

# Performance Track Program Guide





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF POLICY,  
ECONOMICS, AND INNOVATION

Thank you for your interest in the U.S. Environmental Protection Agency's National Environmental Performance Track program.

Performance Track is a voluntary public-private partnership that encourages continuous environmental improvement through the use of environmental management systems, local community involvement, and measurable results. Through Performance Track, EPA recognizes and rewards facilities that demonstrate strong environmental performance beyond current requirements. While building a collaborative relationship with EPA, Performance Track participants realize environmental results beyond what could be achieved through regulation and enforcement alone.

Program members demonstrate in their daily operations that economic prosperity and environmental protection can go hand and hand. Clearly, superior environmental performance is valuable not only to a company's good name and reputation but also to the nation's success in ensuring that our air, water and land are safe and clean for future generations.

I invite you to learn more about this innovative partnership program, and I encourage you to consider applying for membership. Thanks to Performance Track, hundreds of top-performing facilities around the country are already earning the recognition and rewards they deserve. By joining them, you can too.

A handwritten signature in black ink that reads "Daniel J. Fiorino".

Daniel J. Fiorino  
Director, Performance Track

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# Introduction

The National Environmental Performance Track program is designed to recognize and encourage top environmental performers – those who go beyond compliance with regulatory requirements to attain levels of environmental performance and management that benefit people, communities, and the environment.

The U.S. system of environmental protection continues to evolve. There is a growing recognition that government should complement existing programs with new tools and strategies that not only protect people and the environment, but also capture opportunities for reducing costs and spurring technological innovation.

Over the last several years, the U.S. Environmental Protection Agency (EPA) has joined States, businesses, and community and environmental groups in experimenting with new approaches that achieve high levels of environmental protection with greater efficiency. EPA learned that innovations in environmental management can be used to create strategic business opportunities and advantages while maximizing the health and productivity of ecosystems and communities. EPA learned the importance of keeping innovation programs simple and their transaction costs low. And EPA learned that it must focus on performance, not just the means of achieving it, and derive measurable results from its programs.

Performance Track is the culmination of these efforts. This program recognizes innovation, motivates others to improve, and complements existing regulatory activities. It was designed so that criteria for participation are proportional to the benefits. It encourages participation by small, medium, and large facilities. It also emphasizes the importance of effective State/EPA partnerships and the need to

inform and involve citizens and communities.

Performance Track is designed to recognize facilities that consistently meet their legal requirements and have implemented environmental management systems. Additionally, facilities are encouraged to continuously improve their environmental performance while involving the public.

In developing the program, EPA consulted extensively with stakeholders and State environmental agencies. EPA initially proposed to develop Performance Track in its report, *Aiming for Excellence*, which the Agency published in July 1999. In March 2000, EPA released a draft program description and held five public meetings across the country on this proposal. In addition, EPA consulted closely with State officials, including using a National forum to discuss State programs, issues, and participation.

Since the program's inception in June 2000, Performance Track membership has grown and has produced solid results. For more details, read the program's latest progress report online at [www.epa.gov/performance-track/pubs.htm](http://www.epa.gov/performance-track/pubs.htm). Performance Track encourages participation by over 350 small, medium, and large facilities with members located throughout the United States. Furthermore, all major industries are represented, with manufacturers of chemical, electronic and electrical, and medical equipment composing nearly 40 percent of the members.

This *Program Guide* describes the criteria a facility will voluntarily meet to qualify for membership in Performance Track and EPA's approach for implementing the program.

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## Section A.

# Performance Track Entry Criteria

To qualify for Performance Track, facilities must demonstrate that they have:

- Adopted and implemented an environmental management system (EMS) that includes the elements specified below
- Demonstrated specific past environmental achievements;
- Recorded sustained compliance with environmental requirements;
- Committed to continued environmental improvement; and
- Committed to public outreach and performance reporting.

