

Proving EMS Functional Equivalency

Environmental Management Systems (EMS) are the foundation for Green Tier participation. Participants are expected to utilize an EMS that either meets the requirements of the ISO 14001:2004 standard or has been determined to be a functionally equivalent EMS as defined in Wis. Stats. § 299.83(1)(dg). If an applicant has an ISO 14001 EMS, conformance to this requirement can be demonstrated by providing an ISO 14001 certificate of registration issued by a certification body that has been accredited by an International Accreditation Forum (IAF) member. If an applicant has a functionally equivalent EMS, they shall follow the recommended procedures below to demonstrate to the department that an EMS has been developed and is producing environmental results.

For Tier 1:

At the time of application to the Green Tier program, if a Tier 1 applicant has an EMS in place that is not an ISO 14001 EMS, it shall document that its EMS is functionally equivalent under either Option A or Option B below. If the applicant does not have an EMS in place at the time of application, it will need to develop an EMS within one year from the date of entry into the program, and document that its EMS is functionally equivalent under either Option A or B below.

For Tier 2:

At the time of application to the Green Tier program, if a Tier 2 applicant has an EMS in place that is not an ISO 14001 EMS, they shall document that their EMS is functionally equivalent under either Option A or Option B below.

Wis.Stats. §299.83(1)(dg)

(dg) "Functionally equivalent environmental management system" means an environmental management system that is appropriate to the nature, scale, and environmental impacts of an entity's activities, products, and services, and that includes all of the following elements and any other elements that the department determines are essential elements of International Organization for Standardization standard 14001:

1. Adoption of an **environmental policy** that includes a commitment to compliance with environmental requirements, pollution prevention, and continual improvement in environmental performance and that is available to the public.
2. An analysis of the **environmental aspects and impacts** of an entity's activities.
3. Establishment and implementation of plans and procedures to achieve **compliance** with environmental requirements and to maintain that compliance.
4. Identification of all **environmental requirements** applicable to the entity.
5. A process for **setting environmental objectives and developing appropriate action plans** to meet the objectives.
- 5m. Establishment, implementation, and maintenance of **resources, roles, and responsibilities** for establishing, implementing, maintaining, and improving the environmental management system.
6. Establishment of a structure for **operational control** and responsibility for environmental performance.
7. Establishment, implementation, and maintenance of an **employee training program** to develop awareness of and competence to manage environmental issues.
8. A plan for taking actions to prevent environmental problems and for taking **emergency response and corrective actions** when environmental problems occur.
9. A **communication plan** for collaboration with employees, the public, and the department on the design of projects and activities to achieve continuous improvement in environmental performance.
10. Procedures for **control of documents** and for keeping records related to environmental performance.
- 10g. Establishment, implementation, and maintenance of procedures to **monitor and measure**, on a regular basis, key characteristics of an entity's operations that can have a significant environmental impact.
- 10r. Establishment, implementation and maintenance of procedures for periodically evaluating **compliance with applicable environmental requirements**.
11. Environmental management system **audits**.
12. A plan for **continually improving environmental performance** and provision for senior **management review** of the plan.

It is important to understand that in order to demonstrate functional equivalence, a Green Tier participant must demonstrate both “equivalency”, meaning that each component of an environmental management system is present, and also “functionality”, meaning that each element of the system is actually being implemented. For instance, an audit procedure must exist (the equivalency piece), and the EMS must, in fact, have been audited (the functional piece).

Option A:

The applicant/participant provides documentation that the elements in its EMS satisfy each of the 15 elements identified under Wis.Stats. §299.83(1)(dg) (see box).

The applicant/participant documents both equivalency and functionality and has the responsibility for supplying evidence that demonstrates conformance to each requirement. All of the documentation supplied under this option will be a matter of public record. The documentation is to be accompanied by a declaration from the senior manager that signed the Green Tier application. This declaration shall include the following, *“I have reviewed the information provided. I find that the information provided conforms to each of the 15 requirements in Wis.Stats. §299.83(1)(dg) as a functionally equivalent environmental management system.”*

Option B:

The applicant/participant shall provide evidence to an outside environmental auditor (see box) that their EMS conforms to the 15 elements identified in the statute. The auditor should evaluate the functional equivalency of the EMS and submit to the applicant a declaration that they have examined the evidence provided by the applicant/participant and that the EMS has procedures that satisfy each of the 15 elements, and that the procedures for each of the 15 elements are indeed being implemented. The documentation supplied by the auditor under this option should form the basis for a declaration from senior management to the DNR. This declaration shall include the following, *“I have submitted evidence of our EMS to an auditor for review and a review was performed. We have received a report documenting that the EMS information that we have developed conforms to each of the 15 elements in Wis.Stats. §299.83(1)(dg) as a functionally equivalent environmental management system.”*

Wis.Stats. §299.83(9)(1)(dr)

§299.83(9)(1)(dr) “Outside environmental auditor” means an auditor who is functionally or administratively independent of the facility or activity being audited, but who may be employed by the entity that owns the facility being audited or that owns the unit that conducts the activity being audited.

Wis.Stats. §299.83(7m)

§299.83(7m) ENVIRONMENTAL AUDITORS. The department may not approve an outside environmental auditor for the purposes of sub. (3) (d) 4. or (5) (c) 2. unless the outside environmental auditor is accredited by an accreditation body that complies with standards of the International Organization for Standardization for accreditation bodies or meets criteria concerning education, training, experience, and performance that the department determines are equivalent to the criteria in the standards and guidance of the International Organization for Standardization for entities providing audit and certification of environmental management systems..

For examples of what has been submitted to the DNR in the past, please see the documentation for Holsum Dairy at

<http://dnr.wi.gov/org/caer/cea/environmental/participants/holsum/documents/functionalequivalencyreport.pdf> or Times Printing at

<http://dnr.wi.gov/org/caer/cea/environmental/participants/timesprinting/documents/FunctionalEquivalencyReport.pdf>.

Upon receipt of documentation of functional equivalency for either a Tier 1 or a Tier 2 application, the DNR project manager shall review the certification and determine whether the environmental management system is a functionally equivalent environmental management system.