

NC DENR

Environmental Stewardship Initiative

Advisory Board Guidance Manual



Revision 2: December 3, 2014



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6/27/2014

Purpose

The Environmental Stewardship Initiative of the North Carolina Department of Environment and Natural Resources is designed to promote and encourage superior environmental performance within the state. This voluntary program provides benefits and technical assistance to stimulate the development and implementation of programs using pollution prevention and innovative approaches to meet and go beyond regulatory requirements. DENR uses a transparent process including a wide range of stakeholders in development and administration of this program. The program seeks to reduce the negative impact on the environment beyond measures required by any permit or rule, leading to a cleaner environment, conservation of natural resources and long-term economic benefits.

Structure

The ESI program consists of three levels of participation. The first level, or “Environmental Partner,” is designed for adoption by a broad range of organizations interested in developing a systematic approach to improving their environmental performance or strengthening existing programs. The second level, or “Rising Environmental Steward,” is designed for facilities with a mature environmental management program. The third level, or “Environmental Steward,” is for facilities with a history of commitment to exemplary environmental performance beyond what is required by law and that have demonstrated leadership.

The DENR Secretary establishes an Advisory Board not to exceed 15 members to oversee program development and implementation. The DENR Secretary or designee chairs the board. Membership consists of a balanced group of manufacturers, industries, industry trade groups, environmental and citizen non-governmental organizations, agribusiness, small businesses, local and state/federal government representatives, DENR representatives, and/or others deemed appropriate. Whenever possible, Environmental Stewards will be given priority for membership.

The DENR Secretary also establishes a DENR Internal Workgroup to provide technical support and coordination for the Advisory Board and the overall initiative. The Workgroup is comprised of representatives from all DENR regulatory divisions.

Eligibility

Any site-specific organization or entity whose activities impact the environment is eligible to participate. This includes, but is not limited to, manufacturers, businesses, agribusiness, service providers, government agencies, schools and nonprofit agencies. The ESI staff will assist small businesses and local government agencies with their applications to the ESI. Multi-site organizations are allowed at the Partner level, however only individual facilities are allowed to apply at the Rising Steward and Steward levels of the ESI program.



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First Level: Environmental Partner

To become an Environmental Partner, an organization must meet the following criteria:

- Not be under *environmental* criminal indictment or conviction. DENR retains the right to reject an applicant following a compliance review;
- Demonstrate commitment to compliance;
- Set environmental performance goals that include pollution prevention and are appropriate to the nature, scale and environmental impact of the organization **and/or** commit to developing, implementing and maintaining an environmental management system based on ISO 14001 or a functionally-equivalent model; and
- Agree to report annually progress toward the organization's environmental performance goals and any reportable non-compliance events.

Environmental Partners are eligible for the following:

- Technical assistance with developing an EMS, pollution prevention approaches, environmental management and treatment technologies, and achieving and maintaining compliance with local, state and federal regulations;
- Assistance with reaching Rising Steward and Steward level criteria and developing Rising Steward and/or Steward application(s);
- Specialized training;
- Electronic newsletter;
- Networking opportunities;
- Access to Environmental Steward mentors;
- Recognition of program participation with a certificate at the annual Members Meeting;
- Use of a Partner logo;
- Coverage by U.S. EPA and DENR self-reporting policies; and
- Other benefits as deemed appropriate by the DENR Secretary based on recommendations from the Advisory Board.

Second Level: Rising Environmental Steward

To become a Rising Environmental Steward, an organization must meet the following criteria:

- Set site-specific measurable environmental performance goals that must be adopted into the framework of the EMS, include pollution prevention and/or process efficiency improvement activities. Goals should demonstrate annual improvements to performance, be appropriate to the nature, scale and environmental impact of the organization, and result in reductions of an organization's environmental impact;



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- Demonstrate a mature EMS based on ISO 14001 or a functionally-equivalent model. The EMS for the site must be ISO 14001 third-party certified or be reviewed on-site by DENR staff.
- Demonstrate commitment to meet and go beyond compliance. Applicants will submit information about any environmental violations or reportable non-compliance for review on a case-by-case basis by the Advisory Board. The Advisory Board will use the program's significant violation definition as a guideline.
- Agree to report annually progress toward the organization's environmental performance goals, and any reportable non-compliance events.

