

US EPA ARCHIVE DOCUMENT

Silver Track II / Gold Track Stakeholder Meeting
June 22, 2000

Attendees B See Jeanne Mroczko for list.

Handouts B None B See documents attached to the pre-meeting email.

Announcements B

Susan Boyle is the new Assistant Commissioner of the Site Remediation Program. She was formerly the Director of the Division of Responsible Party Site Remediation. Robert Van Fossen will be taking her place. He was formerly the Assistant Director of the Discharge Response Element.

National Performance Track will be rolled out in Washington next week.

Next week's meeting agenda will be to wrap up the Gold Track discussion and present the final draft of the FPA. Different parts of the FPA (i.e. air, water, RCRA, C&E) will be added. A schedule for this will be developed at the next meeting. Concern was expressed that companies not involved with the process will not be able to see a complete package and that their interest in Gold Track may be contingent on this.

120 day letter issue - EPA Deputy Regional Administrator is discussing this with EPA Headquarters.

Air B Emission Caps -

Comments B More time was needed by industry to look over the document. Page numbers on the documents would also be helpful.

Key Changes to Requirements

The key change is the requirement for a decline in actual emissions cap. This decline would be 5% every 5 years for a total of 15% over 15 years. *Industry response to this was that they thought that the declining cap was equivalent to the application of SOTA and that this requirement was added late in the game.*

The second change was the requirement that pollution prevention limits (i.e. 1b/product) would be set for each non-de minimus process at the facility based on the SOTA threshold levels. For new products, this would be set based on actual emissions.

Key Changes to Flexibilities

If a facility is subject to SOTA, no pre-construction permits would be required up to the EPA significance level.

Another flexibility is to allow participating companies, on an optional basis, the ability to use New Jersey Emission Reduction Credits if there are commitments to the Energy Star Building Program as offset credits for expansion at no cost to the company. Energy Star is a benchmarking tool/model for a building (including equipment, motors, HVAC, computers, etc.) that sets a baseline and looks at the effectiveness of retrofitted equipment. If a score is greater than 75, the building becomes an Energy Star building. Both this and the Greenhouse Gas Action Plan have similar requirements for reducing CO₂ reductions.

A question was asked about laboratory buildings and air turnover needs in order to meet health requirements and Energy Star, however, the applicability of the Energy Star program for these buildings has not yet been worked out.

Emissions Trading Credits B A Gold Track facility will not be able to use DERs (Discrete Emission Reduction open market credits) for compliance for the same extent as is allowed for other facilities since they can't generate these if they are in Gold Track. There is no account for DERs, so there is no way that the Department could give away free DERs for expansion.

Concerns were raised that the Aenvelope@needs to be better defined in the proposal to stress that other companies don't set goals for declining emissions and that the program is not mandating an increase in emissions but that companies should have the same flexibility as anyone else to increase production.

Item 2b - More clarification is needed on this item.

Item 2c B Modeling would be done at the significance level. If emissions are greater than the SOTA threshold, there must be a cap. HAP caps are optional if emissions are less than the threshold.

Item 2d B increases will be considered when developing the cap to avoid the PSD / Emission Offset rule. Comment: change Alast@to Apreceding@.

Item 6b B Change Aeach 5 year period of the covenant@to Aeach 5 year review of the covenant@ and clarify that it is a 15 year covenant.

Item 7b - The last sentence should refer to Facility Wide Permits.

Item 9 - Reporting will be quarterly and annually (at the same time as Emission Statement submission.) The 5 year review will consist of trend analysis using graphs. *Industry wanted a clearer indication of what is expected for the 5 year review.*

Item 10 - The risk manual should be cited to clarify these requirements.

Item 11 **B** Equipment refers to equipment in the building and does not refer to chemical/industrial equipment.

DEP, the Stakeholders, and EPA will have a conference call to discuss the cap on the 28th prior to the meeting on the 29th.

RCRA

Suggestion: Provide a short summarization of each RCRA citation.

Industry Commitments **B** Waste accumulation areas is referring to containers rather than storage tanks.

Item #1 **B** Exemption from the Definition of a Solid Waste **B** EPA is not flexible on this issue. A compromise is to deal with this on a case-by-case basis under the covenant. DEP is seeking state authority to implement this. **Industry** needs to provide information on the criteria of the products to be recycled and the time line for doing so because EPA does not like the potential for sham recycling presented by this item.

Item #2 **B** Accumulation Time Limits- **Industry** needs to provide EPA with information on what opportunities there are for recycling, a rough estimate of how much material is expected to be recycled, and how success will be measured under the covenant. (The estimates will not be written into the covenant.) *Industry felt that there was no environmental harm or risk associated with doing this and felt that the cautiousness regarding this proposal was not commensurate with the risks especially since this is a pilot.*

Item #3 **B** CAA/RCRA Recordkeeping and Monitoring **B** **EPA** will provide a copy of the draft guidance on this issue and can send a letter to DEP clarifying this guidance. Industry would still like to have it clarified that State fugitive emissions tests can be substituted for Federal testing.

Item #4 **B** Fuel Exemption **B** As written, it would allow the use of fuels on-site or the ability to ship them off-site. EPA suggested that DEP use its authority to de-list the waste. One problem with this approach is that there would be no community involvement or feedback from the public until it was published.

Item #5 **B** Class I Modifications- EPA is concerned that there would be no public involvement in the process and that Gold Track outreach efforts would not be equivalent to the public comment process or public involvement. An additional concern is that the determination of **Ano**

substantial comment@ after providing an outreach group with information would not be determined by the Department.