### 1. Environmental Management System (EMS)

During the application process, Performance Track facilities certify that they have adopted and implemented an EMS<sup>1</sup>, a core criterion for acceptance into Performance Track. The EMS must include five elements (below) and have gone through at least one full implementation cycle. A facility adopting an EMS based on a Plan-Do-Check-Act framework meets most of these elements. Facilities must also certify that their EMS complies with Performance Track's Independent Assessment Policy.

Starting in May 2004, all new and renewing facilities must have had their EMS independently assessed within the three years prior to the date of application. EPA made the change

because site visits to member facilities revealed that those that lacked an independent assessment frequently had EMS implementation issues. Independent assessments will raise the confidence in members' EMSs.

The Performance Track Independent Assessment Policy does not mandate formal third-party certification. Rather, facilities can select from a number of options for an independent party assessment, including an assessment by a qualified third-party auditor, a corporate auditor, or, in some cases, a pre-acceptance site visit conducted by EPA. Additionally, facilities may use their own protocol, the Performance Track Independent Assessment Protocol or a State protocol consistent with the Performance Track Independent Assessment Protocol. Facilities should consult with EPA/State prior to conducting their assessments in order to verify acceptability.

Details on the Independent Assessment Policy and Protocol are located on the Performance Track web site ([www.epa.gov/performance-track/program](http://www.epa.gov/performance-track/program)).

EPA, recognizing that an EMS's scope and level of formality varies with a facility's nature, size, and complexity, created a Resource Center ([www.epa.gov/performance-track/tools](http://www.epa.gov/performance-track/tools)) to help facilities develop EMSs meeting the Performance Track entry criteria. The Resource Center also provides general information on effective environmental management and sustainable business practices. EPA's experience with a variety of programs suggests that its EMS elements are within the capability of small facilities and can be met through various approaches. Small facili-

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<sup>1</sup> For purposes of Performance Track, an EMS represents a facility's systematic efforts to meet its environmental requirements, including maintaining compliance and achieving performance objectives that may be related to unregulated indicators of the facility's activities.

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ties can obtain guidance from several EPA websites, such as Performance Track ([www.epa.gov/performance-track/program](http://www.epa.gov/performance-track/program)), the Sector Strategies Program ([www.epa.gov/sectors/ems.html](http://www.epa.gov/sectors/ems.html)), the Small Business Gateway ([www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)) and the EPA's EMS website ([www.epa.gov/ems](http://www.epa.gov/ems)). Briefly, a qualifying EMS has the following five elements.

### A. Policy

A written environmental policy, defined by top management, committing the facility to:

- Compliance with legal requirements and voluntary commitments.
- Pollution prevention (based on a pollution prevention hierarchy where source reduction is the first choice).
- Continuous improvement in environmental performance, including areas not subject to regulations.

Additionally, the facility should commit to sharing information on environmental performance with the community.

### B. Planning

A written plan to:

- Identify significant environmental aspects<sup>2</sup> and legal requirements, including procedures for integrating anticipated changes to the facility's requirements or commitments in the EMS.
- Measurable objectives and targets to meet policy commitments and legal requirements, to reduce the facility's significant environmental impacts, and to meet the performance commitments made as part of the facility's participation in the program (under Section A.2). In setting objectives and targets, the facility should consider preventing non-compliance, preventing pollution at its source, minimizing cross-media pollutant transfers, and improving environmental performance.

- \* Actively meet objectives, targets, and commitments in the EMS, including the means and time frames for their completion.

### C. Implementation and Operation

- Development of established roles and responsibilities to meet objectives and targets of the overall EMS and compliance with legal requirements, including a top management representative with authority and responsibility for the EMS.
- Defined procedures to:
  - Achieve and maintain compliance and meet performance objectives;
  - Communicate relevant information about the EMS, including the facility's environmental performance, throughout the organization;
  - Provide appropriate incentives for personnel to meet the EMS requirements; and
  - Control documents, including where documents related to the EMS will be located and who will maintain them.
- General environmental training programs for all employees, and specific training for those with responsibilities involving activities directly related to achieving objectives and targets and compliance with legal requirements.
- Documented key EMS elements, including the environmental policy, significant environmental indicators, objectives and targets, a top management representative, compliance audit, EMS audit program, and overall EMS authority.
- Operation and maintenance programs for equipment and for other operations that are related to legal compliance and other significant environmental indicators.
- \* An emergency preparedness program.

