



Chapter Title: Introduction

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Introduction

Purpose

The purpose of this study is to assess several aspects of the National Environmental Performance Track (Performance Track) program, a voluntary program run by the U.S. Environmental Protection Agency (EPA) between 2000 and 2009. This study addresses the conceptual basis of the program, its program design, and its implementation; how it worked with other EPA offices and state environmental agencies; and whether voluntary programs, based on Performance Track's experiences, have a role, in tandem with more-traditional regulatory approaches, in accelerating improvements in the nation's environment. The study also provides lessons learned that EPA should consider as it moves forward with voluntary programs.

Context for Assessing Performance Track

Performance Track was developed as part of EPA's regulatory reinvention efforts that began in 1993. The program was intended to complement regulations by encouraging facilities to continuously improve their environmental performance beyond what was required by the law. The program tried to facilitate higher performance by encouraging members to think about their facility's impacts on all aspects of the environment, not just those areas with existing medium-specific (i.e., air, water, or land) environmental laws and independent regulatory regimes.

Using this broader perspective, Performance Track asked facilities to set three-year "stretch" goals for environmental improvement—that is, goals that not only went beyond what was mandated under current law and regulation but also would not necessarily be easy to achieve. In exchange for setting and pursuing these goals, Performance Track offered its members a range of regulatory, administrative, and other benefits (EPA, 2008b).

Some EPA staff regarded Performance Track as the agency's highest-profile experiment with voluntary programs. The program's innovative features earned it honors within EPA and academia. In 2005, EPA's Innovation Action Council—a panel of the agency's top career executives charged with formulating and advancing EPA's innovation agenda—endorsed Performance Track as a priority innovation for the agency (EPA, 2007a).¹ In 2006, the program was named a semifinalist for the Innovations in American Government Award presented by the Ash Center for Democratic Governance and Innovation at Harvard University's Kennedy School of Government (EPA, 2006b).

¹ More information on the council is available at EPA (2009h).

Performance Track also received criticism. The Natural Resources Defense Council (Walke, 2005, 2006) and the Environmental Integrity Project, along with 30 cosigners (Schaeffer et al., 2006) questioned Performance Track's approach and effectiveness.² The effectiveness of Performance Track's approach was also called into question in several other press and trade reports.³ In 2007, EPA's Office of Inspector General (OIG) reviewed the program's operations and effectiveness at achieving environmental goals. The OIG found that some—but not all—Performance Track members had better-than-average environmental performance and concluded that the program did not sufficiently connect its goals with its activities (EPA, 2007b).

Academic researchers had also examined aspects of Performance Track, including its development and basic features (Gardner, 2003); why firms joined the program and what effect the program had on emissions recorded in the Toxics Release Inventory (Coglianese and Nash, 2006); the impact that entry requirements had on program membership (Coglianese and Nash, 2009); and the social effects the program had on members (Borck, Coglianese, and Nash, 2008b).⁴

In light of Performance Track's many innovative features, the positive and negative reactions from different *stakeholders* (we define a stakeholder as a person or entity with an interest or concern in Performance Track),⁵ insights from academia, and remaining questions about the program, EPA's 2006 strategic plan (EPA, 2006d) called for an assessment of Performance Track.

Solicitation, Study Questions, and Scope

In August 2008, the Evaluation Support Division (ESD) of what was then the Office of Policy, Economics, and Innovation (OPEI) selected RAND through a competitive solicitation to answer the following questions concerning Performance Track:⁶

- Were the concepts on which the program was based sound?
- Did the program design reflect the original concepts?
- How effective was Performance Track at implementing the program design?
- How did Performance Track work with other federal and state environmental programs?
- Did the approach represented by Performance Track have a role, in tandem with other approaches, in accelerating the nation's environmental improvement?

² The documents were submitted as public comments for EPA docket OA-2005-0003.

³ For other critiques of Performance Track, see Pelley (2006); Hogue (2006, 2007); Myers (2008); and Sullivan and Shiffman (2008).

⁴ Previous evaluations of Performance Track are discussed in greater detail in Chapter Four.

⁵ For example, Performance Track's stakeholders included its program staff; other EPA offices and state-agency staff focused on protecting the environment; facilities, members, prospective members, and associations; environmental non-governmental organizations (NGOs); and academics interested in voluntary environmental programs.

⁶ The original evaluation questions have been revised for clarity, to reflect the program's closure, and to accommodate a request from ESD to rephrase the final question. The five original evaluation questions were as follows: Is Performance Track's program theory sound? Is the program theory being operationalized effectively? Is Performance Track an effective mechanism for delivering these incentives? How does Performance Track interface with and support other state and federal environmental programs? and Do regulatory and nonregulatory incentives have a role in accelerating the nation's environmental progress?

Roughly six months into the project, on February 25, 2009, the U.S. House of Representatives passed House Resolution 1105, the Omnibus Appropriations Act of 2009. This bill included a significant reduction in Performance Track's budget. Given this proposed budget reduction, EPA asked RAND to expedite the assessment so that its results could inform future agency budget deliberations. RAND agreed to accelerate the assessment by pursuing several aspects of the project in parallel and revising the approach as new information became available. Soon thereafter, in March 2009, EPA administrator Lisa Jackson halted Performance Track. The program was formally terminated in May 2009 (Jackson, 2009; EPA, 2009d, p. 22742).

In light of Performance Track's cancellation, EPA and RAND agreed that this report should focus on answering the five evaluation questions in ways that show Performance Track's strengths and weaknesses. In particular, the report provides insights into the program's efforts to promote innovation, complement regulations, and find constructive ways to engage EPA's many offices, the states, and the private sector. In so doing, this report is designed to provide policymakers and stakeholders with insights that can inform decisions about ongoing and future voluntary programs.

The study was not designed to evaluate the program's environmental impact or EPA's decision to close the program, or to draw conclusions about the direct, causal impact of voluntary programs in general. Using this report for these purposes would be misleading, given its focus on the specific questions listed in this chapter.

Organization of This Report

Following this introduction, Chapter Two provides an overview of voluntary environmental programs, thereby providing the context in which Performance Track was conceived. Chapter Three describes the Performance Track program. Chapter Four presents the assessment methodology and highlights previous evaluations of Performance Track and some of the challenges inherent in evaluating voluntary programs. Chapter Five presents our assessment of the concepts that led to the creation of Performance Track. It then evaluates whether the program design reflected those concepts. Chapter Six assesses how the program design was implemented. Chapter Seven discusses the relationships between Performance Track and other EPA offices and state environmental agencies. Chapter Eight reviews whether, based on Performance Track's experiences, voluntary programs have a role, in tandem with other approaches, in accelerating the nation's environmental improvement. Chapter Nine presents the conclusions and lessons learned based on this assessment.

