Could you come up with one that's more clear or workable? Perhaps you could work with DNR's attorneys on this definition. Also, I am not sure if this definition is really needed. So if you think it is unnecessary or if it creates more problems than it solves, just leave it out. I will leave the decision up to you.*

### **Edits**

#### **Page 4, line 2 (Section 3)**

III of the green tier program. The department may recognize these entities through a charter. An applicant for tier II or tier III of the green tier

#### **Page 4, line 3 (Section 3)**

program shall identify the facilities, activities or other parameters that it intends to include in the program.

*Note: Becky, this is DNR's request and I am not sure if it is necessary or clear as to what other parameters may be. I will leave it up to you to decide whether this clarifies things in statute and whether or not to put it in.*

#### **Page 11, line 13 (Section 3)**

evaluation that complies with sub. (3)(d) ~~in at least two consecutive years~~ every 2 years, submits a

#### **Page 12, line 3 (Section 3)**

If an applicant consists of a group of public or private entities, each requirement in pars. (b)

#### **Page 12, between line 17 and 18 (section 3), insert the following:**

3. That within 24 months before the date of application, the department of justice has not filed a suit to enforce an environmental requirement, and the department has not issued a citation to enforce an environmental requirement, because of a violation involving the facility.

#### **Page 12, line 18 (section 3)**

~~3 4.~~ That, at the time of application, no case is pending for a violation involving

#### **Page 13, line 13 (section 3)**

department to be a functionally equivalent to an environmental management system that is base on those standards.

#### **Page 13, line 18, (section 3)**

2. Include, in the environmental management system under subd. 1., goals objectives in

#### **Page 14, line 1 (section 3)**

c. Voluntarily restoring, enhancing, or preserving natural resources.

#### **Page 14, line 2 (section 3)**

3. Explain to the department the rationale for the choices of goals-objectives under subd.

#### **Page 14, line 5 (section 3)**

concerning those goals objectives.

**Page 14, line 11 (section 3)**

toward meeting the goals objectives under subd. 2.

**Page 14, line 6 and 7 (section 3)**

3. Conduct, or commit itself to conducting, annual ~~audits of the~~ environmental management system audits under subd. 1., with every 3<sup>rd</sup> environmental management system audit performed by and outside

**Page 14, line 8 (section 3)**

environmental auditor approved by the department, and commit itself to submitting an annual

**Page 14, line 9 (section 3)**

report on the environmental management system audit to the department

**Page 16, between line 11 and 12 (section 3), insert the following:**

3. That within 24 months before the date of application, the department of justice has not filed a suit to enforce an environmental requirement, and the department has not issued a citation to enforce an environmental requirement, because of a violation involving the facility.

**Page 16, line 12, (section 3)**

3 4. That, at the time of application, no case is pending for a violation involving

**Page 17, line 4, 5 and 6, (section 3)**

Commit itself to having an outside environmental auditor approved by the department to conduct annual ~~audits of the~~ environmental management system audits under subd. 1 and to submitting an annual report on the environmental management system audit to the department

**Page 17, line 8, (section 3)**

Environmental requirements that are applicable to the covered facilities and activities. and to

**Page 17, line 9, (section 3)**

Submitting the results of the audit to the department. If the compliance audit is a self-audit, the entity is not eligible for reduced inspections or monitoring.

**Page 17, line 15 (section 3)**

All of the green tier program, an entity including a chartered entity, shall submit a letter of intent

Note: Becky, I am not sure if this clarification is really necessary. But it's what DNR requested. I will leave this up to you.

**Page 17, line 21 (section 3)**

identify the interested persons, and describe the interest that those persons have in

**Page 19, line 16 (section 3)**

green tier contract ~~is may not exceed~~ 5 years, with opportunity for ~~renewal for additional 5 year terms for~~ additional term renewals not to exceed 5 years each term upon agreement of the parties.

**Page 20, line 17 (section 3)**

(e) The department may, after an opportunity for a hearing, ~~revoke~~ terminate a green tier

**Page 20, line 22 (section 3)**

department to ~~revoke~~ terminate a green tier contract under par. (e).

**Page 21, line 21, (section 3)**

contracts and charters.

**Page 22, line 5, (section 3)**

(d) The department shall encourage charters and small businesses, agricultural

**Page 22, line 10, (section 3)**

(e) The department may establish a green tier council and shall consult with the green tier council about the operation

**Page 22, after line 17, add the following:**

- The department may grant charters to entities that determine scope of responsibility, activities, authorities and services to achieve superior environmental performance. *Becky: I am not sure if I understand what DNR is trying to get at here. I have asked Lance Potter for further explanations and will let you know once I receive a reply from him.*
- Chartered entities may be organized on the basis of land area, watershed, air-shed, forest, land-type, political subdivision, biological region, activity, trade, product, occupation, supply chain, emission, business sector, species, biological or scientific concept or any other basis necessary to achieve superior environmental performance.
- Chartered entities shall report annually to department.
- The term of a green tier charter may not exceed 5 years, with opportunity for additional term renewals not to exceed 5 year each term.
- The department may, after an opportunity for a hearing, revoke charter status of an entity if it determines that the participant is in substantial non-compliance with the charter.
- A person who is not a party to the charter, but who believes that the chartered entity is not fulfilling the conditions of the charter may ask the department to revoke its chartered status under par. (d)
- The department shall issue numbered certificates to qualified green tier participants, publicize participant accomplishments and authorize participants' use of the green tier logo.
- The department shall create a green tier learning system to develop and disseminate statistics and other data on environmental performance, transaction costs, innovations, sanctions, incentives and other program aspects. The department may require the collection of data subject to ch \_\_\_\_\_ (confidential business information) ; may establish partnerships to collect data important to environmental, community and economic goals; may defray data collection costs, and may protect submitted data not required under chs 160 and 280 to 299. It may conduct, direct or contract for studies and research.
- The department shall submit a progress report to the legislature 3 years after the program begins; thereafter reports shall be submitted biennially. The department shall, every 2 years, in consultation with participants and interested persons, review green tier performance as applied to department policies and programs.