Compliance and Enforcement

Inspections / Penalty Assessments:

Item A - Multi-media inspections will not be considered technical assistance visits. Industry is concerned that the Department is expanding authority to CEHA for site audits of major R&D facilities. Currently, they are only responding to citizen complaints. The Department is not expanding a CEHA agency's authority.

Item B A distinction should be made between routine/multi media and Afor cause@ inspections. Industry would prefer that all of these are announced (except for Afor cause@ inspections). This would help companies with resource allocations and it also sets a more positive tone with these facilities. **DEP** indicated that public perception is an issue but that they would revisit this issue.

Surrogate Monitoring Exceedances - Benefits associated with surrogate monitors are built into the penalty assessments in the regulations. There may be some ability to give flexibility in covenants if it can be shown upfront that an exceedance can't occur so that a different level is set than those set under pre-construction permits. Non-Gold Track facilities would not be allowed to do this correlation. However, any violation would still warrant a penalty, albeit a lesser one. **DEP** will clarify this as specific to the Gold Track program.

Environmental Management Systems **B** Industry would like to have some reward for complying with an EMS since it provides mechanisms for finding and correcting problems. Could a possible reward be the ability to get a notice of an upcoming inspection? Industry does not see any benefit in voluntarily divulging violations. If violations are divulged, **DEP** will apply the EPA audit policy. **DEP** will provide copies of this to the stakeholders.

A certification is being considered to provide assurances that companies are following the EMS. An outside auditor could also be an off-site representative of the company or a 3rd party auditor. Once problem is that companies may only do a third party audit once every 3 years. A self-audit certification may also need to be done yearly.

Other Issues **B** DPCC 30 day notification. This will be discussed next week.

Redundant Plans (DPCC/SPCC, etc.) There is a guidance document discussing what is necessary for combined plans. *Industry pointed out that inspectors are not always consistent with this guidance and they requested that DEP support the usage of only one plan. However, it was also noted that this issue is not unique to Gold Track.*

Water Issues

Industry needs to supply more specifics on the water discussion.

Item #1 Reduction of Monitoring Frequency **B** This item could also be discussed as part of #8 (Smart Permits). This could be handled by changing permit language to allow suspensions or reductions in monitoring via a minor modification. In the case of DLA's (Delegated Local Agencies), the DLA would have to be brought into the covenant process. It was felt that it would be premature to have discussions with industry right now because there are no participants signed up for Gold Track, hence which DLA's should be approached?

Item #2 Extension of Permit Duration - No comments on this, however it was noted that expedited permits would be available only to Gold Track participants.

Item #3 TWA Approvals for Modifications or Conveyance **B Industry** will provide more information on this issue although the example of adding like units (i.e. carbon tanks) were given as an instance where modifications were necessary. DEP noted that they are limited by institutional issues and the planning rules. There may be some leeway to give notice of an inventory instead with no change to the licensed operator requirements.

Item #4 Pretreatment Standards **B** Federal Pre-Treatment Categorical Standards are based in statutes. Project XL is not able to change these but can give some flexibility in how it is applied. The ability to get a removal credit costs a lot of time and money to evaluate. Some solutions to this issue would be to move the point of compliance to the POTW by having the company and the POTW enter into an agreement. This requires that both can show that this will not represent a discharge to the environment and that the plant is removing the pollutants.

Item #5 Licensed Operators - Rules require full time N4 operators.

Item #6 Six Month Notification **B** More information is needed from **Industry**.

Item #7 DLA Participation **B** This is discussed in Item #1, above. **DEP** will approach the **ABig 6** DLA's and try to work with them to facilitate streamlining for Gold Track companies. However, it was noted that since DLA's are not part of Gold Track they may not want to commit to flexibilities.

Requested Industry Commitments **B** Water reuse, stormwater collection, and wastewater storage capacity are acceptable. However, reducing the quantity of non-biodegradable TRI listed chemicals seemed like a mandate. Could this language be changed or could these concepts be included under the watershed partnership section of the document?

In the case of water reuse (a.k.a. gray water **B** this name is a barrier to discussing this issue), Jim Sinclair felt that DEP should be encouraging and rewarding Gold Track facilities that do this and that they should support the financial incentives provided in the bills for companies that do this.

Homework

DEP, the Stakeholders, and EPA will have a conference call to discuss the Emission Cap on the 28th prior to the meeting on the 29th. Written comments on the Emission Cap and FPA are needed to Jeanne prior to the July 7th meeting with the Commissioner. RCRA and Water issues will continue to be discussed at EPA. Approximately 2 weeks lead time is needed in order to get the FPA into the Federal Register by the 1st week in August.

EPA will provide a copy of the draft guidance on CAA/RCRA recordkeeping and monitoring and can send a letter to DEP clarifying this guidance.

Industry needs to provide information on the criteria of the products to be recycled and the time line for doing so because EPA does not like the potential for sham recycling presented by this item. **Industry** also needs to provide EPA with information on what opportunities there are for recycling, a rough estimate of how much material is expected to be recycled, and how success will be measured under the covenant.

DEP will revisit the issue of **A**for cause inspections.

DEP will clarify the policy towards up-front evaluations for surrogate monitoring in the covenant.

DEP will provide copies of the EPA audit policy to the stakeholders.

Industry/Tony will supply more specifics on the water discussion. In particular, TWA's for conveyance/modifications and the six month notification requirement.

Meeting Schedule:

June 29th (summarize the results of the stakeholder meetings)

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.

