

The Arizona Voluntary Environmental Stewardship Program

Notice Required by A.R.S. § 41-1091(B):

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under A.R.S. §41-1033 for a review of the statement.

INTRODUCTION

Established by H.B. 2799 in 2012, Arizona Revised Statutes (A.R.S.) §49-192 et. seq. requires the Arizona Department of Environmental Quality (ADEQ) to develop, implement and administer the Voluntary Environmental Stewardship Program (VESP) to provide recognition and incentives for organizations that have a good history of environmental compliance and endeavor to go above and beyond environmental law requirements. The VESP is based on the premise that government should complement existing programs with new tools and strategies that not only protect people and the environment, but also capture opportunities for reducing cost and spurring technological innovation.

VESP membership includes recognition and the potential for regulatory flexibility and other incentives, commensurate with the applicants' demonstrated level of commitment to continuous environmental improvement through the use of environmental management systems, for fostering public outreach and community involvement, and agreeing to report on performance measurements.

CATEGORIES OF RECOGNITION

The VESP offers five distinct categories of recognition, as follows:

Bronze Level – This level of recognition is available to regulated facilities only for three-year terms. The Bronze Level recognizes those facilities with no environmental violations discovered by a regulatory environmental agency within the past three years and the recipient must maintain this standard while a member of the VESP.

Silver Level – This level of recognition is available for all facilities/organizations (i.e. regulated and non-regulated facilities) for three-year terms. The Silver Level recognizes facilities that:

- have made measureable environmental achievements (e.g. reducing pollution, conserving natural resources, etc.) in the past in at least one of the areas listed below under “Areas for Continuous Improvement,” and
- commit to measure continued improvement in the same or another area for the membership term.

Regulated facilities cannot have any open enforcement actions at the time of application. Additionally, regulated facilities maintaining a superior compliance record (i.e. no violation(s) discovered by a regulatory environmental agency within the past three years) will receive a "Superior Compliance History" designation added to their level of recognition. The “Superior Compliance History” designation

will be forfeited if a violation is found by a regulatory environmental agency, while being a member of the VESP.

Gold Level - This level of recognition is available for all facilities/organizations for three-year terms. The Gold Level recognizes facilities that:

- have made measureable environmental achievements in the past in at least one of the areas listed below under “Areas for Continuous Improvement;”
- commit to developing and maintaining an environmental management system (EMS) within three years of becoming a member; and
- commit to measure continued improvement in the same or another area for the membership term.

Regulated facilities cannot have any open enforcement actions at the time of application. Additionally, regulated facilities maintaining a superior compliance record (i.e. no violation(s) discovered by a regulatory environmental agency within the past three years) will receive a "Superior Compliance History" designation added to their level of recognition. The “Superior Compliance History” designation will be forfeited if a violation is found by a regulatory environmental agency, while being a member of the VESP.

Platinum Level – This level of recognition is available for all facilities/organizations for three-year terms. The Platinum Level recognizes facilities that:

- have made measureable achievements in the past in at least one of the areas listed below under “Areas for Continuous Improvement;”
- have a functioning EMS;
- have completed one full EMS cycle, including an annual audit;
- commit to community outreach; and
- commit to measure continued improvement in the same or another area for the membership term.

Regulated facilities, however, cannot have any open enforcement actions at the time of application. Additionally, regulated facilities maintaining a superior compliance record (i.e. no violation(s) discovered by a regulatory environmental agency within the past three years) will receive a "Superior Compliance History" designation added to their level of recognition. The “Superior Compliance History” designation will be forfeited if a violation is found by a regulatory environmental agency, while being a member of the VESP.

Copper Level – This category is a one-time level of recognition that is issued annually. The Copper Level recognizes partnerships and collaborations, or regulated facilities that have completed an environmental project that resulted in measureable improvements to the environment. To receive recognition, the project must relate to one or more of the areas listed below under “Areas for Continuous Improvement.”

AREAS FOR CONTINUOUS IMPROVEMENT

As part of the application, facilities need to demonstrate past environmental achievement and commit to continued improvement in their environmental performance. Past achievements and future commitments must be selected from the following list of environmental indicators:

Upstream

1. Material Procurement
2. Suppliers' Environmental Performance

Input

3. Material Use
4. Water Conservation
5. Energy Conservation
6. Land Use

Non-Product Output

7. Air Emissions
8. Discharges to Water
9. Waste Generation/Management
10. Noise
11. Vibration

Downstream

12. Products
13. Reduce, Reuse, Recycle or Repurpose

The applicant has the choice of continuing to measure achievements for the same environmental indicator in subsequent years or select a new or additional environmental indicator to measure.

CRIMINAL ACTIVITY

In addition to the civil conditions presented under "Categories of Recognition" above, an applicant to the VESP cannot have a conviction or plea for environmentally-related violations of criminal law within the past five years for the facility.

BENEFITS and INCENTIVES

Each level of recognition will receive an appropriate certificate of recognition, a listing on ADEQ's web page as a VESP member, and an invitation to any scheduled VESP conference. Furthermore, Silver, Gold and Platinum level applicants may request additional benefits from the following list of options. ADEQ will award additional benefits based on the demonstrated level of commitment to continuous improvements made by the applicant.

