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Introduction

In June 2000, the United States Environmental Protection Agency launched the National Environmental Performance Track program. This voluntary performance-based program recognizes and supports top environmental performers that go beyond the requirements of regulatory compliance to attain levels of environmental performance and management that benefit the environment, people, and communities.

Performance Track is based on EPA's recognition that government should complement existing programs with new tools and strategies that protect people and the environment, and capture opportunities for reducing costs and spurring technological innovation. Performance Track has grown to include over 300 members, representing facilities from nearly every state and from a wide range of sectors and sizes, including chemical and pharmaceutical plants, steel mills, municipal facilities, universities, national parks, and dry cleaners.

The Performance Track Corporate Leader designation enhances the current Performance Track program by extending it beyond the facility level to the corporate level and also through the company's value chain (including its suppliers, customers, and product and service designers). This designation engages corporate leaders more effectively and recognizes and promotes corporate activities not always fully considered at the facility level.

The Corporate Leader designation: a) recognizes companies that own a significant amount of facilities that are members of Performance Track (or similar

state voluntary performance-based programs with elements that correspond to the Performance Track program criteria; a minimum of five facility members in Performance Track) and have strong corporate programs to manage environmental issues; and b) encourages companies to make further commitments to improve the environmental performance of their operations (including having more of their facilities become members of Performance Track or similar state programs) and their value chain. If a company satisfies the criteria, it may be designated a Performance Track Corporate Leader.

Up to three companies per year will be designated Performance Track Corporate Leaders for a membership period of five years each. EPA will identify companies that meet the entry criteria, have good compliance records, and institute innovative practices. Like the facility-based Performance Track, Performance Track Corporate Leaders complement existing Federal and state voluntary performance-based programs. For example, a company may include its facility membership in similar state programs to help meet the Performance Track membership criteria; however, at least five of its facilities must be members of Performance Track.

This document describes the criteria EPA has established for a company to become a Performance Track Corporate Leader, as well as EPA's approach for implementing this designation.

SECTION A.

Corporate Leader Entry Criteria

The Performance Track Corporate Leader designation includes five criteria:

- ★ Membership in the Performance Track program or similar state voluntary performance-based programs of at least 25 percent of a company's facilities and at least five facilities in Performance Track;
- ★ Demonstration that the company has in place a system to manage environmental issues at the corporate level — this system must:
 - address the environmental implications of corporate functions that have a significant impact on environmental performance;
 - ensure that the company's facilities meet corporate-level environmental requirements; and
 - have a strong record of sustained regulatory compliance across the company's operations, particularly its manufacturing or "major" facilities;
- ★ Achievement and commitments in improved environmental performance by the company, and a commitment to increase its facility membership in Performance Track or similar state programs over a five-year period;
- ★ Achievement and commitments in improved environmental performance of the company's value chain; and
- ★ Commitment at the corporate level to public outreach and performance reporting.

These criteria are described in greater detail in the sections that follow.

1. Membership of Company's Facilities in Performance Track

A strong facility program is the foundation of the Performance Track Corporate Leaders. The criteria

that are included in Performance Track at the facility level (environmental management systems, strong compliance history, continuous improvement, and community involvement) provide evidence that the company takes its environmental commitment seriously at its basic operating units.

The Agency is looking for evidence that several of a company's facilities are members of Performance Track (or similar state programs). To encourage corporate membership in Performance Track, the initial threshold has been set so that a minimum of 25 percent of a company's operations or 25 facilities are members of Performance Track or similar state programs. Companies considered for this designation need to also have at least five facilities in Performance Track.

Current membership can be demonstrated by calculating the percentage of a company's operations that are currently members of Performance Track and similar state programs. In deciding which option to use to express this membership (percent of manufacturing, major, or all facilities, or percent of employees in these facilities), a company can consider the nature of its operations. For example, if its facilities differ greatly in size, then the company may consider the percent of total number of employees to better reflect its environmental footprint. If the facilities differ greatly in the nature of their operations, then the company may consider the percent of number of major facilities. If the facilities are essentially equivalent in size and operations, then the company may consider either of the options available.

Many companies undergo mergers, acquisitions, and divestitures. In cases where the acquiring company is designated a Performance Track Corporate

Leader, an adjustment period will be discussed with the company to demonstrate its commitment to integrate some number of its newly acquired facilities into Performance Track. The Corporate Leader designation is not transferable to an acquiring company, but facility-level membership in Performance Track is transferable so long as the facility continues to meet the criteria.