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<sup>2</sup> "Environmental aspects" are "elements of a facility's activities, products, or services that can interact with the environment." Facilities are asked to use their list of significant environmental aspects in selecting performance commitments under this program (see Section A.2).

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## D. Checking and Corrective Action

An active program for:

- Assessing performance and preventing and detecting non-conformance with legal and other requirements of the EMS, including an established compliance audit program and an EMS audit program.
- Ensuring prompt, corrective action of any non-conformance with legal requirements and other EMS requirements.

## E. Management Review

- Documented management review of performance against the established objectives and targets and the effectiveness of the EMS in meeting policy commitments.
- A facility will retain EMS documents and provide a summary of its performance, including performance against objectives and targets, and a summary of the results of compliance and EMS audits, in its Annual Performance Report (APR) (see Section B).

## 2. Demonstrated Environmental Performance and Commitment to Continuous Improvement

A facility must have a framework for measuring specific environmental performance and commit to continuous improvement. Performance Track's framework for reporting on performance is based on the Global Reporting Initiative (GRI), which EPA also used in Region I's StarTrack program. This framework distinguishes two levels of performance: categories and indicators. A category is a class of environmental impacts (e.g., water discharges). An indicator is an element of an organization's activities, products, or services that interact with the environment (e.g., discharges of heavy metals). Performance Track's approach to reporting is consistent with both the GRI and generally accepted EMS practices.

Facilities must demonstrate past environmental achievements and commit to continuous improvement in

performance in their applications. Categories and indicators for these past achievements and future commitments are found in the Environmental Performance Table (dated September 30, 2004 or later). Categories have one or more indicators that a facility may use to report on its performance. For example, the category of Material Procurement has two indicators: Post-Consumer Recycled Content and Hazardous/Toxic Components. The Environmental Performance Table ([www.epa.gov/performance-track/program/improv.htm](http://www.epa.gov/performance-track/program/improv.htm)) helps facilities develop strategies to improve performance in four wide-ranging groups, that are further distinguished by categories and indicators:

- Upstream: Material Procurement and Suppliers' Environmental Performance;
- Inputs: Material Use, Water Use, Energy Use, and Land and Habitat;
- Nonproduct Outputs: Air Emissions, Discharges to Water, Waste, Noise, and Vibration; and
- Downstream: Products.

Also found on the aforementioned web page are links describing:

- Environmental issues addressed in the category;
- Indicators of environmental improvement within a category;
- How to achieve performance improvements;
- Business benefits of these improvements;
- Methods to convert various improvements into appropriate indicators and units; and
- Ways to show environmental improvements in commonly understood contexts.

While EPA monitors progress toward environmental improvements in specific categories, categories and indicators are chosen by the facility, not by EPA. Commitments for improvement should relate to the facility's significant environmental aspects identified in the EMS, taking into account:

- Local or Regional environmental concerns or priorities;
- Cross-media impacts of performance improvements; and
- Progress that can be made through pollution prevention.

Applicants must demonstrate past achievements and report on future commitments.

### ***Past Achievements***

Small facilities must document one past achievement (one indicator). (Performance Track defines a facility as small if it has fewer than 50 full-time employees.) Larger facilities must document two past achievements (two different indicators). Past achievements must occur two years preceding the year of application.

### ***Future Commitments***

Small facilities must commit to at least two future improvements (two indicators, from two categories). All other facilities must commit to at least four future improvements (four indicators, from two or more categories). Two indicators may be in the same category, and may be identical to two past achievements, provided that the facility continuously improves on these indicators. Facilities are encouraged to commit to more than the minimum number of future improvements.

Facilities cannot rely on actions that represent compliance with Federal, State, tribal, or local legal requirements to document past achievements and future improvements in their applications or APRs (See Section B.4). Performance Track accepts only past achievements and future improvements that are beyond legal requirements.

