

US EPA ARCHIVE DOCUMENT

# Indiana Environmental Stewardship Program

## Eligibility Requirements

There are three main requirements to be eligible for the Environmental Stewardship Program:

- A standard of environmental compliance;
- A fully implemented environmental management system (EMS) and commitment to maintaining it; and
- A commitment to continuous environmental improvement.

### *Compliance History*

ESP members must have a record of compliance with environmental laws and commit to maintaining the level of compliance needed to qualify for the program as expected of “environmental stewards.”

In evaluating an applicant's compliance record, IDEM will consult available databases and enforcement information sources. IDEM encourages applicants to assess their own compliance record as they make decisions regarding participation in this program. Applicants can check their facility's Federal compliance record for the last two years with EPA's Enforcement and Compliance History Online at [www.epa.gov/echo/](http://www.epa.gov/echo/). Please note, that this tool provides a two-year snapshot and applicants' compliance records are calculated over longer time frames for ESP. If you are unsure about your Indiana compliance history, please contact the ESP Program Manager in IDEM's Office of Pollution Prevention and Technical Assistance at (800) 988-7901.

Participation in ESP will not be appropriate if the compliance screen shows any of the following, under federal or state law:

- Corporate criminal conviction or plea for environmentally-related violations of criminal laws involving the entity or an officer within the past 5 years.
- Criminal conviction or plea of employee at the entity for environmentally-related violations of criminal laws within the past 5 years.

Participation in ESP may not be appropriate if the compliance screen shows any of the following, under federal or state law:

- Ongoing criminal investigation or prosecution of corporation, corporate officer, or employee at the same facility for violations of environmental law.
- Three or more significant violations at the facility in the past 3 years.
- Unresolved, unaddressed Significant Non-Compliance (SNC) or Significant Violations (SV) at the facility.
- Planned but not yet filed judicial or administrative action at the facility.
- Ongoing EPA- or state-initiated litigation at the facility.
- Situation where a facility is not in compliance with the schedule and terms of an order or decree.
- History of significant problems or a pattern of noncompliance at the entity.

**EPA Overview of Significant Non-Compliance and High Priority Violation (2/22/02)**

Significant Non-Compliance (SNC) and High Priority Violation (HPV) are terms used to describe compliance status related to the violations of environmental requirements that EPA deems the most serious and that may pose a more severe level of environmental threat. The term SNC is used by the Water and RCRA Programs, while HPV is used by the Air Program.

Each EPA and IDEM program uses its own program-specific criteria, based on the applicable statutes and regulations, for determining whether or not a facility is currently in SNC or HPV status. The tables below list examples of criteria specific to each program that could lead to SNC or HPV designations, and what is necessary to address or resolve SNC or HPV status.

**Examples of HPV and SNC Determination Criteria**

<p><b>Clean Air Act (CAA) Program HPV</b></p> <ul style="list-style-type: none"> <li>• Failure to obtain a Prevention of Significant Deterioration (PSD) permit</li> <li>• Violation of an air toxics requirement</li> <li>• Failure to submit a Title V permit application within 60 days of the deadline</li> <li>• Violation of an air toxics requirement</li> <li>• Violation by a synthetic minor of an emission limit that affects the source's regulatory status</li> <li>• Violation of an administrative or judicial order</li> <li>• Substantial violations of a sources Title V obligations</li> <li>• Testing, monitoring, record keeping or reporting violations that substantially interfere with enforcement or determination of a facility's compliance requirements</li> <li>• Violation of an allowable emission limit detected during a source test</li> <li>• Chronic or recalcitrant violations</li> <li>• Substantial violations of 112 (r) requirements</li> <li>• Failure to submit the annual compliance certification within 60 days of the due date</li> </ul>
<p><b>Clean Water Act (CWA) Program SNC</b></p> <ul style="list-style-type: none"> <li>• Failure to comply with permit requirements:             <ul style="list-style-type: none"> <li>○ Major exceedance of effluent limits</li> <li>○ Failure to meet a compliance schedule milestone by 90 days or more</li> <li>○ Submitting a major report 30 days or more past the due date</li> <li>○ Other violations of concern to Director</li> </ul> </li> <li>• Failure to comply with requirements of any enforcement order</li> </ul>
<p><b>Resource Conservation and Recovery Act (RCRA) Program SNC</b></p> <ul style="list-style-type: none"> <li>• Determination that the facility has caused actual exposure or has a substantial likelihood of causing exposure of a hazardous waste or constituent</li> <li>• Chronic or recalcitrant violations</li> <li>• Substantial deviations from the terms of a permit, order or agreement, or from RCRA statutory or regulatory requirements             <ul style="list-style-type: none"> <li>○ storage of hazardous waste without a permit in excess of the accumulation time allowed by generator status</li> <li>○ disposal of hazardous waste at an un-permitted facility</li> <li>○ lack of financial assurance</li> </ul> </li> </ul>