2. Management of Environmental Issues

The corporate commitment criteria ensure that environmental issues are addressed as a corporate priority. The Performance Track Corporate Leader designation is intended to be greater than the sum of the membership of individual facilities in Performance Track. To accomplish this objective, the focus is on decisions made at the corporate level in business strategy, product and process design, and value chain management that are usually beyond the operational scope of individual facilities.

The Agency is looking for evidence that a company assigns a priority to environmental issues at the corporate level and has a system to identify, prioritize, manage, measure, review, and continuously improve environmental performance throughout its operations. The company should have a corporate environmental policy and goals, a commitment and a means to integrate environmental considerations across corporate functions, procedures to work with individual facilities to ensure that corporate policies are implemented, a system to identify and address facility compliance issues, and a system to measure and review environmental performance.

The following elements (or their equivalents) should be included:

- ★ *Policy* — a corporate policy assigning priority to environmental issues (including compliance with legal requirements and achievement of voluntary commitments, pollution prevention, continuous improvement in environmental performance, and information sharing with the

public on environmental performance), and signed by a senior corporate official;

- ★ *Goals* — publicly available goals, including milestones;
- ★ *Organizational structure* — evidence that environmental issues have a voice at the senior management level in a manner appropriate to the company;
- ★ *Procedures* — evidence of established procedures that: 1) account for the environmental aspects of key corporate functions, such as strategy, planning, research and development, product and process design, and finance and accounting; and 2) integrate environmental considerations in these functions as appropriate to the company;
- ★ *Performance monitoring and measurement* — evidence that environmental performance is monitored at the corporate level using: 1) periodic reviews of the operation of corporate and unit-level environmental programs; and 2) environmental performance indicators representing the key aspects of the company's environmental performance; and
- ★ *Senior management review* — evidence that corporate environmental performance is reviewed at least annually by senior management with an aim of correcting or preventing problems and identifying opportunities for improvement.

3. Record of Sustained Compliance with Environmental Regulations

A record of sustained compliance with environmental regulations is an essential component of the Performance Track Corporate Leader designation. EPA is looking for a consistent record of compliance among a company's facilities over a three-year period and for evidence of a corporate compliance management and audit system that helps ensure compliance among facilities within the company's control. These procedures should reflect a system-

atic approach to ensure compliance and to address problem areas effectively and in a timely manner. Large companies and companies that have recently acquired facilities may have isolated instances of non-compliance at individual facilities, but there should be no pattern of non-compliance across the company and there should be evidence of prompt actions to remedy instances of non-compliance.

The Performance Track Corporate Leader designation asks for evidence that the company takes compliance seriously at the corporate level. The company should demonstrate:

- ★ procedures that ensure facilities are aware of, and comply with, applicable requirements and can respond promptly and effectively to instances of actual or potential non-compliance;
- ★ corporate systems that monitor facility-level compliance and address potential problem areas through preventive or corrective actions; and
- ★ provisions for senior management review of regulatory compliance.

During the review of companies that nominate themselves to be considered for the Corporate Leader designation, EPA will undertake an initial review of the regulatory compliance record of major facilities that are not members of Performance Track. This information will be used to help EPA decide which company or companies to ask to apply to the Corporate Leader designation. Then, as part of the review step for each company's application, EPA will conduct an extensive compliance screen of the company's major facilities. This screen will be based on a statistically selected random sample of the company's major facilities that are not members of Performance Track. It will include consultation with the appropriate EPA Regions, states, and the Department of Justice, in applying the Performance Track Program compliance screening criteria.

4. Environmental Performance and Commitment to Continuous Improvement

The performance criteria include at least one past environmental achievement and two future environmental commitments across the company's operations, as well as a commitment to increase the company's facility membership in Performance Track or similar state programs. To assess a company's environmental performance, EPA will ask candidate companies to demonstrate evidence of historical performance improvement and a commitment to continued performance improvement. A candidate company should be able to demonstrate:

- ★ A record over the preceding two years of consistent improvement in performance in at least one category; the Agency encourages companies to include achievements and results following membership in other federal, state, tribal, non-governmental organizations, or industry-sponsored voluntary programs that involve commitments to improve environmental performance;
- ★ Commitments to improvement in at least two categories over the next five years; the Agency encourages companies to include achievements and results following membership in other federal, state, tribal, non-governmental organizations, or industry-sponsored voluntary performance-based environmental programs; and
- ★ Commitment to increase the company's facility membership in Performance Track or similar state programs such that at least 50 percent of its operations or 50 of its facilities will be members within five years of being named a Performance Track Corporate Leader.