There are no absolute or relative levels of improvement for either past achievements or future improvements to qualify for Performance Track (except for Challenge Commitments, as described below). Rather, facilities must document and commit to a level of performance consistent with its own situation, capabilities, and goals. Each facility is encouraged to commit to significant improvements.

### ***Challenge Commitments***

EPA recognizes that Performance Track facilities can help address Regional and National environmental priorities. Challenge Commitments were developed by EPA National Program offices and Regional offices, in consultation with State and local governments, and have minimum quantitative targets.

Since 2004, three Agency Regions (I, II and VI) have participated in Challenge Commitments. The Region I (RI, MA, ME, VT, NH, CT) Challenge Commitment, for example, focuses on reducing greenhouse gas emissions by five percent. Region II (NY, NJ, PR, VI) focuses on reducing energy use or mobile source air emissions by 10 percent or reducing non-mobile source air emissions by 20 percent. The focus in Region VI (TX, OK, LA, NM, AR) is on ozone non-attainment areas. Facilities in those areas need to reduce their Nitrogen Oxide (NO<sub>x</sub>) emissions or Volatile Organic Compound (VOC) releases by 15 percent.

Facilities utilizing Challenge Commitments, like all Performance Track facilities, must commit to the minimum number of future improvements. Since each Challenge Commitment receives double credit, facilities may substitute one Challenge Commitment for two non-Challenge Commitments to meet this minimum. A large facility, for example, could commit to one Challenge Commitment and two non-Challenge Commitments. A large facility could substitute two Challenge Commitments for all four of its future improvements, or, conceivably, fill all four of its future improvements with four Challenge Commitments. Double credit could be useful when the Agency ranks candidates for its annual National Environmental Performance Awards.

In deciding whether to adopt a Challenge Commitment, facilities should determine whether their significant environmental aspects and potential performance commitments align with the Challenge Commitment priorities. Details on Challenge Commitments are located on the Performance Track website ([www.epa.gov/performance-track/program/challcomm.htm](http://www.epa.gov/performance-track/program/challcomm.htm)).

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### ***Small Business Commitments***

Starting in May 2004, EPA redefined small facilities to include those with fewer than 50 full-time employees. This change should encourage greater participation by small facilities. Small facilities need only make two performance commitments as opposed to the four commitments for larger facilities.

### ***Partnership Programs***

EPA encourages facilities to use their participation in EPA, State, and other partnership programs to document past achievements. While Partnership Program ([www.epa.gov/partners/](http://www.epa.gov/partners/)) participation does not automatically qualify facilities for Performance Track, these past achievements help a facility's application. For example, participation in EPA's WasteWise, ENERGY STAR®, WAVE (Water Alliances for Voluntary Efficiency), Design for the Environment, or Sector Strategies, may help document past achievements and future commitments. EPA's Partnership Program's coordinator can advise on the best ways to link partnership efforts with Performance Track participation. More information can be obtained at the Performance Track website ([www.epa.gov/performancectrack/partners](http://www.epa.gov/performancectrack/partners)).

## **3. Public Outreach and Performance Reporting**

Performance Track members demonstrate their commitment to public outreach and report periodically on their performance in the program. There is no standard set of outreach activities, beyond what is required in the APR. Each facility's approach to community reporting in its APR depends on its size, scale of operations, and setting.

EPA expects facilities to have a public outreach program (e.g., newsletters, sponsorship of community activities, performance reporting) prior to submitting their applications. For example, participants in the Responsible Care program or endorsers of the CERES (Coalition for Environmentally Responsible Economies) principles typically have outreach programs with many of the aforementioned activities. Many small facilities have lower-cost, but effective, outreach programs.

Public outreach activities may vary across facilities depending on their size, setting, and type of operation, but each application should address the following three areas:

### ***Identifying and Responding to Community Concerns***

Facilities must demonstrate established mechanisms, identify, and respond to local concerns about the environmental effects of their operations. Examples include concerns about emissions, odors, traffic, discharges, and emergency warnings. Minimally, small facilities must document a point of contact with direct access to management as well as procedures responsive to local questions or concerns.