Thanks.  
-Manyee



State of Wisconsin  
2001 - 2002 LEGISLATURE

Today, it's possible

LRB-2295/P#2

RCT:cjs:jf

Stays / MR

DOA:.....Wong - Green tier program with environmental improvement program added

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Note

Do NOT GEN

1 AN ACT ~~relating to~~; relating to: the budget.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 15.347 (3) of the statutes is created to read:

3 15.347 (3) GREEN TIER COUNCIL. There is created in the department of natural  
4 resources a green tier council consisting of 15 members appointed by the secretary  
5 of natural resources. The secretary shall appoint members representing  
6 environmental organizations, businesses, and local governmental units.

\*\*\*\*NOTE: We usually specify a specific number of members to make it easier to keep track of membership and vacancies. Please let me know if you would prefer a different number of members or if you would like to specify the length of terms.

7 SECTION 2. 20.143 (1) of the statutes is created to read:

and members that do not represent any of these entities

① 20.143 (1) <sup>vm</sup> ~~(b)~~ *Green tier and environmental management system grants.*  
 ② Biennially, <sup>from the environmental fund,</sup> the amounts in the schedule for green tier and environmental  
 3 management system grants under s. 560.125.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 SECTION 3. 299.83 of the statutes is created to read:

5 **299.83 Green tier program. (1) DEFINITIONS.** In this section:

6 (a) "Approval" means a permit, license, or other approval issued by the  
 7 department under chs. 280 to 295.

8 (am) "Covered facility or activity" means a facility or activity that is included,  
 9 or intended to be included, in the green tier program.

10 (b) "Environmental management system" means an organized set of  
 11 procedures to evaluate environmental performance and to achieve measurable or  
 12 noticeable improvements in that environmental performance through planning and  
 13 changes in operations.

*Insert 2-13* → (c) "Environmental performance," unless otherwise qualified, means the  
 15 effects, whether regulated under chs. 160 and 280 to 299 or unregulated, of a facility  
 16 or activity on air, water, land, natural resources, and human health.

17 (cm) "Environmental performance evaluation" means a systematic,  
 18 documented, and objective review, conducted by or on behalf of the owner or operator  
 19 of a facility, of the environmental performance of the facility, including an evaluation  
 20 of compliance with one or more environmental requirements.

21 (d) "Environmental requirement" means a requirement in chs. 160 or 280 to  
 22 299, a rule promulgated under one of those chapters, or a permit, license, other  
 23 approval, or order issued by the department under one of those chapters.

1 (e) "Green tier contract" means a contract entered into by the department and  
2 a participant in tier III of the green tier program, and that may<sup>with the approval of the department,</sup> be signed by other  
3 interested parties, that specifies the participant's commitment to superior  
4 environmental performance and the incentives to be provided to the participant.

5 (f) "Green tier program" means the program under this section.

6 (fm) "Regulated entity" means a public or private entity that is subject to  
7 environmental requirements.

8 (g) "Superior environmental performance" means one of the following:

9 1. That an entity limits the discharges or emissions of pollutants from, or in  
10 some other way minimizes the negative effects on air, water, land, natural resources,  
11 or human health of, a facility that is owned or operated by the entity or an activity  
12 that is performed by the entity to an extent that is greater than is required by  
13 applicable environmental requirements.

14 2. That an entity minimizes the negative effects on air, water, land, natural  
15 resources, or human health of the raw materials used by the entity or the products  
16 or services produced or provided by the entity to an extent that is greater than is  
17 required by applicable environmental requirements.

18 3. That an entity voluntarily engages in restoring<sup>, enhancing,</sup> or preserving natural  
19 resources.

20 4. That an entity helps other entities to comply with environmental  
21 requirements or to accomplish the results described in subd. 1. or 2.

22 (h) "Violation" means a violation of an environmental requirement.

23 (2) ELIGIBLE PARTICIPANTS. Any regulated entity may ~~participate~~ participate in tier  
24 I of the green tier program. <sup>if the regulated entity qualifies for participation under sub. (3)(a)</sup> Any public or private entity may apply to the department  
25 to participate in tier II or tier III of the green tier program. A group of public or

1 private entities may together apply to the department to participate in tier II or tier  
2 III of the green tier program. An applicant for tier II or tier III of the green tier  
3 program shall identify the facilities or activities that it intends to include in the  
4 program.

5 (3) ELIGIBILITY AND PROCESS FOR TIER I. (a) *General eligibility.* A regulated  
6 entity <sup>qualifies for participation in</sup> ~~is eligible for~~ tier I of the green tier program with respect to a facility owned  
7 or operated by the regulated entity if all of the following apply: ✓

8 1. The regulated entity conducts an environmental performance evaluation of  
9 the facility or submits findings from the facility's environmental management  
10 system.