All Rising Environmental Steward applicants are subject to an on-site verification review by DENR staff.

Rising Environmental Stewards are eligible for the same ESI benefits listed in the Partner section above and:

- Recognition of program participation with a plaque at the annual Members Meeting; and
- Use of a Rising Steward logo

Third Level: Environmental Steward

To become an Environmental Steward, an organization must meet the following criteria:

- Set site-specific *aggressive* environmental performance goals that must be adopted within the framework of the EMS, include pollution prevention and/or process efficiency improvements. Goals should demonstrate annual improvements to performance, be appropriate to the nature, scale and environmental impact of the organization, and result in reductions of an organization's environmental impact;
- Demonstrate a *mature* EMS based on ISO 14001 or a functionally-equivalent model. The EMS for the site must be ISO 14001 third-party certified or be reviewed on-site by DENR staff.
- Demonstrate commitment to meet and go beyond compliance. Applicants will submit information about any environmental violations or reportable non-compliance for review on a case-by-case basis by the Advisory Board. The Advisory Board will use the program's significant violation definition as a guideline.
- Agree to report annually progress toward the organization's environmental performance goals, and any reportable non-compliance events;
- Agree to mentor other ESI participants;
- Have an interactive process for communicating with the local community about program activities and progress toward performance goals; and
- Demonstrate how the EMS is integrated into core business functions.



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All Steward applicants are subject to an on-site verification review by DENR staff.

Environmental Stewards are eligible for all benefits available to Environmental Partners and Rising Environmental Stewards and the following:

- Formal public recognition from the governor and/or the DENR Secretary that includes an on-site award ceremony, public announcements and press releases.
- Use of an Environmental Steward logo,
- Participation in the Environmental Stewardship Forum chaired by the DENR Secretary.
- Priority membership on the Advisory Board.
- Consideration for regulatory innovations as discussed below.
- Other benefits as deemed appropriate by the DENR Secretary based on recommendations from the Advisory Board.

Environmental Stewards in the program at this level for at least one year can seek support from DENR to implement regulatory innovations that follow principles outlined in the "Joint EPA/State Agreement to Pursue Regulatory Innovation." Participants requesting approval of regulatory innovations may be required to have applicable permits in place. The department will work with stakeholders, the applicant and appropriate commissions to establish specific regulatory innovations requested by the applicant appropriate to the magnitude of environmental performance goals. DENR will provide assistance in seeking EPA support for regulatory innovations of delegated state or federally administered programs.

Role of Advisory Board

The Advisory Board will:

- Establish ground rules for discussions including addressing potential conflict of interest issues;
- Review program materials;
- Review applications meeting minimum requirements and recommend Rising Environmental Stewards and Environmental Stewards;
- Make recommendations for additional incentives to the DENR Secretary as identified;
- Review program effectiveness and make any recommended changes to the DENR Secretary.
- Undertake any other duties assigned to them by the DENR Secretary.



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Role of DENR Internal Workgroup

The DENR Internal Workgroup will:

- Review all applicants to ESI for compliance;
- Provide technical guidance on regulatory issues; and
- Review applications for Partner and make recommendations to the DENR Secretary about participation.

Program Participation

To remain in the program, each participant must:

- Set and make progress toward environmental performance goals **and/or** show progress on implementing and maintaining an EMS,
- Demonstrate continued commitment to meet and go beyond compliance, and
- Submit the required annual report in a timely fashion.