## Examples of How SNC or HPV Status May Be Addressed or Resolved

### Clean Air Act (CAA) Program HPV

- Facility has demonstrated it has resolved the violation that led to the HPV listing, or
- EPA or the State issues a formal enforcement order to address the HPV violation

### Clean Water Act (CWA) Program SNC

- Facility returns to compliance for a quarter, or
- Formal enforcement action regarding the violation has been taken

### Resource Conservation and Recovery Act (RCRA) Program SNC

- Facility returns to full physical compliance for all violations, and/or
- Facility is in compliance with a compliance schedule for any outstanding violations

### EMS Requirements

ESP applicants must certify that they have adopted and implemented an Environmental Management System (EMS), and that the EMS has undergone an independent assessment in accordance with the criteria set forth in the ESP Independent EMS Assessment Policy.

Because each facility is unique, the scope and formality of its EMS will vary according to its size, sector, and complexity. An approved EMS must be implemented prior to granting ESP membership and includes the following elements:

1. Evidence of senior management support, commitment, and approval.
2. A written environmental policy directed toward compliance, pollution prevention and continuous improvement.
3. Identification of the environmental aspects at the entity.
4. Prioritization of the environmental aspects and a determination of those aspects deemed significant considering, at the minimum, environmental impacts and applicable laws and regulations.
5. Established priorities, and environmental objectives and targets for continuous improvement in environmental performance and for ensuring compliance with applicable environmental laws, regulations, and permit conditions. Objectives and targets must go beyond current legal requirements and specify the:
  - Environmental media;
  - Types of pollution to be prevented or reduced;
  - Implementation activities; and
  - Projected time frames.A member of senior management shall approve three (3) continuous environmental improvement initiatives for each membership term. One (1) initiative shall be identified at the time of the initial or renewal application and the remaining initiatives shall be identified each year at the time the annual summary is submitted to the department.
6. An established community outreach mechanism that includes the following:
  - Identifying and responding to community concerns.
  - Informing the community of important matters that affect the community.

- Reporting on the EMS, including, at a minimum, reporting to the public on the environmental policy and significant aspects.
  - Through the annual summary, reporting on the environmental improvement initiatives, including progress towards the most recent environmental improvement initiatives identified in the application or annual summary.
7. Incorporation of environmental and pollution prevention planning in the development of new products, processes, and services and modifications of existing processes.
  8. Evidence of clear responsibility for implementation, training, monitoring, EMS maintenance, and taking corrective action and for ensuring compliance with applicable environmental laws, regulations, and permit conditions.
  9. Documentation of the implementation procedures and the results of implementation.
  10. Appropriate written EMS procedures.
  11. An annual evaluation of the EMS with written results provided to senior management and affected employees.

To ensure your EMS meets the requirements of the Environmental Stewardship Program, please refer to the *EMS Checklist*.

### *Environmental Improvement Initiatives*

#### **Performance Criteria**

To submit a successful application, facilities need to commit to continued environmental improvement. Future commitments are selected from the Environmental Performance Table. The Environmental Performance Table groups environmental indicators as follows:

- Upstream Stage: Material Procurement and Suppliers' Environmental Performance
- Inputs Stage: Material Use, Water Use, Energy Use, and Land Use
- Non-product Outputs Stage: Air Emissions, Discharges to Water, Waste generation and disposal, Noise, Odor, and Vibration
- Downstream Stage: Products

Facilities are encouraged to commit to more than the minimum. Aspects are chosen by the facility, not by IDEM. Commitments for improvement should relate to the facility's environmental aspects identified in the EMS and should take into account their significance, local environmental priorities, community concerns, and pollution prevention opportunities.

In committing to continued improvement, facilities should not rely on any actions that are intended to attain compliance with existing legal requirements at the Federal, state, tribal, or local levels. Improvements should represent actions beyond existing legal requirements.

#### **Participation in Partnership Programs**

IDEM encourages each facility to use the results of its participation in EPA, state, and other partnership programs to identify eligible projects and document its achievements in improving performance. Participation in a partnership program will not solely qualify a facility, but improvements that occur in the context of such programs would.