11 2. If the regulated entity conducts an environmental performance evaluation,  
12 the regulated entity notified the department in writing, no fewer than 30 days before  
13 beginning an environmental performance evaluation, of the date on which the  
14 environmental performance evaluation would begin, the site or facility or the  
15 operations or practices at a site or facility to be reviewed, and the general scope of  
16 the environmental performance evaluation.

17 3. If the regulated entity conducts an environmental performance evaluation,  
18 the environmental performance evaluation complies with par. (d).

19 4. If the regulated entity submits findings from the facility's environmental  
20 management system, the environmental management system complies with par. (e).

21 5. The regulated entity submits a report as required under par. (b).

22 6. At the time of submitting a report under par. (b), the department of justice  
23 has not, within 2 years, filed a suit to enforce an environmental requirement, and the  
24 department <sup>of natural resources</sup> ~~has not~~, within 2 years, issued a citation to enforce an environmental  
25 requirement, because of a violation involving the facility.



1 (b) *Report.* To participate in tier I of the green tier program with respect to a  
2 facility, a regulated entity that owns or operates the facility shall submit a report to  
3 the department within 45 days after the date of the final written report of findings  
4 of an environmental performance evaluation of the facility or within 45 days after  
5 the date of findings from the facility's environmental management system. The  
6 report shall include all of the following:

7 1. a. If the regulated entity conducted an environmental performance  
8 evaluation, a description of the environmental performance evaluation, including  
9 the person who conducted the environmental performance evaluation, when it was  
10 completed, what activities and operations were examined, and what was revealed by  
11 the environmental performance evaluation.

12 b. If the regulated entity submits findings from an environmental management  
13 system, a description of the environmental management system, of the activities and  
14 operations covered by the environmental management system, and of who made the  
15 findings and when the findings were made.

16 2. If any violations were revealed by the environmental performance  
17 evaluation or the environmental management system, a description of those  
18 violations and of the length of time that the violations may have continued.

19 3. A description of actions taken or proposed to be taken to correct any  
20 violations described in subd. 2.

21 4. A commitment to correct any violations identified in subd. 2. within 90 days  
22 of submitting the report or according to a compliance schedule approved by the  
23 department.

24 5. If the regulated entity proposes to take more than 90 days to correct  
25 violations, a proposed compliance schedule that contains the shortest reasonable

1 periods for correcting the violations, a statement that justifies the proposed  
2 compliance schedule, and a description of measures that the regulated entity will  
3 take to minimize the effects of the violations during the period of the compliance  
4 schedule.

5 6. If the regulated entity proposes to take more than 90 days to correct the  
6 violations, the proposed stipulated penalties to be imposed if the regulated entity  
7 violates the compliance schedule under subd. 5.

8 7. A description of the measures that the regulated entity has taken or will take  
9 to prevent future violations and a timetable for taking the measures that it has not  
10 yet taken.

11 (c) *Public notice; comment period.* 1. The department shall provide at least 30  
12 days for public comment on a compliance schedule and stipulated penalties proposed  
13 in a report under par. (b). The department may not approve or issue a compliance  
14 schedule under par. (f) or approve stipulated penalties under par. (g) until after the  
15 end of the comment period.

16 2. Before the start of the public comment period under subd. 1., the department  
17 shall provide public notice of the proposed compliance schedule and stipulated  
18 penalties that does all of the following:

19 a. Identifies the regulated entity that submitted the report under par. (b), the  
20 facility at which the violation occurred, and the nature of the violation.

21 b. Describes the proposed compliance schedule and the proposed stipulated  
22 penalties.

23 c. Identifies an employee of the department and an employee of the regulated  
24 entity who may be contacted for additional information about the proposed  
25 compliance schedule and the proposed stipulated penalties.

1           d. States that comments concerning the proposed compliance schedule and the  
2 proposed stipulated penalties may be submitted to the department during the  
3 comment period and states the last date of the comment period.

4           (d) *Environmental performance evaluation.* If a regulated entity conducts an  
5 environmental performance evaluation under par. (a) 1., the regulated entity does  
6 not qualify for participation in tier I of the green tier program unless the final written  
7 report of findings of the environmental performance evaluation is labeled  
8 “environmental performance evaluation report,” is dated, and, if the environmental  
9 performance evaluation identifies violations, includes a plan for corrective action.  
10 A regulated entity may use a form developed by the regulated entity, by a consultant,  
11 or by the department for the final written report of findings of the environmental  
12 performance evaluation.

13           (e) *Environmental management system.* If a regulated entity submits findings  
14 from the facility’s environmental management system under par. (a) 1., the  
15 regulated entity does not qualify for participation in tier I of the green tier program  
16 unless the regulated entity’s efforts to prevent, detect, and correct violations are  
17 appropriate to the size of the regulated entity and to the nature of its business and  
18 are consistent with any criteria used by the federal environmental protection agency  
19 to define due diligence in federal audit policies or regulations.

20           (f) *Compliance schedules.* 1. If the department receives a report under par. (b)  
21 that contains a proposed compliance schedule under par. (b) 5., the department shall  
22 review the proposed compliance schedule. The department may approve the  
23 compliance schedule as submitted or propose a different compliance schedule. If the  
24 regulated entity does not agree to implement a compliance schedule proposed by the  
25 department, the department shall schedule a meeting with the regulated entity to

1 attempt to reach an agreement on a compliance schedule. If the department and the  
2 regulated entity do not reach an agreement on a compliance schedule, the  
3 department may issue a compliance schedule. A compliance schedule under this  
4 paragraph is subject to review under ch. 227.