Other typical efforts include designated community liaison officials, periodic public meetings or open houses, and similar mechanisms. The level of public outreach depends not only on the facility's size and environmental effects, but also on the degree of community interest.

### ***Informing the Community of Important Matters***

Appropriate to their size, operations, and setting, facilities must describe how they inform the community of important issues about its environmental performance. For example, to preclude potential misunderstandings, a facility may want to alert the community if it plans to execute an emergency preparedness exercise. Many mechanisms for identifying and responding to local concerns, such as open houses, community meetings, web pages, advisory panels or customer displays, could be especially appropriate.

### ***Reporting on the Facility's EMS and Performance Commitments***

Whatever the means of community outreach, facilities must specifically explain how they inform the public about environmental performance (See Section A.2) reported both in their applications and APRs.

Facilities will also be asked to provide a short list of community/local references and to list any ongoing citizen suits.

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#### 4. Record of Sustained Compliance with Environmental Requirements

Performance Track members have a good record of compliance with environmental laws and are in compliance with all applicable environmental requirements. They also commit to maintaining the level of compliance needed to qualify for the program.

EPA screens ([www.epa.gov/performance-track/program/guidance.pdf](http://www.epa.gov/performance-track/program/guidance.pdf)) all applications consistent with EPA's Compliance Screening for EPA Partnership Programs. In evaluating an applicant's compliance record, EPA, along with its State partners, will consult databases and enforcement information sources. EPA encourages applicants to assess their own compliance records as they make decisions regarding participation in this program. Facilities can check their own compliance records for the last two years with EPA's Enforcement and Compliance History Online (ECHO) database ([www.epa.gov/echo](http://www.epa.gov/echo)). Facilities should note that ECHO provides only a two-year snapshot and that applicants' compliance records, calculated over longer time frames, require a more thorough review than provided by ECHO alone.

Participation in Performance Track is inappropriate for any of the following findings, under Federal or State law:

##### *Criminal Activity*

- Corporate criminal conviction or plea for environmentally related violations of criminal laws involving the corporation or a corporate officer within the past five years.
- Criminal conviction or plea of employee at the same facility for environmentally related violations of criminal laws within the past five years.

- Ongoing criminal investigation/prosecution of corporation, corporate officer, or employee at the same facility for violations of environmental law.

##### *Civil Activity*

- Three or more significant violations<sup>3</sup> at the facility in the past three years.
- Unresolved, unaddressed Significant Non-Compliance (SNC) or Significant Violations (SV) at the facility.
- Planned but not yet filed judicial or administrative action at the facility.
- Ongoing EPA- or State-initiated litigation at the facility.
- Situation where a facility is not in compliance with the schedule and terms of an order or decree.

##### *Significant Non-Compliance Overview*

The terms Significant Non-Compliance (SNC) and High Priority Violation (HPV) identify serious violations of environmental requirements that may pose a severe environmental threat. SNC is terminology used by the Water and Resource Conservation and Recovery Act Programs, while HPV is terminology used by the Air Program. EPA programs use their own program-specific criteria, based on the applicable statutes and regulations, to determine a facility's SNC or HPV status.

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<sup>3</sup> In addition, EPA may also consider whether there are significant problems or a pattern of non-compliance in an applicant's overall civil or criminal compliance history.

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## Section B.

# Implementation

**F**acilities apply to Performance Track on the website ([www.epa.gov/performance-track](http://www.epa.gov/performance-track)). The application process is based on the following principles:

- Fair, effective, and timely evaluation of applications;
- Timely response to concerns of participants and community stakeholders;
- Close cooperation among EPA offices and with State and tribal agencies;
- Ongoing evaluation of Performance Track with the goal of continuous improvement; and
- Low transaction costs, consistent with achieving the goals of Performance Track.