Reduced Inspection Frequency

ADEQ will consider making inspections of VESP members a low priority, reducing the frequency of routine (i.e., non-complaint based) inspections by at least 50 percent for those programs without a frequency specified in statute or rule. Routine inspections generally occur when there is no specific reason to believe that a violation exists at the facility. Low priority for routine inspections does not occur when the department has information that problems may exist at the facility (e.g., the department has received a complaint). In lieu of ADEQ performed inspections, the VESP member must conduct self-inspections using department-approved inspection checklists according to the frequency established in the appropriate department's policy. The self-inspection checklists must be submitted to the appropriate department within 48 hours of completion and include a certification of accuracy signed by

a responsible official, with a commitment (including timeframes) to address violations discovered during a self-inspection. The applicable department will randomly audit self-inspections to evaluate whether the self-inspections are adequate. The audit will consist of a department compliance inspection conducted as soon as practicable following receipt of the self-inspection report. Any such inspections would be conducted in accordance with A.R.S. §§ 41-1009 and 49-471.03.

Enforcement Notice

ADEQ will consider providing a courtesy telephone call to the company representative designated in the VESP application at least 24 hours prior to issuance of an Notice of Opportunity to Correct (NOC), Notice of Violation (NOV), administrative order or civil complaint. The courtesy call will be made by the appropriate unit or section manager or VESP program administrator after the action has been approved by the appropriate Division Director, Regional Office Manager, or Director.

Enforcement Discretion for Minor Violations

ADEQ may forgo issuing a Notice of Opportunity to Correct (NOC) or other notice to a VESP member for those minor violations that are self-disclosed to ADEQ in writing, in a self-inspection report or otherwise. The disclosure must include documentation that the violation has been resolved or a commitment that it will be resolved within a timeframe agreed upon by ADEQ.

Inspection Notice

ADEQ will consider providing advanced notice of on-site, non-complaint based inspections for VESP members on a case-by-case basis. In deciding whether to include advanced notice as an incentive for participation in the program, ADEQ will consider the nature of the facility's operations, including any legal requirements or practical considerations to maintain prompt access to the facility, and whether notice of the inspection would frustrate ADEQ's ability to evaluate compliance.

Reporting Consolidation

ADEQ strongly supports the concept of consolidating reports as an incentive for participating in the VESP. ADEQ will consider consolidation of reports on a case-by-case basis. In deciding whether to allow report consolidation for participation in the program ADEQ will consider whether all reporting requirements will continue to be met and whether there are legal restrictions prohibiting consolidation.

Recognition

ADEQ will host regular meetings between executive leadership and members of the VESP to discuss department priorities and initiatives. These meetings will also be used to discuss future incentives for participating in the VESP. ADEQ will provide recognition on its web site and other applicable publications, as appropriate. Members will also have the ability to use their membership in their own literature, web site, etc.

Permit Flexibility

ADEQ supports the concept of permit flexibility as an incentive and will consider operational flexibility within existing permits (i.e., process modifications without permit modifications).

Reporting Requirement Reduction

ADEQ supports reducing reporting requirements as an incentive and will consider reducing existing and future reporting frequencies.

Participation in Pilot Projects

ADEQ will invite VESP members to participate in pilot projects designed to relieve administrative burdens of the regulated community.

Multi-media Inspections

ADEQ will make best efforts to conduct multi-media inspections (including coordination with other state, local, and federal agencies) if requested by a VESP member.

Multi-media Permitting

ADEQ will make best efforts to consolidate permit expiration dates and thus permit renewal deadlines.

Future Incentives

The members of the VESP will be invited to participate in discussions about incentives that might be added to the program.

ENVIRONMENTAL MANAGEMENT SYSTEM

The requirement to develop and implement an environmental management system (EMS) or to have completed one full EMS cycle applies to the Gold and Platinum levels of recognition, respectively. An EMS cycle refers to the Deming Cycle (i.e. Plan-Do-Check-Act): Plan what you want to do, including setting goals and targets; Do what you planned; Check to ensure actions move towards meeting goals and targets; and Act (initiate preventive and corrective actions) when deviations from plans are found. At a minimum the EMS should include the following:

Policy

- An environmental policy committing the facility to:
 - Compliance with legal requirements and voluntary commitments
 - Pollution prevention
 - Continuous improvement in environmental performance, including areas not subject to regulations
 - Sharing information on environmental performance with the community.

Planning

- Identification of significant environmental aspects and legal requirements, including procedures for integrating anticipated changes to the facility's requirements.
- Measurable objectives and targets to meet policy commitments and legal requirements, to reduce the facility's significant environmental impacts, and to meet the performance commitments made as part of the facility's participation in the program. In setting objectives and targets, the facility should consider preventing non-compliance, preventing pollution at its source, minimizing cross-media pollutant transfers, and improving environmental performance.
- Active, documented programs to achieve the objectives, targets, and commitments in the EMS, including the means and time frames for their completion.

