

Green Tier Advisors Meeting
August 3, 2007
Department of Financial Institutions Conference Room
345 West Washington Avenue, Madison

Present: Mary Schlaefer, Rita Hayen, Art Harrington, Margaret Krome, John Imes, Rebecca Power, Lyman Wible, David Stegeman, Kristine Euclide, Mike Simpson
Absent:Carolynn Leaman, Peter McAvoy, Linda Bochert, Peter Peshek, Marilou Martin
Staff: Mark McDermid, Carla Wright, John Shenot, Jeffrey Voltz, Paul Ferguson, Jessica Farrar, Jeremiah Born, Mike Scott, Paul Heinen
Guests: Dan Johnson, Office of Senator Neil Kedzie; Adam Raschka, Office of Representative Montgomery; Kevin Lehner, Environmental Compliance Systems, Inc.; Kashoua Yang Thao, Godfrey & Kahn

Greetings, Introductions and Housekeeping

Mary Schlaefer discussed the transition from Secretary Scott Hassett to incoming Secretary Matt Frank effective September 1, 2007. Secretary Hassett made Green Tier a top priority and championed the program. Sec. Frank has already requested briefing materials on the Green Tier program. It's hoped he'll be able to attend one of the next Green Tier Advisors meetings.

Program Development: The Municipal Environmental Group Charter and Printers Charter are moving along. DNR's Staff met with Phillips Plastic, which has about 14 facilities in Wisconsin; Phillips has identified its New Richmond facility to work on an application for Green Tier. Wisconsin DNR and U.S. EPA's Performance Track did their first joint performance program presentation to Harley-Davidson. Two new applications have just recently been received and several celebrations are planned.

The Memorandum of Agreement between US EPA and WI DNR states that EPA's Performance Track and DNR's Green Tier programs will be advanced jointly in order to result in an increase in participation, better environmental outcomes and a grater array of incentives as both programs mature. In response to a question, Mark McDermid noted Performance Track staffing for EPA Region V is very low, and as such there is little marketing of that program. Green Tier is more recognizable to Wisconsin-based companies, although Green Tier still has limited recognition itself.

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Appointments: The two vacancies within the Green Tier Advisors (Elisabeth Kluesner-Local Government and Frances Westley-Academic) are expected to be filled by the September meeting.

Communications Plan: Dates are being selected for the Advisors and others to work on the first step in developing a communications plan. The communications firm -- Good For Business will lead the development of "*Cause for Creative*" communications strategy.

Performance Indicators

Advisors received the draft recommendation prior to the meeting. The draft reflects suggested changes from the previous Advisors' meeting. In the area of environmental performance, three changes are noteworthy. First, quantified environmental performance information out of generic suite of indicators related to areas of commitment will be required. Second, the DNR will use all available environmental performance information and work with participants to enhance the relevance of that information to better document participant and overall program performance. Third, measures should be normalized where possible to account for changing business conditions. Some economic measures will be requested but not required, and the DNR will work with participants to establish social metrics that capture a baseline for and measure progress toward a "trust-based" relationship with the department. The goal is to have validly measured performance drive decision-making.

Advisors want to make sure that the combination of measures come together in a way that accurately depicts environmental outcomes and contributes to program integrity. There may still be some gaps in the information collected because companies are not collecting some of the generic information which is not relevant to their businesses. Further, there may be some information that emerges both as the capacity of participants increases and as the working relationships with those participants develops. As a result:

- The Advisors agreed to review the indicators after one year, to revise them as necessary with the benefit of further experience and feedback from participants.

Advisors continued discussion of what the goals of the performance indicators are: Capturing the cost and value of regulatory flexibility? Making Green Tier and its participants transparent for stakeholders? Promoting an ethic in which businesses track their environmental footprint per production unit? There was also a desire expressed that the metrics contain absolute measures in addition to normalized ones.

- The Advisors asked that the recommendation be amended to state the goal of having an adaptive, participatory and collaborative approach to forming the indicators and forming indicators that will communicate the costs and benefits of regulatory flexibility granted through the program.