5 2. The department may not approve or issue a compliance schedule that  
6 extends longer than 12 months beyond the date of approval of the compliance  
7 schedule. The department shall consider the following factors in determining  
8 whether to approve a compliance schedule:

9 a. The environmental and public health consequences of the violations.

10 b. The time needed to implement a change in raw materials or method of  
11 production if that change is an available alternative to other methods of correcting  
12 the violations.

13 c. The time needed to purchase any equipment or supplies that are needed to  
14 correct the violations.

15 (g) *Stipulated penalties.* 1. If the department receives proposed stipulated  
16 penalties under par. (b) 6., the department shall review the proposed stipulated  
17 penalties. The department may approve the stipulated penalties as submitted or  
18 propose different stipulated penalties. If the regulated entity does not agree to  
19 stipulated penalties proposed by the department, the department shall schedule a  
20 meeting with the regulated entity to attempt to reach an agreement on stipulated  
21 penalties. If no agreement is reached, there are no stipulated penalties for violations  
22 of the compliance schedule.

23 2. Stipulated penalties approved under subd. 1. shall specify a period, not  
24 longer than 6 months beyond the end of the compliance schedule, during which the  
25 stipulated penalties will apply.

1 (4) INCENTIVES FOR TIER I. (a) *Deferred civil enforcement.* 1. a. For at least 90  
2 days after the department receives a report that meets the requirements in sub. (3)  
3 (b), this state may not begin a civil action to collect forfeitures for violations that are  
4 disclosed in the report by a regulated entity that qualifies under sub. (3) (a) for  
5 participation in tier I of the green tier program.

6 b. If <sup>a</sup>the regulated entity corrects violations that are disclosed by a regulated  
7 entity that qualifies under sub. (3) (a) for participation in tier I of the green tier  
8 program in a report that meets the requirements of sub. (3) (b) within 90 days after  
9 the department receives <sup>the</sup> a report that meets the requirements of sub. (3) (b), this  
10 state may not bring a civil action to collect forfeitures for the violations. ✓

11 c. This state may not begin a civil action to collect forfeitures for violations  
12 covered by a compliance schedule that is approved under sub. (3) (f) during the period  
13 of the compliance schedule if the regulated entity is not violating the compliance  
14 schedule. If the regulated entity violates the compliance schedule, the department  
15 may collect any stipulated penalties during the period in which the stipulated  
16 penalties apply. This state may begin a civil action to collect forfeitures for violations  
17 that are not corrected by the end of the period in which the stipulated penalties apply.  
18 If the regulated entity violates the compliance schedule and there are no stipulated  
19 penalties, this state may begin a civil action to collect forfeitures for the violations.

20 d. If the department approves a compliance schedule under sub. (3) (f) and the  
21 regulated entity corrects the violations according to the compliance schedule, this  
22 state may not bring a civil action to collect forfeitures for the violations.

23 2. Notwithstanding subd. 1., this state may at any time begin a civil action to  
24 collect forfeitures for violations if any of the following apply:

1 a. The violations present an imminent threat to public health or the  
2 environment or may cause serious harm to public health or the environment.

3 b. The department discovers the violations before submission of a report under  
4 sub. (3) (b).

5 c. The violations resulted in a substantial economic benefit that gives the  
6 regulated entity a clear advantage over its business competitors.

7 d. The violations are identified through monitoring or sampling required by  
8 permit, statute, rule, regulation, judicial or administrative order, or consent  
9 agreement.

10 (b) *Consideration of actions by regulated entity.* If the department receives a  
11 report that complies with sub. (3) (b) from a regulated entity that qualifies under sub.  
12 (3) (a) for participation in tier I of the green tier program, and the report discloses  
13 a potential criminal violation, the department <sup>*of labor and resources*</sup> and the department of justice shall  
14 take into account the diligent actions of, and reasonable care taken by, the regulated  
15 entity to comply with environmental requirements in deciding whether to pursue a  
16 criminal enforcement action and what penalty should be sought. In determining  
17 whether a regulated entity acted with due diligence and reasonable care, the  
18 department <sup>*of labor and resources*</sup> and the department of justice shall consider whether the regulated  
19 entity has demonstrated any of the following:

20 1. That the regulated entity took corrective action that was timely when the  
21 violation was discovered.

22 2. That the regulated entity exercised reasonable care in attempting to prevent  
23 the violation and to ensure compliance with environmental requirements.

24 3. That the regulated entity had a documented history of good faith efforts to  
25 comply with environmental requirements before implementing its environmental

1 management system or before beginning to conduct environmental performance  
2 evaluations.

3 4. That the regulated entity has promptly made appropriate efforts to achieve  
4 compliance with environmental requirements since implementing its  
5 environmental management system or since beginning to conduct environmental  
6 performance evaluations and that action was taken with due diligence.

7 5. That the regulated entity exercised reasonable care in identifying violations  
8 in a timely manner.

9 6. That the regulated entity willingly cooperated in any investigation that was  
10 conducted by this state or a local governmental unit to determine the extent and  
11 cause of the violation.

