

US EPA ARCHIVE DOCUMENT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
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BOSTON, MASSACHUSETTS 02114-2023

March 22, 2000

Mr. Juan Mariscal  
Director for Planning, Policy and Regulation  
Narragansett Bay Commission  
235 Promenade St., Suite #500  
Providence, RI 02908

**Re: EPA Selection Regarding NBC Project XL Proposal for Pretreatment Program**

Dear Mr. Mariscal:

I am pleased to inform you that EPA has formally selected NBC's XL proposal as a potential Project XL pilot. We congratulate you on your selection and thank you and the rest of the NBC staff for your hard work on getting the proposal approved.

The purpose of this letter is to formally select the NBC proposal as a potential XL pilot and to invite you to work with the U. S. Environmental Protection Agency (EPA) staff and our assembled team to develop a draft Final Project Agreement (FPA) for EPA and stakeholder review. While this letter does not represent *final* EPA approval of the project, Agency staff both at headquarters and at EPA - New England believe your proposal has significant merit and look forward to working with you to develop your project further.

NBC is proposing to modify portions of the Pretreatment regulations found at 40 CFR Part 403 for 10 metal finishing companies that have established a history of superior environmental performance and compliance. Specifically, NBC would like to reduce the self monitoring requirements for these 10 facilities (40 CFR § 403.12(e) and would like to reduce the number of regulatory inspections it is required to undertake at Tier I facilities 40 CFR 403.8(f)(2)(v)). Eliminating certain inspection and monitoring requirements for these high-performing (Tier I) companies will allow NBC to re-focus its resources on pollution prevention audits and technical assistance as well as increased compliance on lower-level environmental performers (Tier II companies).

As part of realizing the project's potential, we anticipate discussing with you during FPA negotiations the following items:

- I Project Timeline - NBC suggested this project run for two years in their proposal. EPA feels that this time span is inadequate for the level of project proposed, and would recommend five years as a more adequate time. If the time frame is increased, conversations with NBC will be necessary to show how continued compliance for Tier I companies will be assured over the longer period. (Perhaps some level of inspections and monitoring to ensure compliance will be necessary during the project term.)
  
2. Monitoring Requirements - Under the proposal's discussion of modified monitoring requirements, we believe that the correct regulatory citation *should be 40 CFR 403.12(e)* instead of 403.8(f)(2)(v).

3. Pollution Prevention Activities - We understand that the purpose of the P2 audits is to provide technical and compliance assistance. The FPA will set forth the instances under which NBC will have an obligation to report observed violations to enforcement staff. The exact standard will be determined during FPA negotiations, but EPA will most likely suggest a standard which may include that such observed violations should be reported in cases of serious harm, imminent and substantial endangerment, willful and knowing violations and repeat violations (scope of this will need to be determined).
4. SIU Definition - Rather than modifying the definition of Significant Industrial User (SIU), EPA recommends that the participating companies be considered SIUs, but be exempted from certain inspection and monitoring requirements discussed below.
5. Regulatory Relief - The project proposal states that the standard for eligibility for relief from regulatory inspections requires that a company not have been in significant non-compliance (SNC) with any NBC discharge limit. This may be an appropriate standard when combined with the requirements of the Tier I Metal Finishing 2000 program. EPA would like to discuss with NBC how these criteria would work together.
6. Less self-monitoring of wastewater effluent - Further discussions with NBC are necessary to determine the scope of these reductions. Specifically, EPA would like to discuss the degree to which the frequency and number of constituents would be reduced.
7. Evaluation of Tier I Compliance - Based on the NBC proposal, NBC will continue to monitor effluent from Tier I companies to ensure continued compliance. In addition, NBC may consider requiring Tier I companies to submit self-certification statements on their compliance status.
8. Improved Compliance - Further discussion is needed to determine how the compliance rate for Tier II companies will be measured.
9. State Role - The project proposal is silent on the role/support of RI DEM for this project. Since RI is delegated state, they will also have to make corresponding changes to their own state regulations.

Preliminary discussions with the NBC project team indicate that they agree in substance with the issues identified, and have possible solutions in hand.

Again, I thank you for your participation in EPA's Project XL and look forward to working with your team to develop the FPA and implement this project. EPA has assembled an Agency-wide team to work with you and your stakeholders in the next phase of the project. This team will be led by Chris Rascher in EPA New England (617-918-1834) and Chad Carbone at EPA Headquarters (202-260-4296).

Should the FPA be signed, the NBC XL Project will become an official XL pilot. I know from speaking my staff that you are highly committed to conducting innovative projects that improve our system of environmental protection. If I can be of any assistance in expediting the development and review of your Final Project Agreement, please do not hesitate to call.

Sincerely,

/s/

Mindy S. Lubber  
Regional Administrator

cc: Bob Disaia, RIDEM,  
James McCaughey, NBC,  
Richard Farrell, Chris Knopes EPA,  
XL Project Review Team, EPA (via LAN)