DENR will conduct a review of all ESI participants annually after the submission of their annual report and address any concerns with the Advisory Board. Organizations are accepted into the ESI for a period of five years. The fifth annual report will be accepted as an application for renewal. Environmental Stewards and Rising Environmental Stewards will have a renewal site verification visit performed by DENR staff. See Appendix C for further guidance on renewals.

Potential Outcomes from Advisory Board or Secretary Review

Following a review of the annual report and any site visit information presented, the Advisory Board may recommend one of the following outcomes for any ESI member that is not meeting its program commitments:

- a. an improvement opportunity period (IOP)
- b. a probationary period
- c. change to a lower level of the program
- d. termination

The member organization recommended for one of the above actions will receive an official letter from DENR reminding the organization of its commitments, informing it of the reason(s) for the action, and providing a specified time period to respond.

Following either the probationary or improvement opportunity period, based on the Secretary's discretion or a recommendation from the Advisory Board, the Secretary will

- (1) return the organization back to its original status or
- (2) extend the timeframe for the IOP or probation, or
- (3) place the member on probation (if previously under IOP), or
- (4) move the organization to a lower level of the program, or
- (5) revoke the organization's participation in the ESI program.



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The DENR Secretary may revoke participation by an organization if the organization has not substantially complied with program requirements. Termination can occur at any time; however, a review is conducted annually after receipt of the required annual report. The DENR Secretary may revoke any or all benefits granted under the program if the applicant has not substantially complied with federal and state laws, regulations and rules for the protection of the environment. Appendix D has the full Termination, Probation, and Improvement Opportunity Period (IOP) procedure.

Reporting

Based on reports from participants, a program summary will be prepared on an annual basis. All data will be made available to the public.

Use of Logo

The only approved use of an ESI logo is reserved to special logos based on the ESI program logo have been created for each of the program levels. The use criteria are detailed in the document titled "Logo Use Criteria." This document can be found in Appendix E. Following the guidelines determined for logo use is the responsibility of the participating organization and is essential to maintaining program credibility.

Appendices:

- Appendix A Advisory Board Make-up and Terms
- Appendix B Advisory Board Conflict of Interest
- Appendix C Renewals
- Appendix D Potential Outcomes from Board or Secretary Review
- Appendix E Logo Use Criteria
- Appendix F Significant Violation Guidance
- Appendix G Guidance on Functional Equivalency and Multi-sites at Steward Level
- Appendix H Confidentiality Policy



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Appendix A

Membership Make-Up and Terms

The Secretary of DENR established an Advisory Board not to exceed 15 members to oversee program development and implementation of the Environmental Stewardship Initiative. The DENR Secretary or designee chairs the board. Membership consists of a balanced group of manufacturers, industries, industry trade groups, environmental and citizen non-governmental organizations, agribusiness, small businesses, local and state/federal government representatives, DENR representatives, and/or others deemed appropriate. The Advisory Board will consist of the following members.

- 1 membership held by DENR and serves as Chair;
- 2 memberships held by environmental and citizen NGO's;
- 1 membership held by industry trade group.
- 3 memberships representing large businesses;
- 2 memberships representing small businesses;
- 1 membership representing academia;
- 1 membership representing state or federal facilities;
- 1 membership representing local government;
- 1 membership representing agribusiness;
- 2 at-large memberships.

Membership Rotation

Member organizations will be asked to serve a 4-year term with a maximum of two consecutive terms. Membership will rotate as needed to allow representation by new Steward organizations. Stewards may be invited to serve after 1 year in the ESI. Members who have served two consecutive terms must wait at least one year before being invited back for another term. Members who do not fulfill the commitments of the position may have their membership terminated by the DENR Secretary.



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Appendix B

Conflict of Interest Policy and Procedure

Policy

No member of the N.C. Environmental Stewardship Initiative Advisory Board shall derive any personal profit or gain, directly or indirectly, by reason of his or her participation within the Advisory Board. Each individual shall disclose to the Advisory Board members any personal or financial interest that he or she may have in considering any individual Steward or Rising Steward application that might be considered a conflict of interest and shall, upon determination, refrain from participation in any discussion and decision on such application.

