

September 21, 1999

EPA Common Sense Initiative
Metal Finishing Sector
Pennsylvania's STRATEGIC GOALS PROGRAM

Background

In 1994, the Administrator of the Environmental Protection Agency, Carol Browner, launched the Common Sense Initiative (CSI), describing it as a "fundamentally different system" to explore industry-specific strategies for environmental protection. This sector-based program is designed to promote "cleaner, cheaper, and smarter" environmental performance, using a non-adversarial, stakeholder consensus process to test innovative ideas and approaches. CSI is an open process to address regulatory, reporting, technological, permitting, compliance, and pollution prevention issues.

In January of 1995, the Environmental Protection Agency (EPA) chartered the Metal Finishing Sector Subcommittee of the Common Sense Initiative under the Federal Advisory Committee Act. The Metal Finishing Subcommittee includes representatives of EPA Headquarters and regional offices, the metal finishing industry and its suppliers, state government, Publicly Owned Treatment Works (POTWs), national and regional environmental organizations, the environmental justice community, and organized labor. To date, the CSI Metal Finishing Sector (CSI/MF) has been successful in achieving active stakeholder participation, innovative project development, and tangible products and outcomes. Participants in CSI/MF meetings have greatly expanded their understanding of the metal finishing industry and stakeholder group perspectives of that industry. This knowledge has provided a firm foundation for non-adversarial dialogue, which in turn has led to development of fourteen Subcommittee-endorsed projects to test new ways to achieve "cleaner, cheaper, and smarter" outcomes for the industry.

Basic Principles of the Program

The National Performance Goals Program is aimed at metal finishing facilities that are in compliance or striving to achieve full compliance and desire to go "beyond compliance" if it can be done cost-effectively. Participation in the Program is strictly voluntary. By participating in the Program, a firm is committing to work towards achieving the Goals. Within the Program, CSI stakeholders will "market" the Strategic Goals, sign-up facilities to participate in the Program, provide them with information and assistance, and track their progress. The Program will be kept as simple as possible both to administer and to participate.

The guiding focus of the Strategic Goals Program (SGP) is to implement performance goals, which will define a cleaner, cheaper, smarter industry.

Pennsylvania joined the program in 1998. This document represents the results of the Commonwealth to initiate the SGP. It borrows from work completed by the SGP Subcommittee and EPA efforts. Upon stakeholder acceptance, industry associations, companies, POTW's and

DEP will implement the program. As with the national SGP, the Commonwealth's effort is to define a cleaner, cheaper, smarter industry, in addition to leveling the playing field for the industry in Pennsylvania.

National SGP Goals

Goal 1: Improved Resource Utilization

Improving resource utilization is a "smarter" thing to do. Achieving these goals can benefit both the environment and a facility's bottom line. Metals utilization, water and energy are the three main resource areas where both environmental and economic gains can be made.

Goal 1(a) -- 98% of metals ultimately utilized.

This Goal is achieved when a facility is land disposing less than 2% of the metals it purchases. It grew out of the basic notion of "a pound of metals bought, a pound used." The intent is to encourage facilities to analyze their metals use and actively look for ways to change and improve their processes to maximize the efficiency of metals use. Facility-specific assessment may include consideration of alternative materials that may be more effectively applied to products. Metals utilization rates vary depending on the metal being applied and the process being employed, as does the capability to improve the rate

Goal 1(b) -- 50% reductions in water purchased and used.

This Goal is achieved when a facility has an annual water usage that is 50% or less of its 1992 water usage, adjusted for any changes in the facility's level of production. If an outstanding performance level was reached prior to 1992, the 50% reduction target may not be fully achievable -- or the effort to achieve it may not be the best use of available resources. In these instances, the target should be adjusted as necessary to make it both meaningful and achievable. The idea is to encourage the use of "as close to a 'closed-loop' water system as possible." Significant reductions in water usage rates will be achievable primarily through increased recirculation/reuse. Examination of reuse of treated effluent in selected areas is very important.

Goal 1(c) -- 25% reduction of energy used.

Goal 2: Reduced Hazardous Emissions and Exposures

These Goals grew out of the belief that certain emissions and exposures resulting from metal finishing processes can and should be reduced. The Goals represent an industry commitment to "cleaner" environmental performance at individual facilities.

Goal 2(a): 90% reduction in organic TRI chemicals, and a 50% reduction in metals, emitted to air and water.