12 (c) *Recognition*. If a regulated entity conducts an environmental performance  
13 evaluation that complies with sub. (3) (d) ~~at least~~ <sup>every</sup> 2 ~~consecutive~~ years, submits a  
14 report that complies with sub. (3) (b) for each environmental performance  
15 evaluation, corrects any violations described in those reports, and otherwise ~~is~~  
16 <sup>qualifies for</sup> ~~eligible~~ under sub. (3) (a) for <sup>participation in</sup> tier I of the green tier program, all of the following apply:

17 1. The department shall issue to the regulated entity a numbered certificate  
18 of recognition.

19 2. The department shall identify the regulated entity, on an Internet site  
20 maintained by the department, as a participant in tier I of the green tier program.

21 3. The department shall annually provide notice of the regulated entity's status  
22 as a participant in tier I of the green tier program to newspapers in the area in which  
23 facilities operated by the regulated entity are located.

24 4. The regulated entity may use a green tier logo selected by the department  
25 on written materials produced by the regulated entity.

1 (5) ELIGIBILITY FOR TIER II. (a) *General*. An applicant is eligible for tier II of  
2 the green tier program if the applicant satisfies the requirements in pars. (b) to (d).

3 If an applicant consists of a group of ~~private~~ entities, each requirement in pars. (b)  
4 to (d) applies to each entity in the group.

of the green tier program

5 (b) *Enforcement record*. To be eligible to participate in tier II, an applicant shall  
6 demonstrate all of the following:

7 1. That, within 60 months before the date of application, no judgment of  
8 conviction was entered against the applicant, any managing operator of the  
9 applicant, or any person with a 25% or more ownership interest in the applicant for  
10 a criminal violation involving a covered facility or activity that resulted in  
11 substantial harm to public health or the environment or that presented an imminent  
12 threat to public health or the environment.

13 2. That, within 36 months before the date of application, no civil judgment was  
14 entered against the applicant, any managing operator of the applicant, or any person  
15 with a 25% or more ownership interest in the applicant for a violation involving a  
16 covered facility or activity that resulted in substantial harm to public health or the  
17 environment.

Insert  
12-17

18 (4.) That, at the time of application, no case is pending for a violation involving  
19 a covered facility or activity that resulted in substantial harm to public health or the  
20 environment or that presented an imminent threat to public health or the  
21 environment.

22 (c) *Environmental performance*. To be eligible to participate in tier II, an  
23 applicant shall submit an application that describes all of the following:

of the green tier program

24 1. The applicant's past environmental performance with respect to each  
25 covered facility or activity.



1           2. The applicant's current environmental performance with respect to each  
2 covered facility or activity.

3           3. The applicant's plans for activities that enhance the environment, such as  
4 improving the applicant's environmental performance with respect to each covered  
5 facility or activity.

of the green tier program

6           (d) *Environmental management system.* To be eligible to participate in tier II,  
7 an applicant shall do all of the following:

8           1. Demonstrate that it has implemented, or commit itself to implementing  
9 within one year of application, for each covered facility or activity, an environmental  
10 management system that is all of the following:

11           a. Based on the standards for environmental management systems issued by  
12 the International Organization for Standardization or determined by the  
13 department to be functionally equivalent to an environmental management system  
14 that is based on those standards.

15           b. Determined by the department to be appropriate to the nature, scale, and  
16 environmental impacts of the applicant's operations related to each covered facility  
17 or activity.

18           2. Include, in the environmental management system under subd. 1., <sup>objectives</sup> ~~standards~~ in  
19 at least 2 of the following areas:

20           a. Improving the environmental performance of the applicant, with respect to  
21 each covered facility or activity, in aspects of environmental performance that are  
22 regulated under chs. 160 and 280 to 299.

23           b. Improving the environmental performance of the applicant, with respect to  
24 each covered facility or activity, in aspects of environmental performance that are not  
25 regulated under chs. 160 and 280 to 299.

*enhancing*

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c. Voluntarily restoring *or preserving* natural resources. *objectives*

3. Explain to the department the rationale for the choices of ~~plans~~ *objectives* under subd. 2. and describe any consultations with residents of the areas in which each covered facility or activity is located or performed and with other interested persons concerning those ~~goals~~ *objectives*.

4. Conduct, or commit itself to conducting, annual ~~audits of the~~ *audits* environmental management system ~~under subd. 2.~~ *environmental management system* with every 3rd ~~audit~~ *audit* performed by an outside auditor approved by the department, and commit itself to submitting an annual report on the ~~audit~~ *environmental management system* to the department.

5. Commit itself to submitting to the department an annual report on progress toward meeting the ~~goals~~ *objectives* under subd. 2.

(6) PROCESS FOR TIER II. (a) Upon receipt of an application for participation in tier II of the green tier program, the department shall provide public notice about the application in the area in which each covered facility or activity is located or performed.

(b) After providing public notice under par. (a) about an application, the department may hold a public informational meeting on the application.

(c) The department shall approve or deny an application within 60 days after providing notice under par. (a) or, if the department holds a public informational meeting under par. (b), within 60 days after that meeting. The department may limit the number of participants in tier II of the green tier program, or limit the extent of participation by a particular applicant, based on the department's determination that the limitation is in the best interest of the green tier program.

(d) A decision by the department under par. (c) to approve or deny an application is not subject to review under ch. 227.

1           (7) INCENTIVES FOR TIER II. (a) The department shall issue a numbered  
2 certificate of recognition to each participant in tier II of the green tier program.

