

US EPA ARCHIVE DOCUMENT

Gold Track Stakeholder Meeting
May 25, 2000

Attendees B See attached.

Handouts B RCRA Gold Track Issues, Draft Compliance and Enforcement Discussion Issues, EPA Monitoring Requirements, Gold Track Emission Cap Comments from Alan Bogard, Gold Track Meeting Agenda

Announcements

- Silver Track II Solicitation of Interest is in progress. Lakehurst Naval Base is the first applicant. **Jeanne** will give hard copies or electronic copies of the document for distribution to trade associations.

- Silver Track II Rule **B** the first draft has been circulated for internal comments. The second draft will be sent out internally with responses to comments. The rule is slated for proposal in March of 2001. The stakeholders are interested in having a stake in the review process. There are concerns about this regarding the legal process and the urgency of getting the rule out so that covenants can be negotiated prior to the end of the administration.

- National Performance Track Conference **B** The objective of this was to determine how to coordinate with the States that may or may not have programs and how to do this on a national scale. New Jersey is the most similar to EPA's concept and is the furthest along in this process. EPA is looking at having two tiers similar to the Silver II and Gold Tracks. A company would have been required to have implemented an EMS for at least one year in order to enter the base program (the Silver II equivalent). EPA would also do spot checks on the participant. States would be able to implement the national program by signing MOAs with EPA. MACT would be addressed in the second tier (Gold Track equivalent) of the program. Flexibilities on this issue have not yet been developed. The roll out for the National Performance Track Program is on June 26th. **DEP** will send out more details.

Emission Cap Credit Flexibility - Gary introduced an optional flexibility in which Silver II and Gold Track participants could purchase from a pool of shutdown credits to offset increases in emissions due to production increases. The requirement for being eligible to purchase these would be proof that energy efficiency at the plant is consistent with the BPU Societal Benefit and Climatewise programs. These credits are discussed in the Emission Offset Rules and are generated through pooled credits from shutdowns of equipment that has been idle for more than five years. At the five year mark, 50% of the credits revert to the State. At the ten year mark, the remaining 50% of the credits revert to the State.

Feedback is needed from **industry** regarding what criteria should be used for energy efficiency and what the credits should cost. **DEP** will write this into the FPA.

Emission Caps

Bill presented items 8 and 9 from the list handed out at the last meeting.

Item #8 **B** Recordkeeping and Reporting for de minimus units

This would apply to units that are constructed without New Source Review permits. DEP is concerned about demonstrating compliance with the cap. The plan can be pre-defined for each type of equipment and replicated across the site. (Industry can use standard plans for common equipment. DEP will make these available.) If a company does something new and does not have a compliance plan, they would need a plan and to notify the DEP but would not need a NSR permit.

Are Gold Track de minimus emissions considered to be insignificant sources? *These may be for Silver Track companies, however, the Gold Track companies have larger sources.*

Item #9 **B** Air Quality Modeling

DEP is looking for a baseline for future changes and an evaluation of localized impacts (i.e. downwash). Air quality models will eventually be required and may also proactively address potential environmental justice issues. DEP's screening models are not difficult to use. If the screening model indicates a problem, a NSR permit would be needed. At a minimum, companies would be allowed to re-evaluate the models with DEP.

Industry felt that environmental justice issues should be dealt with separately outside of this program since most issues do not necessarily relate to emissions. They also felt that site-wide modeling is too costly and effort-intensive. They also felt that Gold Track should be reducing requirements and not adding to them and that this requirement should be optional.

EPA pointed out that Project XL requires no shifting of risk or burden. Given this, how would industries prove that this is not happening?

Industry felt that the focus on risk burden should be shifted to the community outreach efforts and that companies without outreach should do modeling.

Industry wants to know DEP's criteria for doing site-wide modeling. Criteria pollutants requires a little more effort than HAPs modeling. DEP's HAPs models are easier to use and there is more experience with these.

DEP and EPA will discuss this and put together a final document for 6/5 so that they can send it out prior to the 6/8 meeting.

Enforcement

Inspections:

Item A B Inspection Type and Frequency

Feedback from DEP staff indicated that some stakeholders may not like multi-media inspections. Industry suggested that this be an optional flexibility.

Industry suggested that if there are multi-media inspections, that there should be no individual inspections unless there are complaints or incidents.

DEP said that the enforcement flexibilities are not in place of DEP's ability to inspect for cause.

Industry suggested that there be "squishy language" or a preamble of "why DEP is doing this". DEP stated that there would be "WHEREAS" language that will discuss the intent of the program.

Industry also suggested that this proposal should be similar to the Greenstart proposal. *DEP stated that the scope of this program was intended for facilities with no environmental staff so that they are given the maximum amount of time under the Grace period.*

It was suggested that there should be modifications to the statute to allow more flexibility. DEP should also look to the EMAP/One Stop document for timeframes to correct violations and build this into the draft. **DEP** will discuss this issue with EPA separately.