This Goal is achieved when the annual emissions to air and water from a facility of organic TRI chemicals are 10% or less, and of metals is 50% or less, than the facility's 1992 emissions. With respect to acids, in-process reuse and recycling is encouraged, and 100% neutralization before release is expected.

Goal 2(b): 50% reduction in land disposal of hazardous sludges and a reduction in the generation of sludges.

This Goal is achieved when the annual volume of sludges subject to Resource Conservation & Recovery Act (RCRA), Subtitle C, from a facility disposed in landfills is 50% or less than in 1992 and the annual volume of sludges generated at the facility is less than in 1992. These reductions will be achieved in part through the same steps taken to achieve the 98% metals utilization Goal 1(a), including more efficient finishing processes. The 50% target will be achievable with increased availability of safe, cost effective pollution prevention and recycling technologies and management practices. De-watering of sludge does not count towards achievement of these targets.

Goal 2(c): Reduction in human exposure to toxic materials in the facility and the surrounding community, clearly demonstrated by actions selected and taken by the facility.

Such actions may include, for example, pollution prevention, use of state-of-the-art emission controls and protective equipment, use of best recognized industrial hygiene practices, worker training in environmental hazards, or participation in a Local Emergency Planning Committee.

Goal 3: Increased Economic Paybacks and Decreased Compliance Costs.

These "cheaper" goals grew out of the premise that "protecting the environment can be done cost-effectively; it can even have economic payoffs."

Goal 3(a): Long-term economic benefit to facilities achieving Goals 1 and 2.

This Goal is achieved when a facility recognizes a long-term economic benefit in conjunction with achieving Goals 1 and 2. Such economic benefit can be derived from a combination of reduced raw material, water, and energy costs; marketing advantages; reduced liability exposure; and the implementation of Goal 3(b), below.

Goal 3(b): 50% reduction in costs of unnecessary permitting, reporting, monitoring, and related activities (from 1992 levels), to be implemented through burden reduction programs to the extent that such efforts do not adversely impact environmental outcomes.

This Goal is achieved through the cumulative effect of all burden reduction efforts undertaken in the Part 2 Action Plan. See Pennsylvania Strategy, Incentives and Rewards.

Goal 4: Industry-Wide Achievement of Goals Relating to Individual Facilities.

The purpose of this Goal is to promote local efforts to achieve Goals 1-3 throughout Pennsylvania. Achieving this Goal will require a concerted effort by all stakeholders to promote the Goals and to provide technical assistance. See Pennsylvania Strategy, Education and Outreach.

Goal 5: Industry-Wide Compliance with Environmental Performance Requirements.

These Goals highlight the need for multi-stakeholder efforts to assist all facilities to achieve compliance with existing environmental performance requirements; to assist those metal finishers who want to cease operations to do so in an environmentally responsible manner; and to enforce against any facility owned or operated by a metal finisher that knowingly disregards environmental requirements.

Goal 5(a): All operating facilities achieve compliance with Federal, state, and local environmental performance requirements.

This Goal is achieved when, over a six month period, no metal finishing facility in Pennsylvania is found to be in non-compliance with Federal, state, and/or local environmental performance requirements. "Environmental performance requirements" include those requirements that, if violated, would directly result in environmental consequences or harm to the environment. Federal, state, and local government entities will have the authority and responsibility to determine whether metal finishing facilities are achieving compliance as defined in this Goal. See Pennsylvania Program Strategy below.

Goal 5(b): All metal finishers that wish to cease operations have access to a government sponsored "exit strategy" for environmentally responsible site transition.

This Goal is achieved when a multi-stakeholder endorsed program is up and running which provides metal finishing firms with a clear and viable strategy for ceasing operations or selling the business, including real property, in an environmentally responsible manner.

Goal 5(c): All enforcement activities involving metal finishing facilities are conducted in a consistent manner to achieve a level playing field, with a primary focus on those facilities that knowingly disregard environmental requirements.

This Goal is achieved when all facility owners and operators that knowingly disregard environmental performance requirements and/or demonstrate a pattern of non-compliance have been identified and enforced against to the fullest extent of the law. Achieving this Goal will require innovative enforcement initiatives that focus resources on identifying and enforcing against any such owners and operators.

Pennsylvania Program Strategy

To maintain symmetry with the EPA SGP, Pennsylvania will also focus on levels of performance of SGP participants. These levels of goal achievement will be referred to as the Bronze, Silver, and Gold Keystone levels (see the incentives attachment for more information).