EPA will not specify which categories and indicators a company should select in stating its environmental achievement and making its performance commitments. However, the company's future environmental commitments should be closely tied to its significant environmental impacts and its envi-

ronmental goals. In addition, the company should take the following factors into account in selecting categories and indicators for future environmental commitments.

- ★ Environmental priorities;
- ★ Cross-media impacts of performance improvements; and
- ★ Progress that can be made through pollution prevention.

In documenting past improvements and committing to future improvements, a company should not rely on actions that represent compliance with existing legal requirements at the federal, state, tribal, and local levels. These improvements should represent actions taken by a company that go beyond existing legal requirements. A company will be asked to describe its progress in meeting these commitments in an annual report.

There will be no absolute or relative level of improvements in either past achievement or future performance needed to qualify for the Performance Track Corporate Leader designation. EPA is asking each company to document and commit to a level of performance improvements that is consistent with its own situation, capabilities, and goals. However, each company is encouraged to commit to significant improvements.

EPA encourages each company to use the results of its membership and environmental improvements in EPA, state, and other partnership programs to document its progress in improving environmental performance. Membership in a partnership program would not on its own qualify a company, but environmental improvements that occur in the context of such a program would qualify. For example, as a result of membership in EPA's ENERGY STAR®, WasteWise, WAVE, Design for the Environment, or Industry Sector Performance Program, a company may be able to document past

performance and commit to future improvement, including that of its value chain. EPA's voluntary programs coordinator can advise companies on the best ways to link efforts in these programs with membership in Performance Track.

5. Improvement in Environmental Performance of Company's Value Chain

Increasingly, as companies focus on their core competencies, they rely on their supply chains for many functions that were formerly performed internally (i.e., outsourcing). Similarly, the actions of downstream customers can often influence the cumulative environmental impact of a product or service. An important criterion of the Performance Track Corporate Leader designation is to promote and recognize the efforts that a company makes in managing the environmental aspects of its value chain.

The Agency is looking for evidence that the company's programs have helped it to go beyond existing legal requirements and reduce the environmental impacts of its value chain through its work with its suppliers or customers, and/or in product and service design, as appropriate to its business. Few, if any, companies, however, have the capacity or the influence to control the full environmental impact of their value chain. EPA recognizes that data documenting the performance improvement of the value chain will be less available and less robust than that documenting its own performance improvements. Nevertheless, the Agency considers it important to begin the process of documenting and measuring these performance improvements. A company will be asked to describe its progress in meeting these commitments in an annual report.

Based on the company's operations, improvements in the environmental performance of its value chain can be demonstrated by evidence of programs in the areas listed below:

- ★ Supply chain management:
 - supplier environmental partnership or mentoring;
 - environmentally preferable procurement;
- ★ Customer management and assistance:
 - product stewardship/customer assistance;
 - product take-back;
- ★ Product design:
 - design for the environment or design for sustainability;
 - product life cycle assessment and management;
- ★ Industrial ecology (or by-product synergy); and
- ★ Other initiatives.¹

Because this is a relatively new area of company focus, the Agency is allowing both input (or activity) and outcome (or results) measures of improvements to the environmental performance of the value chain. Process measures consist of activities that a company is undertaking to help improve the environmental performance of its value chain. These process measures may include:

- ★ Actions to encourage suppliers and/or customers to improve their own environmental performance beyond compliance;
- ★ Requirements for environmental management systems placed on suppliers, assisted through providing mentoring services;
- ★ Purchasing guidelines established that include environmentally-preferable procurement criteria;

¹ The Agency recognizes that value chain management is a relatively new area, and one in which companies are making significant and important innovations.

- ★ Product stewardship arrangements with customers;
- ★ Actions to minimize the environmental footprint of products and services in customer use and end-of-life disposal;
- ★ Investment in a product take-back and recycling program infrastructure, or in life cycle R&D to lessen its product or service footprint; or
- ★ Encouragement given to suppliers to become members of Performance Track or other EPA or state voluntary performance-based programs.

