

US EPA ARCHIVE DOCUMENT

## Comments Submitted on NJDEP's Gold Track Project XL Proposal

Reviewers submitting comments:

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### **Major overall comment from reviewers:**

Project idea is innovative and there is general support for it- however; it will be necessary to get specific details on types of flexibility requested and legal mechanisms for implementation before more explicit comments can be provided.

### **Major Comments**

#### 1. Superior Environmental Performance

- C Several reviewers questioned NJDEP's choice of highlighting CO<sub>2</sub>, NO<sub>x</sub>, VOCs and mercury in listing the project's environmental benefits. Will Gold Track attempt to lessen the impacts of other signature pollutants and hazardous air pollutants? Also, would it be possible to be more specific about what kinds of reductions will be made in these air pollutants (in addition to the CO<sub>2</sub> cap)? *[If NJDEP chose these particular air pollutants because of their status as greenhouse gases, the State may want to explain the background behind this emphasis. Alternatively, if these pollutants were chosen simply as examples of the types of emissions that participants would control more stringently, that should be explicitly stated as well.]*
- C When specific goals or caps are set for air pollutants in this proposal, NJDEP may want to consider assigning a time frame for achieving a particular reduction based on the date of a facility's entrance into the program as opposed to setting a calendar date for reduction completion (*this takes into account the different times at which different facilities may be entering into the Gold Track program*).
- C There is some concern about eliminating preconstruction permit reviews given that NSR review prior to the construction of a new source or for a modification of a source is statutorily required both by the Clean Air Act and NJ's EPA-approved State Implementation Act. Could NJDEP provide further details on what type of source would not be required to undergo a preconstruction review?
- C How will the permitting flexibility when altering facility operations offered under Gold

Track go beyond the operational flexibility provided by Title V?

- C It is unclear from the proposal whether a company would have to have an EMS (OEC Plan) in place prior to being accepted into the Gold Track pilot, or whether Gold Track participants would be expected to develop an OEC plan after they were selected. Also, one of the commentors indicated that the OEC plan is less stringent than the EMS requirements proposed by the NJCIP Flexible Track Team. If this is the case, why did NJDEP choose to propose the less stringent OEC requirements for Gold Track?

## 2. Legal Mechanism for Implementation of Flexibility

- C Although not explicitly stated in the proposal, we are assuming that NJDEP is aware that each agreement to grant federal flexibility will need to be captured in an appropriate enforceable instrument. These instruments may include site-specific rules, permits, waivers, variances or administrative orders. The enforceable mechanism must include a description of the commitments made by the participants that will be fulfilled in exchange for flexibility.
- C Has NJDEP given any thought to what kind of enforceable mechanism will be used in Gold Track (for example, using a facility-wide permit to codify a participant's pollution prevention strategies)? If the State anticipates using a "covenant", has it looked into whether federally-granted flexibility could be contained in this type of legal mechanism?

## 3. Resource Burdens/ Feasibility of Implementation

- C There are concerns about the suggested structure of the proposal (creating an umbrella agreement under which specific flexibilities are negotiated) given the transactions costs incurred for all participants in these singular negotiations. (*perhaps in negotiating flexibilities, we could group them into "packages" that would apply to specific types of participants ?*)
- C NJDEP proposes that one of the incentives for participation in Gold Track would be the institution of a single point of contact for permitting. Given NJ's difficulties in issuing their Title V permits on time, will NJDEP be able to actually provide this enhanced permitting service to Gold Track participants?
- C NJDEP also proposes to use a computer system to consolidate a participant's reporting requirements (electronic submittal). In the past, NJDEP's electronic reporting system for Title V permits has not been successful due to the system's inability to integrate different reporting requirements. Is the electronic reporting system that will be used by Gold Track participants a new system? Will it replace normally required reporting, or will it be in addition to normal reporting? Is the system fully functional now, or will it be functional in time for use in the Gold Track Pilot? If the system is not new, does it work properly in recording and integrating various reporting requirements? [*NJ may wish to discuss the One-Stop effort (One-Stop Reporting Grant) and its*

*effects on the expectations/timeframes for making electronic reporting a reality.]*

### **Minor Comments**

1. It was suggested that NJDEP limit the number of companies participating in Gold Track to a pilot amount until the principles of Gold Track are tested. Also, commentors expressed interest in finding out whether NJDEP would be targeting any smaller companies for participation in the Gold Track program.
2. In terms of achieving the CO<sub>2</sub> cap goals, facilities may find it difficult to reach the goal through changes in manufacturing processes. One commentor suggested that facilities could be allowed to provide assistance to local governments or schools for equivalent energy retrofits as an alternative.
3. Several commentors expressed interest in getting more details about the Research, Development and Demonstration Project flexibility mentioned in the proposal- (flexibility from what?).
4. In terms of eligibility screening, the commentors were satisfied with the screening criteria presented in NJDEP's proposal; however, they noted that certain federal enforcement information may not be readily available to the State. Thus, some sort of federal supplementary screening may be necessary before a participant may enter into the Gold Track program.

### **Issues of Clarification**

1. NJDEP should make it clear in the introduction section of its proposal that Flexible Track is one of four pilot programs developed under the Chemical Industries Project.
2. When describing the requirements of the OEC, NJDEP should describe in more detail what is meant by "in-depth materials accounting".
3. On page 7, in the paragraph beginning "The concept of", the second sentence uses the phrase "equivalent, if not greater level of protection...." This phrase seems a bit weak by emphasizing "equivalent". The State may want to make the meaning of this paragraph clearer (i.e. no backsliding will be allowed, and superior environmental performance will be required of Gold Track participants).