In addition, Pennsylvania will follow the EPA “tier” structure for categorizing metal finishers. Tier 1 represents companies that are always in compliance, most likely going beyond compliance at this time. Tier 2A and 2B represents those companies that are in general good operators, but may need some compliance assistance. As with the National program, it is recognized that some companies (Tier 3) will need an exit strategy. In general this strategy will rely on the use of Pennsylvania Act 2 Standards to close sites. If appropriate, liability releases to enable viable operators to take over the operations in this latter category will be considered. Finally, Tier 4 refers to those operators who are not interested in coming into compliance. These companies will be encouraged to either come into compliance or face strong enforcement action.

Facility Sign-up

At this time, metal finishers can be placed into to one of three groups: those participating in the program, those who know about the program and have chosen not to participate, and those who do not know anything about the program. In an effort to achieve a higher participation rate, the Pennsylvania SGP is embarking a major outreach effort. The major Pennsylvania industry trade associations, in part through their local chapters, will take the lead in getting the word out to facilities about the SG Program. This effort will explain the benefits for participating in the program in Pennsylvania. (See the attached letter, which explains the SGP and invites them to join the program). This effort will be the first of several attempts to reach all known captive and job shops operating in the Commonwealth. Focus groups of metal finishers in regional areas will be established to discuss how best to sign up new members. Guidelines for these focus groups are being developed.

Outreach will also be made to all POTW’s through direct contact by DEP and through Pennsylvania Water Environment Association and its East, Central, and West sections. The POTWs will be asked to participate in the program and to help identify potential SG Program participants in their service areas. In addition, DEP will work with EPA and the Operator Outreach Network to develop standard language for those POTWs that would like to participate in the program but may have to amend their pretreatment programs in order to do so.

The metal finishers mailing list has been prepared using SIC codes, yellow pages, inspection records and referrals. This list is the basic document for inviting companies to sign up for the program. It is anticipated that this list is perhaps only 85-90% complete, and so it will be updated from time to time. The list currently includes over 500 companies that do some type of metal finishing.

Those companies who have already signed up (or will sign up in the near future) will have immediate access to Program incentives, as described below. Companies that achieve the goals will receive a variety of incentives and rewards for doing so. Some of these incentives will include the

possibility of reduced monitoring and sampling for local POTW requirements, access to free technical training on reaching the goals, reduced permit fees, and expedited permits. (See attached incentives document for more information).

Participating companies will receive an information packet for the Program from the national Strategic Goals Program coordinator when they sign up. This packet will include detailed information about participating in the Program, including the following:

- A summary of Program objectives and ground-rules;
- Worksheets for recording facility baseline performance information and subsequent progress toward the Goals;
- Information on government and industry assistance programs and tools available to all participating firms;
- An Environmental Management System (EMS)-based checklist; and,
- Guidance for developing a strategy to achieve the Goals.

New participants will also receive information specific to the Pennsylvania SGP, including the finalized version of this strategy document and related attachments, information on Pollution Prevention site visits, environmental management systems, and DEP's audit policy, among other appropriate items.

In addition, technical assistance will be provided through the DEP's office of Pollution Prevention and Compliance Assistance in the form of non-regulatory P2 audits and visits. These efforts will include the provision of information on subjects such as water and energy conservation, resource recovery, and pollution prevention. The specific type of assistance will be determined by whether the facility is a closed loop system, discharges to a POTW, or has an NPDES permit. New participants in the program will also be offered introductory one-on-one, on-site non-regulatory visits by any one of a variety of parties, including DEP (either P2 and inspection staff, or interns), consultants, or the industry regional focus groups mentioned above.

Participation in the SGP does not provide immunity from enforcement actions, which may result from site inspections that are initiated and conducted by the appropriate regulatory authority. Nevertheless, to be consistent with the national Small Business Regulatory Enforcement Act of 1996 and EPA's policy document, "Incentives for Self-Policing: Discovery, Correction and Prevention of Violations," a facility that initiates an audit and/or compliance assistance inspection may be shielded from enforcement action, should violation(s) be discovered during the audit and/or compliance assistance inspection. This applies only if appropriate corrective action is taken by the facility within an agreed-upon time frame established by the applicable regulatory authority, and if the observed violation(s) is not willful or criminal, poses serious health, safety or environmental threats, or otherwise, nonrecurring.

Finally, facilities operating without the necessary permits, and thus in violation of the law, will have appropriate actions taken to bring them into compliance with the laws of the Commonwealth. Additional assistance will be made available through the national SGP, with assistance from major stakeholder groups, including government, non-governmental organizations, academia, and the consultant community.