This section provides an overview of EPA's approach to implementing Performance Track. It covers: (1) the application and notification process; (2) continued compliance; (3) the protocol for site visits; (4) the Annual Performance Report; and (5) removal from the program.

### 1. Application and Notification Process

Facilities apply for membership online (<https://yosemite.epa.gov/oepi/ptrack.nsf>). EPA uses this information, self-certifications, compliance screening, and information from State and Regional consultations to evaluate each facility's qualifications. Although EPA will not routinely conduct site visits as a part of the formal selection process, EPA Regional offices and State agencies may, on occasion, request a program site visit with an applicant.

EPA first reviews the application for completeness and notifies facilities at the commencement of its substantive review. An EPA committee, made up of representatives from Headquarters and Regional offices, conducts this substantive review. Through the appropriate Regional office, EPA consults with the facility's State to determine eligibility for Performance Track. As part of this review, EPA evaluates each facility's compliance record.

Membership notification or rejection occurs approximately 90 days after the end of the application period. EPA will also announce a facility membership through the Performance Track website, by phone (1-888-339-7875) or by email ([ptrack@indecon.com](mailto:ptrack@indecon.com)). Membership extends for a three-year period after which a facility may submit a renewal application for another three-year membership. Facilities that are not accepted will receive brief explanations.

Once accepted, facilities become eligible for the incentives offered in the program. Facilities will receive a letter defining the specific incentives available at the time of acceptance and the conditions under which they are granted or may be used (e.g., the conditions for use of the program logo). Members will be notified as new incentives become available.

Facilities should understand that membership is discretionary, that rejection or removal from the program may not be challenged, and that membership is unrelated to any issue of law or fact in any legal enforcement proceeding for violations of environmental requirements.

Applications for the Performance Track program are currently accepted twice a year: **April 1 – May 31**, and **September 1 – October 31**.

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## 2. Continued Compliance

This program, while recognizing and promoting improved environmental performance, is built on a foundation of sustained compliance. There are several components of this program that help to assure continued compliance, such as an EMS that meets specified criteria (including compliance with legal requirements), compliance self-audits, and an annual certification that the facility is meeting the program entry criteria and is continuing to maintain compliance. In recognition of these and other program elements, and of good faith participation in Performance Track, facilities will not be subject to greater enforcement scrutiny solely as a result of their membership in Performance Track.

Compliance issues may arise from time to time at a Performance Track facility. In fact, EPA expects that a vigorous performance- and compliance-focused EMS will identify for prompt correction any instances of actual or potential non-compliance. In general, facilities are rewarded for their self-identification, correction, and prompt disclosure of violations through penalty mitigation under EPA's Audit Policy. Performance Track members will likewise be able to avail themselves of this compliance incentive under the conditions specified in the Policy. In addition, EPA recognizes that violations may be discovered during the course of an on-site Performance Track program visit. EPA similarly will allow the application of the Audit Policy to violations discovered in this manner, provided that the facility could not reasonably be expected to have known about or identified the violation prior to the on-site visit. Finally, in the unlikely event that a Performance Track facility becomes subject to an enforcement action, EPA will consider, as a discretionary factor in the assessment of penalties, the facility's good faith participation in the program as an indication of the facility's good faith efforts to comply.

### 3. Protocol for Site Visits

To evaluate the effectiveness of Performance Track, EPA will conduct program site visits with a limited number of facilities each year. Facilities may request a program site visit from EPA. During this visit, a facility presents materials that directly support its participation

in Performance Track, including the EMS, progress on performance commitments, and information on community outreach. The protocol for arranging and conducting these site visits is listed below:

- A facility will receive notice in advance of the visit and have an opportunity to schedule the timing with EPA to accommodate facility production schedules and deadlines.
- The scope of the visit will be to assess the facility's implementation of Performance Track, including its EMS, its progress in meeting its performance commitments, and its public outreach efforts.
- The visit typically includes representatives from EPA Headquarters, the EPA Regional office, the State environmental agency, and (subject to the approval of the facility) possibly representatives from the local community and other Performance Track facilities.
- The visit will be conducted according to a written protocol that will be made available to the facility well in advance of the visit. EPA's site visit history has shown that the visits take up to a full working day, depending on the size and complexity of the facility. For more information on site visits, go to the Performance Track website ([www.epa.gov/performance-track/program/visits.htm](http://www.epa.gov/performance-track/program/visits.htm)).