Implementation and Operation

- Established roles and responsibilities for meeting objectives and targets of the overall EMS and compliance with legal requirements, including a top management representative with authority and responsibility for the EMS.
- Defined procedures for:
 - Achieving and maintaining compliance and meeting performance objectives.
 - Communicating relevant information regarding the EMS, including the facility's environmental performance, throughout the organization.
 - Providing appropriate incentives for personnel to meet the EMS requirements.
 - Document control, including where documents related to the EMS will be located and who will maintain them.
- General environmental training programs for all employees, and specific training for those whose jobs and responsibilities involve activities directly related to achieving objectives and targets and to compliance with legal requirements.
- Documentation of the key EMS elements.
- Operation and maintenance programs for equipment and for other operations that are related to legal compliance and other significant environmental aspects.
- An emergency preparedness program.

Checking and Corrective Action

- An active program for assessing performance and preventing and detecting non-conformance with legal and other requirements of the EMS, including an established compliance audit program and an EMS audit program.
- An active program for prompt, corrective action of any non-conformance with legal requirements and other EMS requirements.

Management Review

- Documented management review of performance against the established objectives and targets and the effectiveness of the EMS in meeting policy commitments.

HOW TO APPLY

1. Applying facility completes and submits an electronic application. Applying facilities are encouraged to contact the ADEQ Ombudsman at any time during the process with questions, concerns or issues, or for additional guidance.
2. ADEQ will review each application for completeness and respond as follows:
 - a. Incomplete applications will be returned to applicant; and
 - b. Complete applications will be loaded into an agency tracking system.
3. ADEQ will conduct a compliance screening to: review the applicant's history of compliance with environmental laws; determine whether violations have been discovered by a regulatory agency within the past three years (Silver, Gold and Platinum levels - for Superior Compliance History designation purposes); and whether there have been any convictions or pleas for environmentally-related violations of criminal law within the past five years.
4. ADEQ will conduct a substantive review of the application to ensure all program elements are satisfied.

5. ADEQ will award additional benefits based on the level of commitment to continuous improvement made by the applying facility. ADEQ may conduct a site visit to the applying facility when deciding which additional benefits may be awarded.

ANNUAL REPORTING

(For Bronze, Silver, Gold and Platinum Levels Only)

1. An electronic report is completed and submitted to ADEQ on April 1 of each year, beginning with the April 1 following the year in which a member is accepted into the program.
2. ADEQ will review the annual reports for completeness and respond as follows:
 - a. Incomplete annual reports will be returned to applicant; and
 - b. Complete annual reports will be added to an agency tracking system.
3. ADEQ will tabulate achievements reported in the following manner:
 - a. Cumulative achievements will be made available to the members and the public on ADEQ's web site;
 - b. Attempts will be made to graphically represent selected core reporting parameters for benchmarking purposes; and
 - c. Historical information will be maintained to document progress and improvements over time.

RENEWALS

(For Bronze, Silver, Gold and Platinum Levels Only)

1. Each member may renew membership every three years, by submitting an electronic renewal application. Applying facilities are encouraged to contact the ADEQ Ombudsman at any time during the process with questions, concerns or issues, or for additional guidance.
2. ADEQ will review each renewal application for completeness and respond as follows:
 - a. Incomplete renewal applications will be returned to applicant; and
 - b. Complete renewal applications will be loaded into agency tracking system.
3. ADEQ will conduct a compliance screening to determine whether violations have been discovered by a regulatory agency within the past three years (Silver, Gold and Platinum levels - for Superior Compliance History designation purposes); and whether there have been any convictions or pleas for environmentally related violations of criminal law within the past five years.
4. ADEQ will conduct a substantive review of the application to ensure all program elements are satisfied.
5. ADEQ will award additional benefits based on the level of commitment to continuous improvement made. ADEQ may conduct a site visit to the applying facility when deciding which additional benefits may be awarded.

DEMOTIONS and REVOCATIONS

ADEQ will review a member's status for potential demotion of recognition (i.e. demoted from Silver level of recognition to Bronze); revocation of additional benefits; or revocation of recognition completely if either of the follow conditions arise:

1. The member fails to follow through on commitments made to receive recognition or additional benefits; or

2. The member engages in an egregious action that is contrary to the principles of this program or otherwise threatens the credibility or integrity of this program.

If ADEQ elects to take action against a member, ADEQ will notify the member in writing of the issue(s) causing concern. The member facility will have 30 days to provide a written response to ADEQ, discussing:

- The details leading to the concern(s);
- Any actions taken to address or eliminate the concern(s);
- Any documentation that shows the concern(s) did not actually exist; or
- Any other documentation the member believes ADEQ should consider prior to rendering a final decision.

After reviewing the member's response, ADEQ will issue a final determination detailing the actions to be taken against the member's recognition.

VESP IS NOT A LICENSE

Pursuant to Arizona Revised Statutes §49-192.01, membership in the Voluntary Environmental Stewardship Program does not constitute a license under title 41, chapter 6, and the denial or approval of membership does not constitute an appealable action or an action against the party under title 41, chapter 6, article 10.