Public Recognition/Involvement By Groups

All participating firms will benefit from recognition of their good faith commitment and actions to achieve the Program's voluntary performance targets. Recognition can serve as an incentive by improving stakeholder appreciation of the industry's commitment to "cleaner" environmental performance

Tier 1 Companies

Tier 1 companies will be able to immediately receive benefits from the SGP as enumerated in the Incentives document. Incentives include reduced monitoring and sampling requirements as the company begins to achieve the goals of the SGP. The incentives will be available in increments as the companies move up the goals "ladder" by reaching 33% of the goals (bronze level of the ladder), 66% (silver level) and 100% of the goals (gold level).

Tier 2 Companies

Those companies designated in Tier 2 will become the major focus of outreach efforts and technical assistance. These companies will receive regulatory assistance, concerning permitting, reporting, and monitoring requirements, and multi-media inspections provided by DEP, and POTWs. All companies at all times will be encouraged to join the SGP. DEP inspectors will be trained, using multi-media inspection forms, to identify cross media violations in an effort to assist operators in attaining the SGP goals. Inspectors will rely heavily on the Department's compliance strategy as outlined in the publication "Thoughtful and Thorough Enforcement" (see attached document). Innovative approaches to solving difficult compliance problems will be sought, including reliance on Consent Orders & Agreements (CO&A) that encourage the use of environmental management systems. Efforts with the POTW's to enhance compliance with their permit limits will also be carried out. Coordination with EPA and their industrial pretreatment program inspectors will be initiated in order to improve compliance rates.

Tier 3 Companies

Tier 3 companies are those companies looking to exit the industry, but may be afraid to do so due to site liability concerns. These facilities will be encouraged to make use of the Pennsylvania Act 2 standards to obtain liability release.

Tier 4 Companies

Companies in this tier will be targeted with inspections and escalating compliance actions. The companies in this tier are those who disregard the law and are causing willful and wanton

pollution of Pennsylvania's environment. Their continued operation is in no one's interest. Companies of this type are considered rogue operators, and will be prosecuted to the fullest extent of the law. Enforcement against these companies will level the playing field for the rest of the industry.

Tracking Facility and Industry Progress Toward the Goals

To determine if the SGP is having the desired affect in Pennsylvania, the DEP will rely on its EPICS tracking system. This information will monitor inspection results and complement data collected by the industry. The Pennsylvania program will make use of parts of the EPA non-regulatory worksheet. This worksheet, with appropriate changes, will be provided to all participating facilities. As with the national program, participants will be expected to complete an initial worksheet with baseline 1992 performance data (or more recent data if 1992 information is not available). As the participating facilities move forward in identifying and implementing strategies for achieving each Goal, they will be asked to share information with DEP concerning their progress. Such information may include the types of changes they have adopted, their cost, and their results (in terms of reduced water or energy usage, reduced hazardous emissions, savings in compliance costs, etc.). Production increases will be taken into account in all of these measures. The worksheet will be designed to accurately reflect facility progress toward the Goals, without adding undue burden. It will require participating facilities to certify whether they have been cited for non-compliance during the reporting period, but will not require duplicative reporting of detailed compliance data. Federal, state, and local authorities will remain the final arbiters of a facility's compliance status, using existing reporting requirements and databases. Periodic reports will be provided to the industry, interest groups and EPA.

Education and Outreach Strategy

The education and outreach strategy is designed to provide the metal finishing industry, POTWs, state and federal enforcement personnel, and technical assistance providers with the educational tools to effectively implement a comprehensive SGP in Pennsylvania.

Education and outreach activities will include workshops and presentations related to topics that will assist metal finishers in understanding the benefits of the SGP and with achieving the goals of the program. Outreach activities will be designed in conjunction with the local association chapters (AESF, PAMF) to educate metal finishers about the SGP and to facilitate the enrollment of companies into the SGP. Education and outreach activities will also be designed to assist the POTWs, DEP and EPA enforcement personnel with understanding, marketing, and implementing the SGP.

As an incentive, workshops will be free of charge for SGP members, while nonmembers will be required to pay a fee to attend the workshops. Future workshops will be designed and coordinated based on the feedback of SGP members.

A list of proposed workshop topics is available (see attachment).

Note: This document represents Pennsylvania's strategy for implementing the SGP, current as of October 1999. It is a living document that may change as DEP, EPA, POTWs, and the industry move forward with implementation.