

US EPA ARCHIVE DOCUMENT

Silver Track II / Gold Track Stakeholder Meeting  
January 19, 2000

**Attendees B** See attached.

**Handouts B** Draft Gold Track Regulatory Program Proposal for Implementation; Gold Track Meeting Agenda; Final Draft of the Solicitation for Interest for the Silver Track II Program

**Recap of New Stakeholder Orientation:**

- Comments on Silver track II due by 2/1/00. Basically OK'd by Department - ready for release.
- Provided straw proposal re: incentives under the Gold Track
- Invitations to new stakeholders and orientation meeting were given. The following groups participated: League of Women Voters, New Jersey Work Environment, Environmental commissions, Enviro Recycling, NJ Advisory Council, etc. Others were invited but unable to attend.
- Concerns of new stakeholders
  - coming in late in the process-timing and dates of meetings-being labeled "stakeholder"
- The Department will provide information to anyone who wants to stay in the loop but is unable to attend meetings
- There will be 4 more meetings
- DEP will meet with EPA on merging XL project with State agenda
- Greenhouse Gas Plan - 1 more round of internal review.
- 7 day/120 day notice issue - draft memo out in EPA. Trying to resolve some issues.

**Silver Track II**

3-1/2% of 1990 levels. Adjustment of target on case by case basis.

***Questions*** - What would target be if no 1990 data? How do you calculate target?

Should this information be in document?

What if you have already implemented reductions which would be = to required reduction?

Could you get credit for what was already done?

***Response*** - 3 1/2% reduction of 1990 = 14% reduction overall. Works out to be 5% of 1995 levels. Actual reductions can be negotiated on case by case basis.

***Questions*** - What if you have already implemented reductions which would be equal to the required reduction? Could you get credit for what was already done?

***Response*** -The Department will respond to this question by e-mail.

## EPA Project XL

Needs more specifics re: flexibility of Federal regs. What can't be met, why, and alternatives.  
EPA not allowed to utilize stakeholders - can't select particular groups to work with.

**Question** - Who approves XL process?

**Response** - EPA sends proposal to Region personnel for comment, then to program managers.  
Signature of Deputy Regional Administrator on final. Project sponsor also signs final.

The initial proposal has been listed on EPA's web site as are all proposals.

Roles - All stakeholders around the table participate in flushing out project agreement. Also any interested person can receive documents and notes. It is also published in Fed. Register with comment period for general public. The XL agreement needs rule making and therefore has a public process.

**Question** - Can other stakeholders participate in agreements with individual industries ? To listen and to learn?

**Response** - Yes. They can review initial documents. All proposed documents are on the web. It was suggested that participants look at the Intel and Merck proposals on the EPA web page.

An XL agreement between EPA and an individual facility is done by EPA rule.

An XL agreement between the EPA and the State would result in a rule between EPA and the State and not with individual facilities

Many things happening simultaneously:

1.) Advertising Document 2.) FPA DEP/EPA (not legally enforceable General doc - 3rd or 4<sup>th</sup> month 2000 Add more flexibility as they move along) 3.) Federal rule making 4.) State rule making (being worked on now) 5.) Covenant negotiations

This will take most of the year. DEP will provide a draft schedule to committee before next meeting

EPA - needs to develop menu of flexibility which would include all the flexibility needed by all the different individual facilities. Flexibilities are identified in the rule.

There is a guidance document on the EPA web site for XL projects.

Time line: March/April 2000 - General Agreement  
May 2000 - Amendments to General Agreement on flexibility

EPA rule provides the flexibility (30 day comment period) then the State rule needs to change.

Cross media concerns - Start with air for template. Umbrella EPA document will allow addendum to include other media in Gold Track in the future.

Amend covenant? It is possible. The process needs to be defined in rule making.

**Proposal for Implementation: New Jersey's Gold Track Regulatory Program Document Dated 1/18/00**

Comments on the draft proposal:

The document should have been stamped DRAFT.

Page 2 **A**Productivity@ was changed to **A**Production.@

Page 2 **A**Flexibilities@ should be **A**Potential Flexibilities@ since these are not automatic and have to be worked through in the covenant process.

Page 1 **B** Add **A**see@ in the last sentence of the Silver Track paragraph.

**A**Advanced Community Outreach@**B** this will be clarified. This should be already existing in the EMS for the facility. Requirements for this will be negotiated in a covenant.

Industry was concerned that too many participants would limit the productivity of the relationship. There was also concern regarding how key participants would be identified since some Gold Track companies already have established relationships with their local communities.

In addition, some smaller communities may want national representation by interest groups. Some group members welcomed national participation while others did not. It was also discussed that national representation may be sought by local groups that do not have the resources to handle these issues.

Industry is opposed to this item is Gold Track legislates who is involved and felt that DEP has to avoid being too global or too narrow on this issue. .

**A**Watershed Partner@**B** Industry expressed concerns regarding the time and effort associated with this requirement. They do not want to be held to this requirement if it would requirement them to increase their staff. In addition, they felt that this shouldn't be a requirement until multi-media concerns are included in Gold Track. They also were concerned as to whether participation would require them to make non-point source reductions. It was stressed that the categories of participation are still conceptual and are still being developed.