Outcome or results measures are generally preferable. Nevertheless, EPA recognizes that a company will not always have information available concerning the environmental performance of its suppliers and customers. For example, a company may encourage or require its suppliers to establish an environmental or energy management system, but it will not always have information on the extent to which its suppliers improved their environmental performance by having this system in place. Outcome measures may include:

- ★ Specific improvements in product or service life cycle environmental performance, such as reduced energy intensity or toxic materials use;
- ★ Reduction in life cycle energy consumption or greenhouse gas emissions attributable to customer or supplier assistance provided by the candidate company;
- ★ Specific improvements in supplier or customer environmental performance;
- ★ Reduction in customer environmental incidents attributable to a product stewardship program;
- ★ Percent of products or raw materials purchased or sold through industrial ecology or by-product synergy arrangements; or
- ★ Materials or energy savings attributable to product design, or take-back or recycling programs.

There will be no absolute or relative level of improvements in either past achievement or future performance of the value chain needed to qualify as a Performance Track Corporate Leader.

6. Public Outreach and Reporting

EPA expects that applicants have already established a public outreach program. For example, endorsers of the CERES Principles (Coalition for Environmentally Responsible Economies) and members of Responsible Care typically have outreach programs that may include community advisory panels, newsletters, performance reporting, sponsorship of community activities, and other outreach activities. In the application, each company will be asked to describe its system to identify and respond to community and stakeholder concerns.

Most leading companies publish environmental reports. This trend has received additional impetus as a result of the Global Reporting Initiative (GRI), an industry/non-profit collaboration. These efforts recognize the importance of publicly available information concerning corporate environmental performance. The Agency supports these efforts and wishes to recognize companies that are willing to make more information available to the public than that which is required by regulations.

EPA is looking for evidence that companies foster openness and transparency toward stakeholders. Candidates should openly provide information to the public regarding their goals and environmental performance.

The following descriptive information should be publicly available:

- ★ *Organizational profile* — a description of the company, its size, locations, the nature of its environmental impacts, and the extent of its membership in this or other EPA or state voluntary programs; and
- ★ *Environmental management and policy* — the company's environmental policy, its goals, and its system to manage environmental issues.

The following environmental performance information may also be publicly available:

- ★ *Resource conservation* — trends and performance against established objectives (if any) in the conservation and recycling of materials, and conservation of water, energy, land, and habitat;
- ★ *Environmental releases* — if available, a baseline and a comparison of trends and performance against established objectives (if any) in the release to the environment of: atmospheric emissions (greenhouse gases, ozone depleting substances, TRI chemicals); discharges to water; hazardous and solid waste generation and management; and significant accidental releases; and
- ★ *Environmental compliance* — significant fines and penalties, nature of the non-compliance, scope and magnitude of the environmental impact, and programs to correct the situation.

SECTION B.

Implementation

Each year, EPA will evaluate the qualifications of a select number of companies that appear to meet the criteria for Corporate Leaders. EPA will compare the number of facilities that are members of Performance Track with the total number of facilities in the company, with primary consideration given to manufacturing or major facilities. EPA will review compliance databases to assess the preceding three years' compliance history for facilities that are not members of Performance Track.

1. Application Process

Companies that own at least five facilities that are members of Performance Track will be provided the opportunity to nominate themselves for consideration to be designated Performance Track Corporate Leaders. EPA will review these nominations based on several criteria (e.g., facility membership in Performance Track, compliance record of each company's non-Performance Track major facilities, review of each company's recent environmental report), and ask up to three of the strongest companies to apply as the next Performance Track Corporate Leaders.

EPA will first review each application for completeness. An EPA application review committee made up of representatives from EPA headquarters and select EPA regional offices and relevant states will conduct a substantive review. Together with the regional office(s), EPA will consult with the states in which the company's headquarters office is located to help determine the company's eligibility for Performance Track Corporate Leaders.

As part of its review of an application, EPA will conduct a thorough compliance screen for a random statistical sample of its major facilities that are not already members of Performance Track. This compliance screen will include discussions with the

appropriate EPA Regions and states, EPA's Office of Enforcement and Compliance Assistance, and the Department of Justice. Following the application review, a company will be informed in a timely manner whether it meets the eligibility criteria.

2. Company Visits

As part of its review of the company applications, EPA plans to visit each company to collect additional information to supplement the application. The company visit will include a visit to corporate headquarters to review the company's corporate system to manage environmental issues.

The site visits will be conducted according to the following protocol:

- ★ A company will receive notice in advance of the visit and it will have an opportunity to schedule the timing of the visit with EPA that is mutually convenient;
- ★ The visit will verify the information submitted in the Performance Track Corporate Leader application, including evidence of the existence of corporate level management policies and procedures that meet the criteria; if appropriate, EPA may also ask to visit one or more of the company's facilities (to evaluate the extent to which corporate procedures are being implemented at individual facilities) and contact one or more of its suppliers or customers;
- ★ The visit may include representatives of EPA headquarters, EPA regional offices, and state environmental officials; and
- ★ The visit will be conducted according to a written protocol that will be made available to the company before the visit; EPA expects the visit will take up to one full working day.