Working Session 2

Staff asked the Advisors to consider what topics would be best to include in a second Green Tier Working Session to take place in the coming months. Advisors listed a number of suggestions:

- Engage stakeholders in Communications Plan once developed by Good For Business
- Communicating effectively to stakeholders and legislators to grow Green Tier and enhance chances of reauthorization
- Engaging participants in a discussion about how they view the indicators, how far performance indicators should be taken and whether the indicators should go further (perhaps use a focus group)

- Strategize with participants to engage businesses they deal with (their supply chains and consultants) about Green Tier, their awareness and their interest in participating
- Business transitions from Green Tier specifically, to overall sustainability
- Strategic partnerships with the Governor's Task Force on Global Warming and specific identification of ways that would link the recommendations of the task force to the existing capacity of participants as well as ways that Green Tier tools could be used to accomplish recommendations.

Advisors would welcome NGO participation in the Working Session-both as presenters and participants. Advisors also suggested that multiple break-out sessions numerous company participants, which would enable more participation in discussions.

Proportionality

The department must work with the Advisors to assess "whether incentives provided under a participation contract are proportional to the environmental benefits committed to under a participation contract." The department has authority to grant incentives for Tier 2 Contracts and Charters. Green Tier will soon have two Tier 2 participants along with the 7 existing cooperative agreements. While these may be informative, proportionality is important now because two other Tier 2 letters of intent are expected, and charters in development may soon seek proportional incentives to the performance that is being discussed..

Mark McDermid described some of the current types of regulatory flexibility in the existing agreements.

The Advisors agreed to design a process for reviewing proportionality. A working group consisting of Rita Hayen, Rebecca Power, Mark McDermid will meet initially to put together a recommendation for the entire group to consider. The working group will meet prior to the next scheduled full meeting for the Advisors on September 20. The working group will design a method that will draw in other parties and result in a recommendation for the Advisors at the December meeting. The goal is to have the method and an initial suggestion of participants ready for consideration at the September 20 meeting. The overall goal is to have a draft recommendation for proportionality, which can be discussed at the next Green Tier Working Session.

Logo Discussion

Advisors discussed an Issue Paper developed by staff that presented two approaches to the issue of logo on retail product packaging; one approach would allow logo use on retail product labels and another would not allow such use. Staff also provided the additional information requested at the last meeting about the logo use in other venues: DNR's Forestry certification program, EPA's Performance Track, and multi-level EMS-based programs from Texas and Virginia. Mary Schlaefer noted that Europe's EMAS is actively discussing the use of that organization's logo on products, with the likely end result being some allowance of the logo on products. Logo use will also likely be conditioned upon a statement declaring the product was produced in an EMAS-certified facility.

Initial discussion posed whether allowing logo use on products was allowable under the Green Tier law. Mary Schlaefer noted that according to staff, there was discussion during the legislative drafting of the Green Tier law, that indicate that the Green Tier authors expected the logo would eventually appear on products. No documentation on the legislative intent exists, however.

Advisors discussed the following:

- Whether the Green Tier logo would need to be registered and thus legally protected, as the Energy Star logo is.
- The availability of research on consumer perceptions of logos. Staff noted that most labels communicate values behind a program, but there is little research on what consumers take from logos that would comment on the practices at a single facility.
- Advisors noted several aspects of consumer perceptions and the importance of conveying the correct message with the logo. Consumers may see the Green Tier logo as a DNR or state endorsement of certain products. Consumers may also attribute to a product certain characteristics that do not necessarily follow from Green Tier participation, such as organic production techniques.
- If the DNR is permissive in allowing logo use initially, and if problems become apparent with on-product use, it could be difficult to remedy if other participants have planned or instituted logo use on their products.
- Certain products such as wood lend themselves much better to using a logo as a certified product. If there is a strong nexus with the product and the logo and there are fewer additions in the manufacturing of a product that can cut the environmental sensitivity of a product, those products may be allowed logo use on a case-by-case basis. A contrary point, however, is that any governance structure that allows some companies logo use while denying others raises a question of fairness.
- As the logo became more pervasive in products, enforcement and monitoring could present a workload challenge to the department.
- Circumstances in the market are becoming such that consumers desire queues about products and how products are brought to market. There are also concerns locally expressed about a lack of incentives associated with Green Tier, and allowing logo use on end products may take care of both issues. Having a valuable logo may induce businesses into moving environmentally responsible manufacturing and processing to Wisconsin or keeping such businesses here. It may also help small dairy producers, for example, get their products to larger processors and it may encourage larger processors to join Green Tier. Advisors noted, however, that marketing and communications are linked, and that without public recognition of what Green Tier is and what it values, any logo placement on retail products will be of little value.
- Whether use of the logo should be allowed only if certain guidelines are met by Green Tier participants.
- Whether logo use should be allowed for Tier 2 companies as another form of regulatory flexibility for companies who take greater steps toward superior environmental performance.
- The pending Dairy Business Association (DBA) Charter was proposed as one component of a pilot allowing the Green Tier logo on retail packaging. (In response to Advisors questions about what provisions there were in the DBA charter about label use. Staff said