Site visits provide facility managers with value-added input as well as strengthen EPA's overall relationship and communication among members, regulators, community members, and other stakeholders.

### 4. Annual Performance Report

Performance Track members must submit an online APR to EPA and the public. The APR documents a facility's progress toward meeting performance commitments, ensures that a facility maintains its qualifications under the program, and provides information on the effectiveness of the program.

More specifically, the APR documents the following types of information:

- **EMS Performance:** Summarizes the facility's EMS performance (based on objectives and targets), including a summary of audits (EMS and compliance) and corrective actions;
- **Commitment Performance:** Reports on the details and progress of a facility's performance commitments;
- **Outreach Performance:** Reports on details of the facility's environmental public outreach activities; and
- **Self Certification:** Self-certifies that a facility continues to meet the Performance Track criteria.

APRs are due on April 1st in the calendar year following a facility's acceptance into the program, and annually thereafter. Reports to EPA are submitted electronically (<https://yosemite.epa.gov/opei/ptrack.nsf>), with EPA posting those reports on the Performance Track website ([www.epa.gov/performancectrack](http://www.epa.gov/performancectrack)).

EPA does not prescribe a specific means of transmitting the report to the public. For example, members may choose to post their report on websites, disseminate information in newsletters or press releases, hold open houses, organize meetings, or convene community advisory panels.

Each member should maintain the supporting documentation used to prepare its APR on-site, and make this documentation available to EPA upon request.

## 5. Removal from Performance Track

There may be cases when a facility encounters significant performance problems that warrant its removal from Performance Track. At EPA's discretion, a member may be removed from the program for such reasons as falsifying information in the application or APR, failing to file an APR, misrepresenting environmental performance in advertising or marketing claims, or for compliance problems that would be seen as inconsistent with Performance Track entry criteria.

EPA expects that a participating facility will continue to meet Performance Track criteria, such as maintaining its EMS and conducting appropriate public outreach, while it is in the program. Failure to meet the EMS and public outreach commitments may constitute grounds for removal. EPA also expects that a facility will strive to meet the performance goals stated in its application. However, facilities are encouraged to establish ambitious goals, which they may not always be able to meet. Inability to meet the facility's performance commitments (See Section A.2) will not, by itself, remove a facility from the program. However, an inability to make any progress, or a decline in overall facility performance, may result in removal from the program.

Should EPA decide to remove a facility from Performance Track, EPA will provide the facility with notice of its intention. The facility will have 30 days to take corrective measures. If corrective measures resolve the issues, EPA will withdraw its notice of intention. A facility may also withdraw from the program at any time by notifying EPA in writing. Once separated from Performance Track, whether voluntarily or at EPA's discretion, a facility relinquishes the continued use of all incentives associated with participation in the program.

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## Section C.

# The State Role and Relationship

**P**erformance Track relies on EPA’s partnership with State environmental agencies (and, where applicable, tribal governments) for its long-term success. State agencies run many Federally-delegated programs and are responsible for important incentives (e.g., changes in permitting, reporting, and inspection policies). States are likely to have more frequent contact with facilities, making each State’s relationship with program participants a key to overall success. In addition, many States have programs with similar objectives — such as a commitment to improved environmental performance (beyond legal requirements), EMS use, public involvement, and a strong compliance history. Several State programs start with tiers that may serve as “on-ramps” to Performance Track.

EPA has consulted extensively with States that sponsor programs similar to Performance Track, and also with States that do not have such programs, but are interested in the concept. Senior EPA officials have also visited or spoken with commissioners from several States that are leading the way in offering recognition and incentives to top performers.

