

US EPA ARCHIVE DOCUMENT

Silver Track II / Gold Track Stakeholder Meeting
May 11, 2000

Attendees – See attached.

Handouts – Letter from DEP to EPA Region II (a.k.a. the “Mark Smith” letter), List of Gold Track Emission Cap Components (as per DEP’s internal discussions and meeting with EPA)

Announcements

- Dennis Hart, currently Director of the Division of Water Quality, will be taking Gary Sondermeyer’s place as Assistant Commissioner of Environmental Regulation. (Gary has been promoted to Chief of Staff for the Department.)
- Narinder Ahuja, currently an Assistant Director in the Division of Water Quality, will be taking Dennis’ place as Director of Water Quality.
- Facility-wide permitting facilities have been invited to showcase innovations at a booth at next month’s Environmental Expo 2000 in Atlantic City. The Environmental Excellence Awards for Silver Track participants will also be awarded at the Expo.

Emission Caps

It was requested that the Department note which flexibilities require regulatory changes.

DEP had a positive discussion on the 120 day notice issue with EPA Headquarters and Region II. There will be a follow-up call with EPA on this.

The following items correlate with a handout on Emission Caps that was sent via email prior to the meeting by Robin McClees.

1. Baseline Caps - Cap baselines will be based on the last 2 years’ data (same as PSD - Emissions Trading) unless there is a large anomaly in the data such as a plant was off line during the last two years.
2. Increasing the Cap - Some clarification was given on building increases into the cap. EPA significance levels would be used as an additive to the base for criteria pollutants.
 - 2c. DEP is concerned the magnitude of changes possible at small facilities could be very large given current baselines may cause adverse impacts. DEP felt that this issued needed to be resolved in some manner. *Industry did not want this to be a “deal killer” for small facilities.*
 - 2d. The HAP additive is equivalent to PAL.
 - 2e. DEP has a concern regarding whether caps should be set for all criteria pollutants regardless of the facility’s current emissions. *Industry felt that current flexibility regarding the emissions of other pollutants not currently emitted would be taken away.* DEP stated that if there were no emissions, the cap would be the EPA significance level (i.e. if no NOX emissions, the cap would be 25 tons)

- 3b. NSR - There was concern that if companies commit to SOTA upgrades in phases that they would have to go through the New Source Review process (i.e. when does SOTA apply? what do you have to do if you have a covenant? and if you are emitting less than 5TPY, what is the process for doing this – can you implement SOTA with no review?) **Peter Genakos** will frame this issue and **Tom Micai** will clarify this
- 4c and 4d. Pollution Prevention Caps – The cap would look at the actual pound of product emitted versus the pound of product produced. The wording in section 4d needs to be clarified – is this an alternative condition or an additional one? Would it be possible to pick the type of cap (i.e. a PAL cap or a P2 cap) when doing the covenant or are both required? Will the SIP be adjusted accordingly?

If you have an old process and add a new chemical, the existing cap would have to be met. If there is a new cap, you would have to have a new cap. The overall emissions per unit would be capped. *Industry would like the flexibility to choose among production units to pick the least costly to upgrade so that they can get the best results.* DEP would like to see more efficiency before equipment changes are done.

Concerns were raised that emissions per product cannot be constant for pharmaceutical companies given that patents run out. This causes changes in demand. Thus, products are moved to less efficient production lines.

A concern was raised that “facilities” should be redefined when new buildings are connected to waste generation operations.

Both DEP and industry need to provide input on this issue.

6. Retrofitting existing equipment with SOTA/BACT – Item 6c and 6e are a little different. Input is needed from **industry** on whether SOTA will be addressed during the 5 year operating permit period or through an operating permit modification.
7. MACT – EPA needs specifics on these issues (i.e. a side-by-side DEP/EPA MACT comparison.) Given that there are more than just pharmaceutical MACTs, it was felt that other industries need to have input on this. EPA also said that MACTs are highly specific regulations and that it is hard to find similarities among them.
- In regards to the “once in always in” policy, EPA representatives said that XL addresses regulation flexibility and does not address policy. Industry felt that they did not want to devote resources to doing comparisons until this issue is resolved. The question was raised that if policy can’t be changed, what work-arounds are possible for recordkeeping and reporting requirements?
8. Recordkeeping/Reporting for De Minimus Emissions Units (that do not go through the NSR process) - These items are new – some discussions are needed regarding what is required when there is or isn’t a predefined compliance plan.
8. Air Quality Modeling- more discussion is needed on this.

Gold Track Evaluation- The program pays off to the public in the form of emissions reductions and enhanced community outreach. The payoff to industry is the emission cap flexibility and

recognition. Concerns were raised that flexibility and recognition may not be enough to offset the cost of the requirements.