the logo may be placed on a product label if 100 % of milk used in a product was made at a Green Tier-certified facility. For products such as cheese, this may at times require a segregated stream of milk. Processors of the milk must also be in Green Tier. The draft charter is also framed to presumptively disallow logo use unless it's under those conditions.)

Per the Advisors' request for the September meeting, staff will draft a pilot process for using the logo in order to collect data on consumer perceptions of the marked product. Advisors had numerous suggestions for elements that could be included in a pilot proposal:

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- To assist in clarifying what the program communicates with the logo, there was agreement that the Communications Plan be completed prior to initiating a pilot.
- Outline monitoring and enforcement responsibilities and resources, and provide information on staff time and costs related to different permutations of logo use.
- Provide a structure that allows stepping back if problems develop.
- Provide distinction between endorsement of a product versus the product's environmental impact, and also between Green Tier facilities versus Green Tier products.
- Ways to gauge consumer perceptions e.g. use a website, or focus groups, and whether the department collect and assess its own data prior to a pilot, or will a participant do the market research prior to using the logo to ensure what the logo means to a consumer.
- Incorporate data collection.
- Identify possible standards for using the logo, e.g. the way LEED or Energy Star have standards.
- Contrast superior environmental performance with "business as usual", or how much Green Tier means to environmental performance.
- Contrast two pilots: one outlined in the draft DBA-GTAP Green Tier Charter; and a second pilot to be developed with another Green Tier participant working with a different supply chain producing a different consumer product.

Legislation

Advisors discussed with staff several possible legislative changes from Legislation Issue Paper 2.2. The plan is to craft the recommendations to the Secretary as specific changes to the law as for reauthorization and fine tuning along with recommended changes for program expansion that would subsequently be drafted into specific legislative language. The overall goal is to have recommendations that could be used for legislation to be introduced following the passage of the biennial budget. At the meeting, the following items were finalized and will be presented to the Advisors to the next meeting as the first draft of the recommendation package:

Reauthorization

- Advisors agreed to the language contained in the Issue Paper and formal language will be drafted in recommendation format

Fine Tuning

- Changing the starting point at which a Tier 1 participant has 12 months to have an EMS in place
- Alignment of the statute with ISO 14001 standards as adopted in 2004
- Alignment of certification of environmental auditors with ISO governing body

- Aligning the date of annual reporting to governor and legislature with participants' reporting to CEA
- Provide flexibility in the time frame for processing Tier 1 applications

Program Expansion and Improvement

- Advisors agreed that the proposed language for ECPP participants to enter the Green Tier program seemed to be a reasonable approach and will be developed as a part of the recommendations package.
- Restoring language allowing the secretary to waive citation and civil judgment provisions seemed reasonable subject to some extra checking to see how other groups might react to the language being restored.
- Advisors agreed that there would not be an attempt to pursue modifications to the compliance screening language given the breadth of that language currently and the risk that addition of language might restrict rather than open the compliance screening processes.

The Program Expansion and Improvement section of the Legislation 2.2 Issue Paper was discussed extensively and will be revised for discussion at the next Advisors meeting. Those revisions will provide more background, analysis of impact and examples for the concepts. The items for discussion, based on this expanded information, at the next meeting will be:

- Charters,
- New Point of Entry,
- Work with other agencies,
- Limited civil immunity, and
- Local government track.

The goal of the discussion is to identify which of the concepts above will be included with the recommendations identified at the August meeting.

Advisors were encouraged to relay comments to CEA staff if they review the issue paper's sections on a new point of entry and flexibility language. Advisors likewise encouraged CEA staff to share any additional information or examples of situations that would be better addressed through changes in the law.

Next Meeting: September 20, 2007 Room G09, GEF 2, Madison