

US EPA ARCHIVE DOCUMENT

Silver Track II / Gold Track Stakeholder Meeting
March 2, 2000

Handouts – Project XL Final Agreement Proposal; Goals of Emission Caps (Note: The 3/2/00 version was not used, this document refers to the 2/28/00 version.); Graphs of Bill O’Sullivan’s presentation from the last meeting; Living With the Future in Mind – The Governor’s Sustainable State Report; An announcement for the Clean Air Council’s Year 2000 Public Hearing on Wednesday April 12, 2000 to discuss Air Toxics in New Jersey;

Silver Track Award Winner – There is a Silver Track Award winner. The winner, whose name will be kept secret, will be awarded their award at the NJCAT conference.

Environmental Equity Council – The Gold and Silver Track programs will be discussed at the March 21, 2000 Environmental Equity Council meeting.

Next Gold Track Meeting on March 16, 2000 – The CIC Environmental Commission Meeting is being held on the same day in the morning and will cause several participants to miss the meeting. There is a problem with rescheduling this meeting since it has been public-noticed. The Department will try to work with the agenda to accommodate this.

Feedback from the Commissioner - The Commissioner feels strongly that the requirements of the program remain unchanged. He is very committed to emissions reductions, particularly those dealing with Greenhouse Gas (GHG). He also recognizes that there are concerns regarding the effect that the change in governors will have but has maintained that his commitment to the rules process for this program will institutionalize this program.

Feedback from Industry – There is an imbalance between the requirements and the benefits given by Gold Track. A multi-media approach would allow for more balance. There is a strong feeling that some requirements should be optional or have a chinese menu approach. As is, the program may not attract participants. A goal should be set to get at least five test participants in Gold Track. There should be a shift from just air to sustainability.

FPA Requirements

Written comments on this document are welcome – especially for wording issues. Send any comments to Jeanne.

Self Reported Exceptions – The point was made that Title V companies have to submit documentation that they are in compliance and self-report any exceptions to compliance. Some of these exceptions may be considered major by EPA which would cause them to be out of compliance. This would cause a problem with the requirement that companies have a clean record of major violations for at least 5 years and of minor violations for at least 3 years with acceptance to the program on a case-by-case basis for minor violations.

EPA has a significant violation policy. There may be some exemptions if there are SIMS on operations and the degree of violation.

It was pointed out that it may be easier for companies that do not self-report violations to qualify for Gold Track than those that do report them.

Alexandra will send EPA's Enforcement Screening Guidance Document to Jeanne. This may provide an interpretation on potential flexibility on this issue.

It was suggested that the Department publish an annual list of Gold Track-eligible companies.

Please send any suggestions to **Jeanne** on this issue.

Typo? - Page 7, second paragraph from the bottom – should it be Silver or Gold?

Item #3 - Pollution Prevention – Page 8, It was asked whether this is a step up from regular pollution prevention requirements? **DEP** will review this issue.

#3 - Wastewater Issues – Should wastewater issues be a part of Item #3 since stormwater issues are mentioned? *This section focuses on plans and does not focus on compliance history. This section will be changed to add “and any other plans.”*

#3 - Underground Storage Tanks – Monitoring conditions apply to all tanks except those that are properly closed.

#3 - Solid Waste Plans – The pharmaceutical industry objects to sending old/used pharmaceuticals to landfills and prefers to send them to incinerators which may be in conflict with county solid waste plans. *It is possible that this was fixed by administrative action. If it has, a copy of this information will be given to the group.*

#3 - Site Remediation – This should be a separate bullet.

Item #4 – Copies of “plain English” summaries of facility operations, environmental impacts, and facility compliance will be included in the Silver Track Guidance Document.

#4 - Annual Public Meeting - What is the difference between an annual public meeting and a quarterly Citizen Advisory Panel (CAP)? *The audience is different than for the CAP.*

TCPA rules require a public meeting, however, this is not defined. What constitutes a public meeting? Would you have to have a meeting if there are only a handful of people interested in coming? *The Department views public hearings differently than public meetings. Hearings are more procedural and have specific requirements for public noticing the meeting, meeting conduct, transcribing the meeting, and responding to*

comments. Public meetings are less structured. There will be some flexibility in this within the covenant.

Can the wording “more if requested” be clarified? If there is a lack of interest would they be required to be held?

#4 – Outreach Program – How do you measure “effective and relevant”? The group felt that the bullets for this section were acceptable. *The Department may offer previously prepared material as guidance.* “Responsible care” and CAPs are terminology from the CMA, is this terminology trademarked? It was felt that this terminology is probably not trademarked and that it is acceptable for use in this document.