After the visits, EPA will meet with company representatives to discuss the company's application. In the meeting, EPA may suggest enhancements to the company's application or commitments that will enable the company to meet the Performance Track Corporate Leader criteria.

3. Notification Process

Once an application is accepted, the company will be designated a Performance Track Corporate Leader at an event involving senior EPA management.

A company that is named a Performance Track Corporate Leader will receive written notification from EPA within 60 days of the end of the application period. EPA will announce that a company has been designated through the Performance Track website. A company will be designated a Performance Track Corporate Leader for a period of five years.

Once a company is designated, it becomes eligible for the benefits offered to Performance Track Corporate Leaders. The company will receive a letter that defines the specific benefits available at the time of designation and the conditions under which they are granted or may be used (e.g., the conditions for use of the Performance Track Corporate Leader logo).

A company should understand that its designation as a Performance Track Corporate Leader is discretionary with EPA, that it may not challenge a decision to be rejected or removed from the program, and the company's designation will not be considered by EPA when deciding whether to bring an enforcement action.

Performance Track Corporate Leader applications will be accepted once per year. Information concerning the applications submitted by companies designated as Performance Track Corporate Leaders will be available to the public on the Performance Track website.

4. Continued Compliance

Compliance issues may arise from time to time within a company. A Performance Track Corporate Leader should employ its corporate compliance management and audit system to identify and correct compliance issues. In general, companies are rewarded for their self-identification, correction, and prompt disclosures of actual or potential violations through penalty mitigation under EPA's Audit Policy. In the unlikely event that a Performance Track Corporate Leader becomes subject to an enforcement action, EPA will consider, as a discretionary factor in the assessment of penalties, the company's good faith membership in the program as an indication of the company's good faith efforts to comply.

5. Annual Reports

Performance Track Corporate Leaders will submit an annual report to EPA and the public. The report serves to demonstrate Performance Track Corporate Leaders' progress toward meeting their environmental performance and value chain commitments. It is expected that, in most cases, the company's existing annual environmental report will be sufficient as its report to EPA, provided it addresses the company's commitments to Performance Track.

The company's annual report that is submitted to Performance Track should include information on its progress toward meeting its environmental performance and value chain commitments.

The first annual report will be due to EPA on approximately July 1st of the calendar year following the first full year of the company's designation as a Performance Track Corporate Leader and annually thereafter for four years. Reports to EPA should be submitted electronically. EPA will post reports on the Performance Track website, which may be linked to each company's environmental report or environment cover page on its website.

EPA does not prescribe a specific means for transmitting the report to the public. Members may choose to post their reports on their websites, disseminate information in newsletters or press releases, etc.

6. Removal from Performance Track Corporate Leader Designation

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

EPA expects that a Corporate Leader will continue to meet Performance Track criteria while it is a member. Failure to meet the criteria could constitute grounds for removal. EPA also expects that a company will strive to meet the performance commitments stated in its application. However, a company is encouraged to establish ambitious goals, which it may not always be able to meet.

Should EPA decide that it may be necessary to remove a company from its status as a Performance Track Corporate Leader, EPA will provide the company with a notice of intention. The company will be allowed 30 days to respond by taking corrective measures. If corrective measures resolve the issues, EPA will withdraw its notice of intention. A company may also withdraw from the Performance Track Corporate Leaders at any time by notifying EPA of its intent in writing.

SECTION C.

The State Role and Relationship

The Performance Track program will continue to rely on EPA's partnership with state environmental agencies (and, where applicable, tribal governments) for its long-term success. State agencies operate many federally delegated programs. States are also likely to have more frequent contact with facilities and sometimes companies, making each state's relationship with Performance Track Corporate Leaders important to the overall success of the designation.

During the application review process, EPA will work with states in a number of ways:

- ★ consult with the state where the company's headquarters are located and the states where

the company has several major facilities, particularly the ones that are not currently members of Performance Track;

- ★ conduct compliance screens for a random statistical sample of the company's non-Performance Track major facilities; and
- ★ invite a representative from the state in which the company's headquarters office is located when EPA visits.

EPA will consult with relevant states before deciding which applicants qualify to be Performance Track Corporate Leaders.