Conflict of Interest Defined. For purposes of this policy, the following circumstances shall be deemed to create Conflicts of Interest:

- 1) Board member or an immediate family member (spouse, domestic partner, parent, parent of spouse, child or spouse of a child, brother, sister, or spouse of a brother or sister), has a material financial interest in the applicant's organization either through:
 - a. an ownership or investment interest in the applicant's organization;
 - b. compensation arrangement with the applicant's organization; or
 - c. a potential ownership or investment interest in the applicant's organization.
- 2) Applicant is a direct competitor of the organization represented by the board member.
- 3) Applicant is a customer or vendor of the organization represented by the board member.

Procedure

Prior to committee action on an application involving a Conflict of Interest, a committee member having a Conflict of Interest and who is in attendance at the meeting shall disclose all facts material to the Conflict of Interest to the Chair or the Chair's designee. In the event it is not entirely clear that a Conflict of Interest exists, the individual with the potential conflict shall disclose the circumstances to a Conflict of Interest Review Panel made up of the Chair and two Board members chosen by the Board. The Review Panel shall determine by a majority vote whether there exists a Conflict of Interest that is subject to this policy.

The Board member shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting. Such disclosure shall be reflected in the minutes of the meeting.



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Appendix C

Renewals

The following conclusions and recommendations serve as guidance on the renewal process for ESI members:

- Since an annual report with updated goals is submitted annually, a separate renewal form with goals is not required.
- Submitting an annual report shows a commitment to progress toward environmental goals and therefore to the ESI program. As long as a facility submits their annual reports, the commitment to the ESI program exists and no further request for renewal is necessary for the member.
- However, as compliance and goals do change over time and since our Stewards and Rising Stewards are held to higher standards, compliance checks will be performed (via the DENR Internal Workgroup) and a site visit to discuss the current goals, compliance, and the criteria for the Steward or Rising Steward level, as appropriate, will be performed every five years of continuous membership in the program beginning when the member first moves to one of the higher levels.
- The site visit is not as in-depth as the site verification visits that the Stewards and Rising Stewards go through during the initial application period, but instead focus on any changes to the facility, personnel, and processes, and any new goals, environmental improvement programs, or community outreach efforts. These visits occur at any point during the 5th year increment of participation.
- All reports are reviewed by the Advisory Board. Presentations on the compliance history and the site visit may be presented at the Advisory Board meeting when ESI staff has concerns.
- If a facility chooses not to renew their commitment to the program, they only need to send ESI staff an email/letter letting them know that they no longer wish to participate. An exit survey to determine how the ESI can improve to better meet the needs of the members may be performed.
- If a facility does not submit an annual report and does not let the ESI staff know that they do not wish to remain in the program, they will be removed from the program based on the termination policy.
- Once a facility has been removed from the ESI (for any reason), a full application is required for consideration to re-enter the program.



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Appendix D

Potential Outcomes from Advisory Board or Secretary Review

Conditions for Maintaining Membership in the N.C. ESI

To continue in good standing and with full privilege as a member of the Environmental Stewardship Initiative, a Partner, Rising Steward or Steward must

- set and make progress toward environmental performance goals,
- demonstrate continued commitment to meet and go beyond compliance,
- submit the required annual report in a timely fashion, and
- if at higher levels, show progress on Rising Steward or Steward requirements (See page 3 & 4 for criteria).

Criteria for Termination

If a member facility does not comply with program requirements, the DENR Secretary may terminate its ESI membership, revoking all benefits granted under the program. Termination can occur at any time; however, a review is conducted annually after receipt of the required annual report. Termination will be based on the Secretary's own discretion or on the recommendation of the Advisory Board.

