



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 276 [2003 Senate Bill 61]	Environmental Results Program and Environmental Improvement Program
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

Act 276 creates two new programs in the Department of Natural Resources (DNR), the “environmental results program” (also referred to as the “Green Tier” program) and the “environmental improvement program.”

Environmental Results Program

The environmental results program provides incentives for entities subject to DNR regulation to improve their environmental performance beyond minimum legal requirements.

Act 276 establishes two “tiers” or types of participation in this program. The Act specifies eligibility requirements, review and approval processes, and incentives for both tiers. The eligibility requirements include a clean environment enforcement record for the affected facilities or activities, achievement of prescribed levels of environmental performance, and use and auditing of an environmental management system (EMS) with periodic reports on the audits submitted to the DNR.

Tier I features include that a participant either has implemented, or commits to implement within one year of application, its EMS. This system must include objectives for improving its environmental performance or voluntarily enhancing natural resources. The incentives for participating in tier I include that a participant is identified in the DNR’s program publicity, may use a program logo on its written materials, has a single DNR employee contact, and, after implementing its EMS, receives routine DNR regulatory inspections at the lowest frequency permitted under the applicable regulations. In addition, the Act specifies that the state may not, in general, bring a civil action to collect forfeitures (i.e., monetary penalties) for violations disclosed in a participant’s audit, if the participant corrects the violations in a timely manner.

Tier II features include that a participant has implemented its EMS, has demonstrated a record of “superior environmental performance” and will maintain or improve this performance. Other than the

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

deferred civil enforcement also applicable to tier I participants, the Act does not list specific incentives for participating in tier II. The Act does direct the DNR to create these incentives and ensure that they are proportional to the environmental benefits that will be provided by a tier II participant.

Under the Act, the DNR may issue an environmental results charter to an association of entities to assist the entities in participating in tier I or II and achieving superior environmental performance.

The Act also specifies other program components, including the grounds for the DNR to suspend or terminate an entity's participation in the program, standards for outside environmental auditors, and the penalty for intentionally submitting false information to the DNR under the program. In addition, the DNR must convene an advisory group to help the DNR evaluate the program and submit periodic progress reports on this program and the environmental improvement program to the Legislature.

Environmental Improvement Program

The environmental improvement program encourages regulated entities to check their compliance with environmental regulations and correct any violations discovered during their audits.

Act 276 identifies program participation requirements and the minimum contents of the report on an audit that a participant must submit to the DNR. If an entity proposes to take more than 90 days to correct any violations revealed by its audit, the report must include a proposed compliance schedule and stipulated penalties to be imposed if the entity fails to comply with the schedule.

The Act also specifies the processes and deadlines for an entity to conduct an audit and report it to the DNR, and for the DNR to provide notice and opportunity for public comment on any proposed compliance schedule and stipulated penalties and to review and act on the schedule and penalties, in consultation with the entity.

The Act establishes that the state may not, in general, begin a civil action to collect forfeitures for violations disclosed in a participant's audit report within 90 days after the DNR receives the report or during an approved compliance schedule. After those periods and notwithstanding minimum or maximum forfeitures specified in listed environmental laws, a participant that corrected the violations in a timely manner may not be required to forfeit more than \$500 for each violation, regardless of the number of days during which the violation continues. The DNR may issue a citation to collect these forfeitures.

If the DNR receives a participant's audit report that discloses a potential criminal violation, the DNR and the Department of Justice must take into account the diligent actions of, and reasonable care taken by, the regulated entity to comply with environmental requirements in deciding whether to pursue a criminal enforcement action and what penalty should be sought.

Additional Information

The DNR's Green Tier web site is at <http://www.dnr.state.wi.us/org/caer/cea/environmental/index.htm>.

Effective Date: Act 276 takes effect on May 1, 2004. Both programs created by the Act are subject to separate sunset provisions, which prohibit new participants in the programs after July 1, 2009.

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