



Compliance Audits An Environmental Improvement Program

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

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

Purpose and Intent

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

Participation

Participation requires four straightforward steps:

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

Audit Report

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

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

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

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

Enforcement

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

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

Exclusions

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

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

Public Notice and Reporting

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