#5 – Environmental Management Systems (EMS) – Third party review is still an issue.

Can third parties review an internal audit (a process audit)?

or

Are the findings of the audit more important (a compliance audit)?

or

Should it be a combination of both?

It was felt that both compliance and auditing are components of ISO 140000 audits. It was also noted that the 6 components in this section are much less than the number of components in an ISO14000 audit.

Third party knowledge of potential violations is also considered a problem because confidentiality can be waived in Court.

Please send feedback on this issue to **Jeanne**.

There was also a concern raised that the loop needs to be closed by modifying an EMS to include the covenant after it is signed.

#6 Watershed Partner

If this is included, there needs to be more of a commitment to multi-media issues.

Can having a regional commitment (i.e. working with the DRBC) count towards being a watershed partner or is the intent to have companies involved at the local level?

Can a water issue be included in the flexibilities to balance out this requirement? When and how do water issues get folded into this?

The Good Neighbor and Education issues are too far down the road. Maybe the options should be limited to the PAC and Technical Advisory Committee?

Is there a timeframe for participation?

Does this have to be a requirement or can it be optional? If the options are left in, more explanation needs to be given from the Division of Watershed Management.

This is a disincentive for small companies.

FPA Commitments

Emission Caps – These would be for 15 years and would consist of three 5 year covenants. In the first three years of the covenant, a company could be doing SOTA and then at the fifth year, the company would be reviewing it. Since EPA is looking at this over a 10 year period on a national basis, this strategy could coexist with EPA's. Basically, the proposal promotes a cap on existing equipment with the ability to do SOTA to get a higher cap to handle higher production.

Since there was not enough time to review Bill's emission cap handout, this agenda item will be discussed at the next meeting.

Jeanne will provide a copy of Alan's memo to the group for next time.

It was felt that the roll out of the emissions per product concept would be very critical given that environmental groups and others tend to focus on total emissions without factoring productivity.

The question was asked as to whether there would be emergency clauses for situations such as the Governor's proposal to be allowed to use higher sulfur fuels. *It was suggested that emission credits be used in these cases.*

Comments:

An economic threshold for SOTA should be defined since this is done for MACT standards.

Environmental groups raise the issue that equipment below SOTA de minimus must meet SOTA in aggregate. An example of this situation is where three emergency generators rather than one are used to avoid some threshold. It was suggested by participants that this issue be handled by the emission cap for the facility.

Alternate Fuel / Alternate Technology Vehicles

The Department is open to some flexibility on this issue.

The question was raised as to what would be required if most of your vehicle fleet is used for out-of-state sales?

In addition, it was raised as to whether trip reduction or telecommuting could figure into this if a company has a small fleet?

It was also pointed out that many companies lease vehicles for accounting reasons and that conventional vehicles have a resale value at the end of the lease. Since there is no resale market for alternative vehicles, the cost of the lease would be higher. Thus, the question was raised as to whether this requirement would focus on purchased and leased vehicles. *It was agreed that the focus would be on purchased vehicles.*

Energy Deregulation

It was noted that this requirement is a “killer” requirement in that it directly affects a company’s bottom line. This will preclude many from joining the program. It was also pointed out that this may increase a companies costs without much gain to the environment.

Item #1.b. – The percentage of the total amount of electricity consumed is figured based on the product that is purchased rather than the amount in the supplier’s aggregate portfolio since different products are offered by suppliers (suppliers can be energy marketers and not necessarily generators) that have varying amounts of renewable sources of electricity and all do not meet the portfolio standard.

As written, Item #1 reads that you either do a and b or do c.

Item #1c. – The interpretation of this section is that you must not only seek to purchase clean power but that you must also purchase it. This section applies to those that have entered into contracts.

There was also a discussion of the State’s efforts to purchase power. Efforts are being made to look at the cost savings and the incremental costs of achieving a better environment. A concern was raised by participants that the State’s efforts may be depleting the supply of renewable power. *This is not the case now, but it may be by the year 2012. The State’s efforts may not result in the increase in costs for renewable power, but may result in the lowering of these costs. Currently, the State uses 750 million of the total of 66 billion kilowatt hours used in New Jersey. In doing this, the State has to balance the responsiveness to tax payers and taking the lowest possible bidder with ensuring a clean environment.*

The question was raised as to whether all in and out-of-state suppliers have to meet a renewable portfolio standard? *Yes, all must do this over a long planning period. Each supplier starts at 2.5% renewable resources and the amount rises slowly in the early years of this planning process and rises sharply in the later years of the process. In*

order to be in compliance, a company must also control SO₂, Nox, and CO₂ emissions and support energy efficiency activities.

