

US EPA ARCHIVE DOCUMENT

Mark O. Smith
Deputy Commissioner
NJ Department of Environmental Protection
P.O. Box 028
401 East State Street, Floor 7
Trenton, NJ 08625-0402

Re: EPA Selection of New Jersey DEP's Gold Track Project XL Proposal

Dear Deputy Commissioner Smith:

I am pleased to inform you that the United States Environmental Protection Agency (EPA) has selected New Jersey's Department of Environmental Protection's (NJDEP) Gold Track proposal to enter the project development phase of the XL process. Project XL was established to test innovative strategies for achieving excellence and promoting leadership in environmental protection. We believe the program goals and criteria outlined in NJDEP's Gold Track proposal show great potential for fulfilling Project XL's objectives. We congratulate you on your selection and thank you and your staff for your hard work in getting the proposal selected.

As you know, the next step in the XL process is the development of a Final Project Agreement (FPA) that will outline the details of the Gold Track program, including requirements for participation, the expectations of each of the parties to the agreement, as well as a description of the legal mechanism(s) that will allow the project to be implemented. We encourage you to continue your work with both EPA staff and the Gold Track stakeholder group to develop the FPA, and have enclosed the "Guide to Writing FPAs under Project XL" to assist you in your planning efforts. Sample FPAs from other XL projects may be viewed on the Project XL homepage at <http://www.epa.gov/ProjectXL/>. We will make every effort to adhere to the ambitious timeline your staff has proposed for the completion of FPA negotiations as long as adequate opportunity is provided for public stakeholder involvement.

Throughout the proposal development and review phase of the XL process, several components of this pilot Gold Track XL project have been refined and clarified. Given the discussions between NJDEP and EPA staff, and the issues discussed at the December 8th and 21st Gold Track stakeholder meetings, this letter will clarify EPA's expectations regarding the Gold

Track XL project and highlight particularly important items for further FPA negotiation:

1. As discussed at the December 21st stakeholder meeting, the initial scope of this XL project will be limited to air-related flexibilities. The FPA will lay out screening and participation criteria for companies wishing to take part in the Gold Track pilot, while an air-specific addendum will spell out the specific negotiated reductions in actual emissions (and other environmentally superior results), regulatory flexibilities, and legal mechanisms for this stage of the Gold Track program. EPA and the State agree that other media-specific addenda may be negotiated in the future.
2. EPA recognizes the initial efforts the State has made to involve a diverse group of stakeholders in the Gold Track program. We strongly urge you to continue this public outreach with direct contacts, mailings, website announcements and the posting of public notices, so as to expand the currently industry-centered stakeholder group into a more balanced and representative set of individuals.
3. EPA is committed to moving forward with this project in an expeditious manner and coordinating with State schedules for project completion. However, as specific air emissions reductions and regulatory flexibilities have not yet been defined by the State and stakeholder group, the State must be mindful of the fact that sufficient time will need to be built into the project schedule to allow for adequate EPA review of requested flexibilities and proposed reductions, and for the EPA/State development of appropriate mechanisms to legally implement the project. The sooner specific regulatory, policy, or procedural flexibilities and actual emissions reductions and other superior environmental results are identified, the quicker EPA can coordinate its Regional and HQ teams to analyze legal and policy aspects of granting flexibility.

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 Aleksandra Dobkowski-Joy (212-637-3676) and Stan Siegel (212-637-3701) in Region 2, and Chad Carbone at EPA Headquarters (202-260-4296). If I can personally be of assistance in expediting the development and review of your Final Project Agreement, please do not hesitate to call.

Sincerely,

William J. Muszynski, P.E.
Deputy Regional Administrator

cc: Jeanne Mroczko, NJDEP

bcc: Richard Farrell, Associate Administrator, EPA
Aleksandra Dobkowski-Joy, EPA Region 2
Stan Siegel, EPA Region 2

Chad Carbone, EPA OPEI
Chris Knopes, EPA OPEI