It was also suggested that it be noted which limits are State, Federal, or policy driven.

EPA audit policy. Small facilities get inspections while larger facilities have policies for self-audits and self-discovered violations. **Catherine Tunis** will send out this document and proposed flexibilities to **Jeanne** who will forward it to the stakeholders.

Item D- Penalty Assessment

The existing rules have flexibility. The rollback provisions apply to everyone, not just Gold Track participants.

Regular equipment **B** penalties are on a five-year clock in which fines accelerate with repeat offenses within that period of up to \$50,000 per day. Rollbacks to base penalty levels are granted after being clean for the five-year period.

CMS **B** penalties are on a 90-day clock in which fines accelerate with repeat offenses within that period of up to \$10,000 per day. Rollbacks to base penalty levels are granted after being clean for the 90-day period.

Item E **B** Surrogate Monitoring exceedences

Industry would like the flexibility to show that they have not exceeded emissions prior to penalty discussions using modeling, etc. The temperature monitor dropping below prescribed minimum temperatures was given as an example. *There were mixed concerns on this issue. Some felt that it might be acceptable if the procedure is agreed upon. Some did not like the example given since some parameters do not correlate well with emissions. There was concern that there may be increases in actual emissions due to changes in operation.* **DEP** will rework this section.

Environmental Management Systems

Item A (Non-Reportable EMS Excursions) and Item B (EMS Excursions Related to Permit Conditions/Requirements, Rules, or Laws)

The language in Item A should be changed from **A**does not plan to@ to **A**will not@. An example was given in which an EMS indicates that training is needed but has not been done and a spill may have been caused by not having proper training. The concern was that a violation could be assessed if it could be proven that it was actionable as an underlying cause of a spill in which a violation is assessed even though it was not a specific requirement by DEP to do this outside of the EMS. *DEP stated that if this was not in the law that the company would be kicked out of Gold Track.* **DEP** will make this clear up front by clarifying language in Items A and B.

Item C **B** Department Actions on EMS Excursions **B** no comments

Item D **B** EMS Audit Disclosure

Industry felt that on-site access to an EMA is acceptable, however, copies sent out that become part of the public record are not acceptable. Air has a Title V requirement, however, this may not be a requirement in other programs. Industry wants protection from penalties and third party lawsuits. It is felt that their corporate lawyers would not approve of providing this information.

Something similar to the EPA/Amoco model in which emissions reductions were accomplished by having regulators inside the process may be a possibility. **EPA** will get information on this. **DEP** will discuss this internally.

RCRA

Further review of the Gold Track program has created problems in that applicants can not **Apply** for flexibilities and exemptions up front since flexibilities need to be built in up front. Waste minimization and recycling provide the most opportunities for flexibility.

Anthony Fontana will write down a rationale for each of the items listed below for the next meeting.

Item #1 B 90 day accumulation time for Generators

Satellite Accumulation will be included in this item. DEP is concerned about the integrity of the container, the control of the material (i.e. is it labeled, are there MSDS sheets, and is it on the inventory?), and the eventuality of recycling (i.e. will it be recycled since actions do not always intent.) They would also like to see secondary containment at facilities that store material for more than 90 days since it would be similar to a TSD but would not have a permit. **Industry** needs to provide suggestions regarding what quantities should be allowed and over what time period.

Item #2 B Closed Loop Exemption

Is it possible not to call something a solid waste if it is going for reclamation? *If it is a substitute, it is not a waste. If it must be reclaimed first, it is a waste.*

Item #3 B Biennial Reporting

Can manifest data and annual data for international shipments substitute for this requirement since this data is submitted to EPA? **EPA** will look into this.

Twenty-eight states do this reporting so it may not be easy to get rid of this. These reports also provide valuable recycling information. If recycling amounts are submitted in the covenant progress report, would this be acceptable? *Industry would not agree to up front amounts or goals.* **Matt and Jeanne** will discuss this further. It was noted that flexibilities and commitments do not need to be balanced everywhere on a one for one basis.

Item #4 B Recycling Issues

Any hazardous waste can be recycled if it is not a solid waste.
Solid wastes that are recycled may require changes in the lists of 261 wastes.

De minimus wastes need to be defined.

Is there a possibility to apply for de minimus determinations or expedite reviews for de-listing?
There is a problem with doing this since it would need to be done categorically across the board for all Gold Track participants. Is there a possibility to expedite de-listing in the covenant?

Item #5 B Flexibility on Criteria Identifying and Listing Hazardous Wastes

DEP can give flexibility only on wastes that are going to be recycled.