Enforcement

Enforcement Inspection Frequency- It was suggested that this be incorporated into the EPA CMS policy. A letter to EPA has been sent with the frequencies suggested in last meeting's minutes.

Consolidated Inspections – EPA/DEP are trying to work on this internally. Multi-media inspections for major facilities are proposed once every four years. Russ would like media-specific inspections. Previous concerns regarding CEHA inspections should not be a concern for major facilities unless inspections are related to delegated issues (i.e. medical waste, potable water quality, etc.) DEP has suggested that advance notice would be given prior to inspections.

Environmental Management Systems- Will DEP cite items found during self-audits? *Emission-related items are actionable but there would be discretion for penalties.* It was noted that some permits don't require self-reporting. Will facilities have to share results? Will they be penalized for not sharing results? *If there is no permit-required self-reporting, then they would not have to report issues that are not required to be reported.*

An example of this issue is a situation where a company audits for compliance and does corrective action when temperatures exceed limits but don't exceed emissions. Will companies be able to make determinations that no emissions have been exceeded and not report the temperature limit exceedence?

A Green Start approach should be taken with self-auditing (i.e. findings are made during the inspection, they are corrected, and no penalties are assessed.)

Must self-audits be released during inspections? Industry will release this with the trade off that there will be no penalties. The advantage to the State will be that they will achieve better overall compliance. If the company is doing inappropriate things, they will be kicked out of Gold Track.

The issue was raised that it may be difficult to release these reports due to the potential for citizen's suits under the Clean Air Act.

There should be a pilot project in which records of companies that do self-audits are compared with those that don't do them.

Clean Water Enforcement Act – Can the Commissioner waive mandatory penalties for minor infractions as part of Gold Track?

RCRA

Potential Flexibilities:

- On-site treatment and recycling with recordkeeping rather than time limits on storage of hazardous waste.
- Consolidated reporting for air and water issues.

- Hazardous Waste where ignitability is the only qualifying parameter – If this is a site-specific issue, can this be done under the covenant? Would this be acceptable to EPA? If it was shipped offsite, would it be required to be shipped as a hazardous waste? If it can not be shipped offsite and it could be used onsite, would this be considered in-process recycling or be able to be handled under the comparable fuels exclusion?
- Re-use of non-technical grade solvents.
- Flexibility on the 50 foot buffer rule
- Can Gold Track Companies receive/reprocess off-spec hazardous waste?
- If a company's hazardous waste is a substitute for virgin material at other companies (adjacent properties), can it be taken there?
- Satellite Accumulation Area flexibility
- Expedited review for De-listing petitions (estimated as taking up to 6 years in Region IX). Does DEP need EPA concurrence to do this? Can DEP get delegation authority in XL? (Companies don't want flexibility in criteria, just in processing time) **Anthony** will ask.
- Flexibility with Land Ban issues

DEP Criteria for Flexibilities

Encourages recycling (volume reduction)
Lessens impacts to the environment (risk reduction)
Lessens risks of shipping (exposure reduction)

Industry - would like to reduce disposal costs

Conclusions on Flexibilities – Covenants may be highly company-specific. A framework needs to be developed which would either be specific to industrial sectors or is generic to all participants.

Reporting - More information is needed from **Industry** regarding duplicative reporting.

Industry raised the question of how manifest data is used. They also asked if biennial waste reports could be eliminated.

Could RCRA BB reports, which are more stringent, be adequate for reporting rather than doing multiple reports?

RCRA Monitoring – Could State and EPA monitoring methods be clarified so that there is only one method for doing monitoring (i.e. valve sniffing methods)? Could the definitions of what is/isn't a leak be merged into one definition? *More research is needed on this issue.* **Marcus Kantz** at EPA-Edison will be contacted on this.

RCRA Modifications – If a Class I modification is done that would otherwise be a Class II or III, could there be some flexibility for Gold Track participants since they have a public outreach component required for participation?

Project XL – Will project XL last 15 years? Yes, **Jeanne** will clarify this.

Silver Track II – This will be sent out electronically as agreed at the meeting so that it can be passed along to various membership bodies.

Homework

The **Enforcement and RCRA** discussions will be written down for the next meeting.

Industry needs to provide comments on the emission caps discussion and handout.

Anthony Fontana will ask about delegation authority for de-listing petitions.

Marcus Kantz will be contacted regarding RCRA monitoring methodology.

Industry needs to tell Jeanne what you want on other issues (i.e. medical and solid waste.) Comments are needed on the Air emissions cap.

DEP will reach out to the OSHA Star program contact.

Meeting Schedule:

May 25th, June 8th, June 22nd, June 29th

All meetings are in the multi-purpose room on the first floor of the Station Plaza building across from the Trenton Train Station and run from 9AM to 3PM.

The next meeting will wrap up the Air, RCRA, and Enforcement issues. Two meetings will be spent on Water issues. The last meeting will be a wrap up?