3           (b) The department shall identify each participant in tier II of the green tier  
4 program on an Internet site maintained by the department.

5           (c) The department shall annually provide notice of the participation of each  
6 participant in tier II of the green tier program to newspapers in the area in which  
7 each covered facility or activity is located.

8           (d) A participant in tier II of the green tier program may use a green tier logo  
9 selected by the department on written materials produced by the participant.

10           (e) The department shall assign an employee of the department to serve as the  
11 contact with the department for a participant in tier II <sup>of the green tier program</sup> for any approvals that the  
12 participant is required to obtain and for technical assistance.

13           (f) After a participant in tier II <sup>of the green tier program</sup> implements an environmental management  
14 system that complies with sub. (5) (d) 1., the department shall conduct any  
15 inspections of the participant's covered facilities or activities that are required under  
16 chs. 280 to 295 at the lowest frequency permitted under those chapters, except that  
17 the department may conduct an inspection whenever it has reason to believe that a  
18 participant is out of compliance with a requirement in an approval.

19           (8) ELIGIBILITY FOR TIER III. (a) *General.* An applicant is eligible for tier III of  
20 the green tier program if the applicant satisfies the requirements in pars. (b) to (d).  
21 If an applicant consists of a group of public or private entities, each requirement in  
22 pars. (b) to (d) applies to each entity in the group. of the green tier program

23           (b) *Enforcement record.* To be eligible to participate in tier III, an applicant  
24 shall demonstrate all of the following:

1           1. That, within 120 months before the date of application, no judgment of  
2 conviction was entered against the applicant, any managing operator of the  
3 applicant, or any person with a 25% or more ownership interest in the applicant for  
4 a criminal violation involving a covered facility or activity that resulted in  
5 substantial harm to public health or the environment or that presented an imminent  
6 threat to public health or the environment.

7           2. That, within 60 months before the date of application, no civil judgment was  
8 entered against the applicant, any managing operator of the applicant, or any person  
9 with a 25% or more ownership interest in the applicant for a violation involving a  
10 covered facility or activity that resulted in substantial harm to public health or the  
11 environment.

*Incent*  
*16-11* → (12) (4) ~~4~~ That, at the time of application, no case is pending for a violation involving  
13 a covered facility or activity that resulted in substantial harm to public health or the  
14 environment or that presented an imminent threat to public health or the  
15 environment. *of the green tier program*

16           (c) *Environmental management system.* To be eligible to participate in tier III,  
17 an applicant shall do all of the following:

18           1. Demonstrate that it has implemented for each covered facility or activity, an  
19 environmental management system that is all of the following:

20           a. Based on the standards for environmental management systems issued by  
21 the International Organization for Standardization or determined by the  
22 department to be functionally equivalent to an environmental management system  
23 that is based on those standards.

1 b. Determined by the department to be appropriate to the nature, scale, and  
2 environmental impacts of the applicant's operations related to ~~each~~ each covered  
3 facility or activity.

4 2. Commit itself to having an outside<sup>environmental</sup> auditor approved by the department  
5 conduct <sup>an</sup> annual ~~audit~~ <sup>audit</sup> of the environmental management system <sup>audit</sup> under subd. 1. and  
6 to submitting an annual report on the <sup>environmental management system</sup> audit to the department. <sup>environmental</sup>

7 3. Commit itself to annually conducting <sup>or having an outside auditor conduct,</sup> an audit of compliance with  
8 environmental requirements that are applicable to the covered facilities <sup>or activities</sup> and to  
9 submitting the results of the audit to the department. of the green tier program

10 (d) *Superior environmental performance.* To be eligible to participate in tier III,  
11 an applicant shall demonstrate a record of superior environmental performance, and  
12 describe the measures that it proposes to take to maintain and improve its superior  
13 environmental performance.

14 (9) PROCESS FOR TIER III. (a) *Letter of intent.* To apply for participation in tier  
15 III of the green tier program, an entity shall submit a letter of intent to the  
16 department. In addition to providing information necessary to show that the  
17 applicant satisfies the requirements in sub. (8), the applicant shall do all of the  
18 following in the letter of intent:

19 1. Describe the involvement of interested persons in developing the proposal  
20 for maintaining or improving the applicant's superior environmental performance,  
21 identify the interested persons, and describe the interests that those person<sup>s</sup> have in  
22 the applicant's participation in the green tier program.

23 2. Outline the provisions that it proposes to include in the green tier contract.

24 (b) *Limitation.* The department may limit the number of letters of intent that  
25 it processes based on the staff resources available.

1           (c) *Notice.* When the department decides to process a letter of intent, the  
2 department shall provide public notice about the letter of intent in the area in which  
3 each covered facility or activity is located or performed.

4           (d) *Public meeting.* After providing public notice under par. (c) about a letter  
5 of intent, the department may hold a public informational meeting on the letter of  
6 intent.

7           (e) *Request to participate.* Within 30 days after the public notice under par. (c),  
8 interested persons may request that the department grant authorization to  
9 participate in the negotiations under par. (f). A person who makes a request under  
10 this paragraph shall describe the person's interests in the issues raised by the letter  
11 of intent. The department shall determine whether a person who makes a request  
12 under this paragraph may participate in the negotiations under par. (f) based on  
13 whether the person has demonstrated sufficient interest in the issues raised by the  
14 letter of intent to warrant that participation.