The following criteria are guidelines for determining or recommending termination:

- Facility has not substantially complied with federal, state and local laws, regulations and rules for the protection of the environment considering appropriate actions taken to mitigate environmental impacts.
- Facility has not made sufficient progress toward the environmental performance goals set out in its application and subsequent reports.
- Facility is a detriment to the program or otherwise demonstrates actions inconsistent with the spirit of the program.
- Facility has not submitted the required annual report.
- Facility has failed to maintain an active EMS (Rising Steward and Steward only).

Unless extenuating circumstances can be proven, failure to submit the required annual report will result in automatic termination. Reasonable effort will be made to work with a facility to complete and submit the report following the ESI Termination Procedure.

Probationary Period

The DENR Secretary or Advisory Board may recommend a probationary period for any ESI member that is not meeting its program commitments. The member organization placed on probation will receive an official letter from DENR reminding the organization of its commitments, informing it of the reason(s) for the probation,



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giving a date by which to respond and providing a specified time period to properly address the concerns or face termination from the program.

Following the probationary period, based on the Secretary's discretion or a recommendation from the Advisory Board, the Secretary will (1) return the organization back to its original status, or (2) move the organization to a lower level of the program, or (3) revoke the organization's participation in the ESI program.

Improvement Opportunity Period

If during the renewal process (see Appendix C) for Rising Stewards and Stewards, a deviation from membership criteria has been deemed by the Advisory Board there is the option to grant an Improvement Opportunity Period (IOP). An IOP is granted for a limited time for those renewals where the level of commitment to the program and improvement is clear, but updates and improvements are warranted to uphold the ESI principles. The member organization placed on IOP will receive an official letter from the Advisory Board reminding the organization of its commitments, informing it of the reason(s) for the IOP, and providing a specified time period to properly address the concerns. This would give long term members valuable feedback from the board with time to make corrections prior to advancing to other measures, such as those stated above.

Following the IOP, the Advisory Board will recommend that the Secretary (1) return the organization back to its original status, or (2) move the organization to a lower level of the program, or (3) place the member on probation, or (4) extend the timeframe for the IOP, or (5) revoke the organization's participation in the ESI program.



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Appendix E Logo Use Criteria



ESI Program Logo

Members of the North Carolina Environmental Stewardship Initiative may use the logo designed for the highest level of the program the site has achieved. Examples of the program level logos are at the end of this paragraph. These logos vary slightly from the overall ESI program logo (above). The official program logo use is reserved for the ESI (DENR) staff only.



ESI Partner Logo



ESI Rising Steward Logo



ESI Steward Logo

Organizations agree to adhere to the following guidance on proper use of these logos.

The ESI program level logos:

- 1) May only be used by the organization or part of the organization recognized at that level. When using the logo, the member must make clear in its use of the logo what portion of the organization's operations (specific site or sites) are considered an Environmental Steward, Rising Steward, or Partner.
- 2) May be used on internal and external printed and electronic media. Examples of where the ESI partner level logos may be used include:
 - Organization letterhead
 - Organization business cards
 - Organization signs and flags



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- Organization advertisements and newsletters
 - Organization Web site
- 3) May not be used by an organization terminated from the program.
 - 4) May not be used by an organization to imply that it is certified by DENR, that it is a “green” company, or that its operations do not have impacts on the environment.
 - 5) May not be used by external parties such as vendors, customers/clients, boards or contractors.

Recognition of an organization as an Environmental Steward, Rising Steward, or Partner by DENR does not imply that the organization is a “green” company or that its operations do not impact the environment. This recognition instead distinguishes an organization as having a commitment to continuous environmental improvement. Misleading statements in the marketplace or to the general public should be avoided.

Participating organizations should distribute these guidelines to the appropriate members of their organization who will be responsible for marketing and promotion. Following the use guidelines is the responsibility of the participating organization and is essential to maintaining program credibility.