Item #7 B Buffer Zones

This is site specific and it is hard to set a number. However, if a fire official determines that some distance less than 50 feet is acceptable, the Department has allowed a lesser buffer. The Radiac case in New York is an example of this.

Item #8 B Class 1 Modifications

Processing all modifications as Class 1 modifications is an acceptable flexibility provided that it does not include land treatment or disposal facilities or an incinerator.

Further clarification was requested regarding mixed wastes (relative to HPLC waste) that are stored on site because there may be no facility to accept them (e.g. there is only one low level radioactive waste facility in the country **B** what if it closes.)

Items #9 and #10 (Revising Subpart AA, BB, and CC Recordkeeping and Reporting)

Industry wants to comply with one LDAR requirement for testing methodology and recordkeeping not both the state's and EPA's.

There needs to be a cross-walk between the Clean Air Act Requirements for recordkeeping and monitoring and RCRA Parts 60 and 63 as well as between State and Federal requirements.

Site Remediation Program B Industry would like the ability to switch to different documents (i.e. from an ACO to an MOA) in order to expedite cleanups. **Jeanne** will check on this.

Water Program Issues

Potential issues to be discussed **B** duplicative reports, DMRs, Federal / State / POTW reporting, pre-treatment standards (6 month notice of process changes), pharmaceutical guidelines for air/water, waste variance for sludge streams and the Clean Water Enforcement Act.

Clean Water Enforcement Act **B** Companies spend a lot of money to sample multiple times in order to avoid penalties. *Sampling early may save money.* Facilities spend money but the amount of pollution reduction is not commensurate with the amount of money spent **B** the CWEA has provided a marginal improvement at a high cost.

Gray Water Bill **B** DEP should support the bill in the legislature since this will provide substantial environmental improvement. How do we structure the system to make this happen? How much Pinelands water can be used? How do we reduce the obstacles to recycling and offset some of the cost? DuPont's inability to reuse/recycle water under the RCRA program was cited as an example. The Legislature should provide incentives for making substantial environmental benefits such as reducing groundwater usage. Some suggestions **B** reduce the sales tax on pollution control equipment, reduce the Corporate Business Tax, reduce permit fees. Gold and Silver Track programs could be model for doing this.

Beneficial Discharges to POTWs **B** These should be allowed for substances such as alcohol, however, they are stopped because they are in excess of permits. *It was noted that these are sometimes stopped because of safety issues for workers working in sewer lines, POTW planning issues, and the lack of treatability studies for POTW*s that are not permitted for substance. Can DEP influence POTW requirements? *There are 23 delegated sewer authorities in the State that are required to following permitting, monitoring, and penalty requirements for each discharger to their sewer area. The Department only regulates those that are subject to 8 criteria (i.e. over 25,000 gpd discharge, etc.)* Are there any incentives for Delegated Sewer Authorities to participate?

Is there any commitment from DEP to seek Legislative solutions that increase flexibility? **B** These would include water conservation, stream buffers, impervious surfaces, etc.

Homework

- _ **Jeanne** will give hard copies or electronic copies of the Silver Track II proposal for distribution to trade associations.
- _ **DEP** will send out more details on the roll out for the National Performance Track Program on June 26th.

- _ Feedback is needed from **industry** regarding what criteria should be used for energy efficiency and what the credits should cost.
- _ **DEP** will write emission cap credits into the FPA and will find out how many credits are in the shutdown pool.
- _ **DEP and EPA** will discuss the emission cap requirements and put together a final document for 6/5 so that they can send it out prior to the 6/8 meeting.
- _ **Catherine Tunis** will send out the EPA Audit Policy document and proposed flexibilities to **Jeanne** who will forward it to the stakeholders.
- _ **DEP** will rework the surrogate monitoring exceedences section.
- _ **DEP** will clarify language in Items A and B that discuss EMS-s.
- _ **EPA** will get information on the EPA/Amoco project. **DEP** will discuss this concept internally.
- _ **EPA** will look into whether manifest data and annual data for international shipments can substitute for biennial reporting.
- _ **Anthony Fontana** will write down a rationale for each of the items on the flexibilities list for the next meeting.
- _ **Industry** needs to provide suggestions for satellite accumulation requirements (i.e. what quantities should be allowed and over what time period) and other key issues regarding closed loops, wastes, etc.
- _ **Jeanne** will check on Site Remediation Program flexibilities.
- _ **DEP / EPA** - There needs to be a cross-walk between the Clean Air Act Requirements for recordkeeping and monitoring and RCRA Parts 60 and 63 as well as between State and Federal requirements.
- _ **Matt and Jeanne** will discuss recycling reporting.
- _ **DEP** will look into whether there is any ability to seek Legislative solutions that increase flexibility?

Meeting Schedule:

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.