15           (f) *Negotiations.* If the department determines that an applicant satisfies the  
16 requirements in sub. (8), the department may begin negotiations concerning a green  
17 tier contract with the applicant and with any persons to whom the department  
18 granted permission under par. (e). The department may begin the negotiations no  
19 sooner than 30 days after providing public notice under par. (c) about the applicant's  
20 letter of intent.

21           (g) *Termination of negotiations.* The department may terminate negotiations  
22 with an applicant concerning a green tier contract and the decision to terminate  
23 negotiations is not subject to review under ch. 227.

24           (h) *Notice of proposed contract.* If negotiations under par. (f) result in a  
25 proposed green tier contract, the department shall provide public notice about the

1 proposed green tier contract in the area in which each covered facility or activity is  
2 located or performed.

3 (i) *Meeting on proposed contract.* After providing public notice under par. (h)  
4 about a proposed green tier contract, the department may hold a public  
5 informational meeting on the proposed green tier contract.

6 (j) *Green tier contract.* Within 30 days after providing notice under par. (h) or,  
7 if the department holds a public informational meeting under par. (i), within 30 days  
8 after that meeting, the department shall decide whether to enter into a green tier  
9 contract with an applicant. In a green tier contract, the department shall require  
10 that the participant maintain the environmental management system described in

11 sub. (8) (c) 1. and abide by the commitments in sub. (8) (c) 2. and 3. The department  
12 shall ensure that the incentives provided under a green tier contract are proportional  
13 to the environmental benefits that will be provided by the participant under the  
14 green tier contract. The department shall include in a green tier contract remedies  
15 that apply if a party to the contract fails to comply with the contract. The term of a

16 green tier contract <sup>may not exceed</sup> 5 years, with opportunity for renewal <sup>for each renewal</sup> for additional <sup>terms not to exceed</sup> 5 years  
17 ~~terms~~ upon agreement of the parties

18 (k) *Review of decision.* Notwithstanding s. 227.42, there is no right to an  
19 administrative hearing on the department's decision to enter into a contract under  
20 par. (j), but the decision is subject to judicial review.

21 (10) **SUSPENSION OR TERMINATION OF PARTICIPATION.** (a) The department may  
22 suspend or revoke the participation of a participant in the green tier program at the  
23 request of the participant.

24 (b) The department may terminate the participation of a participant in the  
25 green tier program if a judgment is entered against the participant, any managing

1 operator of the participant, or any person with a 25% or more ownership interest in  
2 the participant for a criminal or civil violation involving a covered facility or activity  
3 that resulted in substantial harm to public health or the environment or that  
4 presented an imminent threat to public health or the environment.

5 (c) The department may suspend the participation of a participant in the green  
6 tier program if the department determines that the participant, any managing  
7 operator of the participant, or any person with a 25% or more ownership interest in  
8 the participant committed a criminal or civil violation involving a covered facility or  
9 activity that resulted in substantial harm to public health or the environment or that  
10 presented an imminent threat to public health or the environment and the  
11 department refers the matter to the department of justice for prosecution.

12 (d) The department may suspend or revoke the participation of a green tier  
13 participant in tier II <sup>of the green tier program</sup> if the participant does not implement, or fails to maintain, the  
14 environmental management system described in sub. (5) (d) 1., fails to conduct  
15 annual audits described in sub. (5) (d) 4., or fails to submit annual reports described  
16 in sub. (5) (d) 5.

17 (e) The department may, after an opportunity for a hearing, <sup>terminate</sup> ~~revoke~~ a green tier  
18 contract if the department determines that the participant is in substantial  
19 noncompliance with the green tier contract.

20 (f) A person who is not a party to a green tier contract, but who believes that  
21 a participant is in substantial noncompliance with a green tier contract, may ask the  
22 department to <sup>terminate</sup> ~~revoke~~ a green tier contract under par. (e).

*Insert* → 23 (11) ACCESS TO RECORDS. (a) Except as provided in par. (c), the department shall  
*2022* 24 make any record, report, or other information obtained in the administration of this  
25 section available to the public.



1 (c) The department shall keep confidential any part of a record, report, or other  
2 information obtained in the administration of this section, other than emission data  
3 or discharge data, upon a showing satisfactory to the department by any person that  
4 the part of a record, report, or other information would, if made public, divulge a  
5 method or process that is entitled to protection as a trade secret, as defined in s.  
6 134.90 (1) (c), of that person.

7 (d) If the department refuses to release information on the grounds that it is  
8 confidential under par. (c) and a person challenges that refusal, the department shall  
9 inform the affected regulated entity of that challenge. Unless the regulated entity  
10 authorizes the department to release the information, the regulated entity shall pay  
11 the reasonable costs incurred by this state to defend the refusal to release the  
12 information.

13 (e) Paragraph (c) does not prevent the disclosure of any information to a  
14 representative of the department for the purpose of administering this section or to  
15 an officer, employee, or authorized representative of the federal government for the  
16 purpose of administering federal law. When the department provides information  
17 that is confidential under par. (c) to the federal government, the department shall  
18 also provide a copy of the application for confidential status.

19 **(12) POWERS AND DUTIES OF THE DEPARTMENT.** (a) To facilitate the process under  
20 sub. (9), the department shall develop model terms that may be used in green tier  
21 contracts.

