

Obama expected to kill key Bush EPA program

March 16 2009, By John Shiffman

The Obama administration intends to close an EPA program heavily promoted by the Bush Administration that rewards voluntary pollution controls by hundreds of corporations with reduced environmental inspections and less stringent regulation, according to EPA sources and internal emails.

[EPA](#) Administrator Lisa P. Jackson is expected to sign a memo terminating the Performance Track program, possibly as early as this week, senior EPA officials said Saturday.

Performance Track offers regulatory perks to corporations that pledge to save energy and reduce pollution. Entry into Performance Track, EPA's premier voluntary "Green Club," is supposed to be reserved for companies with sterling environmental records, but has been denounced by environmentalists as a public relations charade.

EPA's decision to close Performance Track comes three months after an Inquirer investigation found the program lauded companies with suspect environmental records, spent millions on recruiting and publicity and failed to independently confirm members' environmental pledges. The program became so desperate to find new members, The Inquirer found, that it turned to gift shops and post offices to pad its numbers.

A senior EPA official said Saturday in an interview the Inquirer's findings played a role in Jackson's decision.

The Inquirer's investigation of Performance Track came as part of a four-part series, published in December, on the Bush administration's subversion of the EPA, the federal agency charged with safeguarding human health and the environment.

The Inquirer found the Bush administration's antiregulatory bent drove down funding, regulation and employee morale as senior political appointees censored the agency's own scientific findings in ways that consistently benefited corporations.

The series detailed how the Bush Administration circumvented Congress to rewrite [air pollution](#) rules to benefit business, and how a conservative-leaning court later declared a dozen of those rules illegal, invoking unusually caustic language. The Inquirer analysis also found that in nearly 50 pollution lawsuits filed in Washington, the EPA settled 80 percent of those brought by industry, compared to just 15 percent of those filed by environmental groups.

Inquirer reporters investigated plants across the country as part of its investigation of Performance Track.

Voluntary programs, such as Performance Track, and partnerships between EPA and corporations can work, said the senior EPA official, who was involved in the decision to kill the program.

But, the official added, "this one wasn't doing what it was created to do." Ultimately, the official said, Performance Track benefited business more than the environment.

Although the Performance Track program is small, it was symbolic because it represented a big part of Bush's environmental strategy. Top Bush officials promoted Performance Track to fight global warming by encouraging companies to reduce greenhouse gases, rather than forcing

them to do so.

During the Bush years, the program doubled its corporate membership to 548 and increased its budget fourfold to \$4.7 million.

Critics, however, said the program did little more than burnish green images for corporations.

"Performance Track is Exhibit A for why voluntary environmental programs will never be as effective as strong laws, faithfully enforced," said John Walke, clean air director for the Natural Resources Defense Council. "Performance Track now joins eight years of failed Bush administration voluntary global warming approaches as mistakes we must not repeat."

EPA Press Secretary Adora Andy said a final decision to close Performance Track has not been made. But two other people involved said Jackson's signature is a mere formality and related meetings, including notification to companies and the 19 states participating in the program, could come as early as this week .

Late last week, Chuck Kent, an EPA supervisor in Washington, sent an e-mail to colleagues at the agency's regional headquarters, including in Philadelphia, about the program's termination on Thursday, according to a copy obtained by The Inquirer.

"Administrator Jackson has decided to halt the Performance Track program," Kent wrote. "We will be putting a banner across the Performance Track Web site notifying visitors of the program status and linking to the memos mentioned above as soon as the Administrator's memo is made public."

Late last year, EPA officials said, the Performance Track program

employed 18 employees - plus consultants. The employees are all career civil servants, and when the program is closed, they will be transferred to other EPA jobs, an official said.

Performance Track was created in 2000, during the waning days of the Clinton administration. The Bush administration became an immediate champion after it caught the attention of a former American Plastics Council lobbyist who managed the administration's EPA transition team in 2001.

The Bush administration promoted Performance Track as a bold new approach that moved the EPA beyond its traditional role as enforcer of environmental laws, encouraging a philosophy in which EPA collaborated with industry to encourage cutting-edge environmentally sensitive practices.

Companies admitted to Performance Track pledge to promote "environmental stewardship" to local communities and must choose four environmental goals, such as energy or waste reduction.

Since 2001, Performance Track members have reported reducing greenhouse gas emissions by 310,000 tons and saving 3.7 billion gallons of water. The program's current 548 members range from Fortune 500 corporations to trailer parks.

But, among The Inquirer's findings:

- The EPA has recruited companies with mixed - even dismal - environmental records to become Performance Track members.
- Despite offering members regulatory breaks and promoting the program as one that improves environmental performance, the EPA fails to independently verify that Performance Track companies actually

reach their goals.

- Some Performance Track members have paid fines to settle EPA accusations they broke environmental rules. Since 2003, they have racked up more than 100 violations and paid \$15.25 million in fines - including \$10.25 million paid by DuPont Co. for allegedly failing to provide information to the EPA about the health effects of a pollutant one of its plants spilled into drinking water.
- At least a dozen Performance Track members have actually increased the amount of toxic chemicals they pump into the air and water.
- As early as 2005, EPA enforcement officials discovered violations by Performance Track companies, and began to ask questions about compliance and corporate promises.
- EPA recruited into its "green club" a Charleston, Tenn. chlorine manufacturer despite the factory's rejection of a call to join most other manufacturers and abandon a 19th-century process that uses mercury.

Neighbors near the Olin Corp. factory say it is the source of mercury pollution so severe that it prompted state warnings about eating fish in the local river.

One of the neighbors, Sherry Neidich, today applauded the decision to close Performance Track because, she said, it unfairly recognized Olin as an environmental leader.

"Companies like Olin haven't done anything," she said.

An Olin spokeswoman did not return a cell phone call today. The company has previously said its use of mercury is "always careful and controlled" and was recently significantly reduced.

The Performance Track program, which sponsors an annual May conference and award ceremony, has many fans among its corporate members.

Ken Ross, a spokesman for one local Performance Track member, the Lockheed Martin facility in Moorestown, Pa., said he was unaware of the plan to eliminate the program. He said Performance Track has had a positive effect on how the company addressed environmental issues, leading it to take such steps as using more recycled paper and converting several acres of the South Jersey site to a natural bird habitat.

"I think the bottom line is, it did a lot to get companies to think more about the environmental impact they have," Ross said. "That is part of our business culture at this point."

But Cary Coglianese, the associate dean of the Penn Law School and director of its program on regulation, said there is no evidence that Performance Track members are better environmental stewards than non-members.

"If Performance Track dies, the nation loses a major symbol of a new approach to environmental protection," Coglianese said. "But citizens need not linger long in mourning. Performance Track's members have no doubt done some good things for the environment, but it just can't be said they did all those good things because of Performance Track. In the program's absence, responsible companies will still continue to go beyond compliance and make environmental progress."

Besides, said Coglianese, who has closely studied Performance Track: "Ending the program is certainly one way to rid the agency of distraction at a time when it faces major battles over other issues like climate change."

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