If an organization’s participation in the ESI is terminated for any reason, use of the logo must cease immediately and all related benefits are withdrawn. DENR will periodically monitor use of the logo. Continued inappropriate use of the logo by participating organizations may result in revocation of logo use privileges or in termination of program participation.



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Appendix F

Significant Violation Guidance

Definition of significant violation: For the purposes of the Environmental Stewardship Initiative, a significant violation is defined as a civil penalty, a special order of consent, a judicial order of consent, an injunction, a temporary restraining order, a stop work order, or more than two Notice of Violations (NOV) from one DENR division. Exceptions can be made if the regulatory program determines that the nature of the violations resulting in more than two NOVs is not environmentally significant.

If there are one or two NOVs from multiple DENR divisions, then DENR will review the applicant's compliance patterns and responsiveness to determine if the NOVs, as a group, will be considered significant.

The Advisory Board will consider NOVs and special orders of consent on a case-by-case basis using this definition as guidance. Additional guidance is available through the DENR tiered enforcement policy. Based on this document, all Tier 3 violations are Significant. Tier 2 violations may be considered significant on a case-by-case basis as described above. Tier 1 violations are not considered significant unless they advance to a higher tier. A link to the Tiered Enforcement document follows:
http://portal.ncdenr.org/c/document_library/get_file?uuid=6c8fe528-52d2-49cb-82b9-650e48a8043a&groupId=2444522

Criminal Indictment: Since all ESI members commit to meeting and going beyond compliance, the minimum requirement for all ESI members is to not be under Environmental Criminal Indictment. Upon satisfaction of all consent orders or other requirements to come into compliance, if a company is willing to commit to not only being in compliance but working to move beyond compliance, that company will be eligible to apply to the ESI. There is no waiting period beyond what it takes to come back into compliance.



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Appendix G

Guidance on Functional Equivalency and Multi-sites at Steward Level with Precedence

Functionally Equivalent

For applicants at the Steward level to be eligible at this level, the following guidance will apply to those members who are not third party certified to ISO 14001, RC 14001, or other international standards deemed equivalent by ESI staff.

Precedent: John Deere Turf Care, USEPA-RTP

1. Functional Equivalency to ISO 14001 determined by ESI by a document review and site assessment. The standard met by the facility may be part of a corporate defined EMS, but the site must include all elements of the ISO 14001 system.
2. Facility should have Third Party audits performed regularly on the system in place (does not have to be a certification). Second party and corporate audits are good support, but do not take the place of the independent auditor. These external audits should occur at a minimum of once every 3 years, but preferably annually (at least initially).
3. Strong Internal Audit and Corrective Action programs.
4. All other Steward requirements must be met.

Multi-site Guidance

For applicants at the Steward level to be eligible as a single site at this level, the following guidance will apply to those members who have multiple sites applying at the same time.

Precedent: Thomas Built Buses

1. Sites must have a single ISO 14001 registration (or meet the requirements above for Functional Equivalency).
2. Sites must operate as a single legal entity.
3. Sites must be operated under the same on-site management.
4. Data for the sites must be combined in a way that makes separating the data a hardship. For example, all solid waste or recycling is combined in a way that makes determining the amount from each site impossible.



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Appendix H

Confidentiality Policy

The Environmental Stewardship Initiative operates under a confidentiality policy issued by the DENR Secretary. This policy allows staff of the Division of Environmental Assistance and Customer Service to perform site visits and not report any findings to the regulatory divisions of DENR. Upon recognition of any environmental issues that would be potential violations, DEACS staff will inform the staff of the site and allow the site to report (if required) under the DENR and EPA self-reporting policies. This policy is in place in order to encourage facilities to take advantage of the expertise and experience of DEACS staff to assist with potential compliance issues as well as to assist sites in going beyond what is required by regulatory agencies.

Following is a link to the official policy: (This is the 1994/2004 version)
http://portal.ncdenr.org/c/document_library/get_file?p_l_id=38811&folderId=1070373&name=DLFE-19545.pdf