It was requested that the State share the State procurement contract with the group when it is finalized.

Greenhouse Gas Action Plan – When this is available, advance copies will be sent out to the group. The action plan identifies win-win strategies and gains that may not be that difficult to achieve. The roll-out for this is scheduled for April 17th. Some clarification was given on how New Jersey's plan lines up with EPA's. New Jersey's plan asks for a 3.5% drop in GHG emissions from 1990 levels by 2005. This is the exact midpoint of the Kyoto agreement which asks for a 7% reduction from 1990 levels by 2010. There was some concern that if the 1990 benchmark changes, companies could be penalized for being out in front of other companies.

Additional information was requested on what would qualify as a GHG credit as well as a list of strategies that a company can use if it already achieved reductions. In regards to achieving additional reductions, there was concern as to whether these reductions would be cost-effective and what level of additional reductions would be required in the covenant process. Flexibility this particular issue represents a problem with selling Gold Track.

Ozone Action - Currently this is a voluntary activity with 400 to 500 companies in New York, Delaware, and Pennsylvania. It involves having an ozone action kick-off and providing information and recommendations to employees to alter their energy usage (e.g. lawn mowing, etc.) in the hottest part of the day. At DEP, an ozone action flag is posted, ozone action emails are sent out, and train tickets are provided to employees in lieu of taking their cars to work.

Covenant – This section of the document should be included as a commitment. Copies of “Living With the Future in Mind – The Governor's Sustainable State Report” were handed out. This report consists of approximately 40 indicators that are measured to determine sustainability in New Jersey. It was suggested that companies review them a measure ones that are applicable to their operations. For example, companies could measure solid waste reductions. Companies may be allowed to measure non-environmental indicators that are part of their corporate processes (i.e. charitable campaigns, educational and healthcare issues, etc.)

It was suggested that indicators be determined in advance of the covenant process.

Concern was also raised that throughout this process, more things keep being added to the list.

Incentives and Flexibilities

MACT – The “once in, always in” policy is an issue with participants. This policy was set by the Office of Air and the EPA Counsel’s office. There is concern that this issue may not be able to be resolved quickly and that it may impede the XL process. The policy is based on situations where “bad” companies could install equipment and then sell it when they get below the MACT level.

To further discuss this process, EPA is looking for information regarding the burden of MACT on companies. Based on feedback at the meeting, it appears that most of the burden is reporting, monitoring, and record-keeping related. For example, if a company uses MACT to get below the MACT standard, they still have to do MACT-related record-keeping and reporting even though they are below the threshold.

The issue was also raised that there are pollution prevention measures (i.e. changing to a non HAP solvent) that can be used to reduce emissions. If this can be accomplished, the company should not have to comply with MACT standards since they are no longer using air pollution control equipment to reduce their emissions.

There was also a concern that poor timing makes some companies have to comply with MACT record-keeping and reporting because they were out of compliance when MACT applicability date passed, while others that were in compliance before those dates do not have to comply with it.

A concern was also raised that New Jersey rules require pharmaceutical companies to use MACT. If they reduce their emissions below the 10 ton/year threshold, they still have to do EPA MACT reporting in addition to New Jersey reporting. Emissions are also required to be evaluated on every batch/episode for MACT rather than having an average and a worst case reporting. This requires extra manpower and effort.

EPA requested that **everyone** provide information for analysis that will prove that MACT is a burden. This should include more than just the pharmaceutical industry since there are more than 50 MACTs. Suggestions should apply to all Gold Track MACT participants.

The **XL Team** will talk with people (Sally Shaeffer, Jimmy Johnson, and Ray Vogel) that are dealing with this issue on a national level.

Leak Detection and Repair – There should be one system that meets State and Federal requirements.

Miscellaneous – The XL application and letter dated 4/27/99 are given on the EPA’s XL webpage.

Homework

Send any written comments on the FPA to **Jeanne**.

Please send feedback on the Environmental Management System issue to **Jeanne**.

DEP will review the pollution prevention requirements to determine if they are a “step up”.

Jeanne will provide a copy of Alan’s memo on emission caps to the group for the next meeting.

Alexandra will send EPA’s Enforcement Screening Guidance Document to Jeanne.

Please provide suggestion to **Jeanne** on self-reported enforcement violations and compliance requirements for Gold Track.

EPA requested that **everyone** provide information for analysis that will prove that MACT is a burden. This should include more than just the pharmaceutical industry since there are more than 50 MACTs. Suggestions should apply to all Gold Track MACT participants.

The **XL Team** will talk with people (Sally Shaeffer, Jimmy Johnson, and Ray Vogel) that are dealing with this issue on a national level.

Next Meeting