22 (b) After consultations with interested persons, the department shall annually  
23 establish a list identifying aspects of superior environmental performance that the  
24 department will use to identify which letters of intent it will process under sub. (9)  
25 in the following year and the order in which it will process the letters of intent.

1 (c) The department may promulgate rules for the administration of the green  
2 tier program. In the rules, the department may specify incentives, that are  
3 consistent with federal laws and other state laws, that the department may provide  
4 to participants in the green tier program.

5 (d) The department shall encourage small businesses, agricultural  
6 organizations, entities that are not subject to environmental requirements, local  
7 governments, and other entities to form groups to work cooperatively on projects to  
8 achieve superior environmental performance.

9 (dm) The department shall select a logo for the green tier program.

10 (e) The department shall consult with the green tier council about the operation  
11 of the green tier program, priorities for the green tier program, and evaluation of the  
12 green tier program.

13 (f) The department and the department of commerce shall jointly provide  
14 information about environmental management systems to potential participants in  
15 the green tier program and to other interested persons. The department shall  
16 consult with the department of commerce about the administration of the green tier  
17 program.

*Insert* →  
*22-17*  
18 (13) PENALTY. (a) Any person who knowingly makes a false statement in  
19 material submitted under this section shall be fined not less than \$10 nor more than  
20 \$10,000 or imprisoned for not more than 6 months or both.

21 (b) For purposes of this subsection, an act is committed knowingly if it is done  
22 voluntarily and is not the result of negligence, mistake, accident, or circumstances  
23 that are beyond the control of the person.

24 SECTION 4. 560.125 of the statutes is created to read:

**560.125 Green tier and environmental management system grant**

**program.** (1) The department shall make grants from the appropriation under s. 20.143 (1) <sup>rm</sup> ~~(a)~~ to nongovernmental organizations to help those organizations develop the ability to participate as interested persons in the green tier program under s. 299.83. The department shall allocate at least ~~\$150,000~~ <sup>\$100,000</sup> per year for grants under this subsection.

(2) The department shall make grants from the appropriation under s. 20.143 (1) <sup>rm</sup> ~~(a)~~ to assist persons to develop environmental management systems, as defined in s. 299.83 (1) (b).

(END)

*DNote*

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2295/P2  
RCT:.....

**Insert 2-13**

✓ (bm) "Environmental management system audit" means a review, of an environmental management system, that is conducted in accordance with standards and guidelines issued by the International Organization for Standardization and the results of which are documented and communicated to employees of the participant. ✓

**Insert 12-17**

3. That, within 24 months before the date of application, the department of justice has not filed a suit to enforce an environmental requirement, and the department <sup>of natural resources</sup> has not issued a citation to enforce an environmental requirement, because of a violation involving a covered facility or activity. ✓

**Insert 16-11**

3. That, within 24 months before the date of application, the department of justice has not filed a suit to enforce an environmental requirement, and the department <sup>of natural resources</sup> has not issued a citation to enforce an environmental requirement, because of a violation involving a covered facility or activity.

**Insert 19-11**

no 91 The department may not provide reduced inspections or monitoring as an incentive in a green tier contract if the audit under sub. (8) (c) 3. is conducted by the participant. ✓

**Insert 20-22**

(10m) ENVIRONMENTAL AUDITORS. The department may not approve an environmental auditor for the purposes of sub. (5) (d) 4. or (8) (c) 2. unless the environmental auditor is certified by the Registrar Accreditation Board of the

American National Standards Institute or meets criteria concerning education, training, experience, and performance that are specified by the department. ✓

**Insert 22-17**

✓(g) The department shall collect, process, evaluate, and disseminate data submitted by participants in the green tier program.

✓(h) The department shall submit a progress report on the green tier program to the legislature, in the manner provided in s. 13.172 (2), no later than the first day of the 36th month beginning after the effective date of this paragraph .... [revisor inserts date] and every 2 years after it submits the first report. ✓

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2295/P2dn

RCT:.....

February 2, 2001

gjs

Manye Wong,

*It also*  
This redraft incorporates changes in response to the redraft instructions received today. I believe that the redraft includes the changes that you indicated were important ~~and~~ includes some of the other changes requested by DNR. I placed the language that limits incentives if the compliance audit is a self-audit in s. 299.83 (9) ✓

\* ✓(j). Please review the draft carefully to determine whether there are any problems with it from your point of view.

I have done this redraft without an analysis in order to get it to you more quickly. I will work on an analysis as soon as I have completed the other budget redraft requests that I have received. I will also reexamine the redraft instructions to see whether I can ~~to~~ make any changes to the definition of "superior environmental performance" so that it encompasses as many of DNR's list of principles, etc., as I can make sense out of.

Rebecca C. Tradewell  
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E-mail: becky.tradewell@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2295/P2dn  
RCT:cjs:km

February 2, 2001

Manyee Wong,

This redraft incorporates changes in response to the redraft instructions received today. I believe that the redraft includes the changes that you indicated were important. It also includes some of the other changes requested by DNR. I placed the language that limits incentives if the compliance audit is a self-audit in s. 299.83 (9) (j). Please review the draft carefully to determine whether there are any problems with it from your point of view.

I have done this redraft without an analysis in order to get it to you more quickly. I will work on an analysis as soon as I have completed the other budget redraft requests that I have received. I will also reexamine the redraft instructions to see whether I can make any changes to the definition of "superior environmental performance" so that it encompasses as many of DNR's list of principles, etc., as I can make sense out of.

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