EPA works with State representatives to monitor and improve this program as it is implemented. Based on discussions with State leaders, EPA has developed specific principles to guide this relationship. EPA will:

- Work closely with designated State contacts, and include States in decisions on facilities within their jurisdiction;
- Minimize duplication of State efforts and build on existing State programs to the extent possible;

- Respect State programs with different policy and environmental objectives, and work with States to minimize inconsistencies with National objectives and actions;
- Encourage participation by all the States, tailored to State interests and capabilities; and
- Work jointly with the States to monitor implementation and seek continuous improvement in the program.

All States will be affected in some way by Performance Track. However, the degree of involvement by each State will vary, based on the number of applicants, and the level of State interest and resources. EPA assumes, at a minimum, that States will want to be informed of actions relating to facilities in their jurisdiction and to have the opportunity to conduct their own compliance screening.

EPA has been working closely with States that have similar programs, and will continue to work with them to align and integrate National and State programs as much as possible. EPA envisions establishing a form of reciprocity for all equivalent State and National elements. For each element designated as equivalent, qualification at the State level would mean automatic qualification at the National level, and vice versa. EPA welcomes the interest expressed by many States that want to participate actively in the National program. These States can also play a major role in informing participants in existing programs of the opportunities and eligibility requirements of Performance Track.

EPA will work closely with States that are establishing new programs to achieve maximum compatibility

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between State and National efforts. For example, EPA facilitates peer exchanges among States and facilitates contact with Performance Track and program office personnel. EPA works with these States to develop complementary application procedures.

EPA invites all States, including those without similar programs, to support the National program as much as they are able. At a minimum, these States

are asked to designate contacts to receive notification of EPA actions.

After consulting with States, EPA will decide which applicants qualify for the National program. EPA continues to work with the States to determine the most appropriate long-term State role in implementing the program.

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## Section D.

# Performance Track Corporate Leaders

In 2004, EPA created the Performance Track Corporate Leader designation as a way to recognize companies that are substantially committed to Performance Track and exhibit policies and behavior at a corporate level that are associated with environmental excellence.

The Corporate Leader designation enhances Performance Track by providing EPA with additional opportunities to work more effectively with corporate leaders in improving environmental performance beyond regulatory requirements. It recognizes and promotes corporate activities not often or fully integrated at the facility level, such as improving the environmental performance of a company's suppliers and/or customers.

### 1. Eligibility Criteria

To be eligible for this membership category, a company must meet the following criteria:

- Have at least five facilities that are each a member of Performance Track.
- Have at least 25% of its U.S. operations (based on number and type of facilities, or employees), or 25 facilities, in Performance Track and/or similar state performance-based programs.

### 2. Nomination and Application Process

Around mid-year, EPA asks companies that meet these threshold criteria and believe they would meet the other membership criteria to consider nominating themselves for the Corporate Leader designation. EPA reviews the self-nominations and asks up to three companies to apply for the designation based on which companies appear to be the strongest candidates.

### 3. Review Process

In addition to reviewing the threshold criteria, EPA will evaluate additional considerations. To verify that the company has a strong compliance record with environmental regulations, we review the compliance history of its non-Performance Track, major-permitted facilities and also benchmark the company's compliance record to its "composite" sector.

EPA also considers the likelihood that the company will compare well with other self-nominees based on these factors:

1. strong corporate management of environmental issues;
2. demonstrated environmental performance improvement and commitments for further improvements;
3. efforts to improve the environmental performance of the company's value chain (including suppliers and customers); and
4. public outreach and reporting.

Successful applicants will identify one past achievement in improving their environmental performance and one past achievement in helping their value chain improve their environmental performance. In addition, they will make two commitments to improve their environmental performance and two commitments to help their value chain improve their environmental performance. They also will commit to increase their level of membership in the facility program to at least 50% of their U.S. operations (or 50 facilities) within five years of their designation as a Performance Track Corporate Leader. For more information, visit the website: [www.epa.gov/performancetrack/corporateleaders](http://www.epa.gov/performancetrack/corporateleaders).



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