Emission Reductions **B** There are two types:

1. Declining facility caps with other reductions.
2. Fixed Caps with declining caps for signature pollutants.

There is a concern that there will be a lack of production flexibility for having different production mixes.

There are also other possibilities: Pollution Prevention Caps & Technology Caps. DEP will have internal meeting of this to get more clarity.

The Department would like industry to identify roadblocks and concerns and email Jeanne or Aleksandra with these.

In regards to emissions reduction, industry requested a wording change to include R&D facilities. Thus instead of referring to **A**production@, it would be **A**production and facility expansion.@

Industry expressed some concern that any flexibility given to facilities would be offset by increased staffing. There were also concerns that there should be site-wide emission targets rather than process-based targets. In addition, there were concerns that reporting individual details would increase record-keeping requirements.

#### Environmental Management Systems

The Department stressed that third party review was a highly desired requirement of an EMS. However, industry felt that corporate-wide reviews are best and the most thorough and that third party review could be accomplished using a DEP observer.

There were also concerns raised with ISO 14000 inspector credibility:

1. Is it possible to review a facility in 2 days?
2. What is the education of the inspector?

Proposal: Combine audits and inspections or have a DEP staffer instead of a third party auditor. *It was pointed out that the length of the audit may pose a staff resource problem.*

How can ISO 14000, which is system related, relate to compliance issues?

#### Additional Flexibilities

Emission Caps **B** declining vs. fixed emission caps

**AHard@Caps B** these are based on health effects. There must be facility-wide modeling for criteria pollutants up front if you want to increase allowable emissions.

How are short-term emissions characterized?

Will there need to be rule changes to include caps in New Jersey rules 8, 22, and 18?

**Tom Micai** will work on a conceptual emission cap proposal and will ask for feedback and discussion at the next meeting. This will also include declining caps and how they relate to production caps.

What information may be required of Gold Track applicants? Possibly State-of-the Art technology status as well as other information may be required.

The concern was stated that industry is concerned that additional information/reporting requirements may result in more staffing and that some companies may take a wait-and-see approach. This was countered by pointing out that not requiring pre-construction approvals for Gold Track companies would result in less time to implementation of equipment.

Will Gold Track result in per-batch monitoring or quarterly monitoring as usual?

MACT B Maximum Available Control Technology

It was felt that Gold Track should absolve companies from MACT add-ons (i.e. record-keeping, monitoring) if they are below 10 tons.

This may not be possible since New Jersey's level of monitoring may not meet MACT monitoring requirements since MACT required recalculation for any deviations up or down in emissions. Industry would like to discuss this further.

New Source Review flexibility was the original flexibility. Toxics recordkeeping was not anticipated but industry would like to discuss this further.

Pilot Plant Flexibility **B** There needs to be a smoother transition. Concessions may be offered in exchange for additional flexibility in the covenant process (i.e. extra days of operation in exchange for rates below de minimus.)

Permit Modification / Renewal Flexibility **B** this applies to smaller production type equipment. Flexibility would be given for de minimus equipment not unfettered equipment replacement. The pharmaceutical MACT already allows this.

What kinds of modifications are required for EPA?

Does EPA require re-evaluation if we affect the Federal requirements? Reauthorization is required.

Since we will do rule changes through EPA, the modifications to requirements could be incorporated that way.

### Compliance Flexibility

There needs to be some more discussion on this issue.

Should Gold Track companies be subject to frequent inspections and fines because they agreed to enhanced compliance and reportability? Companies are looking for less enforcement in exchange for doing Gold Track. For example, inspectors find calibration problems even when paperwork looks good.

EPA Audit Policy B EPA might excuse the gravity but not the profit derived from it and EPA does not allow for recurring violations.

Industry would welcome an auditing process similar to that of OSHA.

There was a concern that unannounced inspections take time away from staff duties.

DEP and EPA inspections need to be better coordinated. In addition, there should also be report consolidation for batch plant processing.

There should be more flexibility in permitting air-related tanks (i.e. a process tank versus a storage tank.) It was pointed out that this may be a moot point if emissions are below de minimus.

There should be consolidation of state and federal reporting requirements for air (i.e. 3/3 and emissions statements.)

There should be better access to compliance assistance for smaller companies.

### Homework

The Department will respond to the question regarding what happens if you have already implemented reductions which would be equal to the required reduction? Could you get credit for what was already done? This will be done by e-mail.

DEP will provide time line before the next meeting.

DEP will provide a draft straw proposal prior to 2<sup>nd</sup> meeting in February

DEP will send an email discussing fixed and declining caps.

DEP will look for a bigger conference room.

DEP will look into more compliance flexibility / report consolidation.

DEP will look at reauthorization status under the pilot

The 120 day / 7 day notice letter is being worked on.

Everyone: Silver Track II comments are due by 2/1/00

**Meeting Schedule:** February 3rd, February 15th, and March 2<sup>nd</sup>. The last 2 meetings will discuss the straw proposal

**Suggestions:** Bigger room.