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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

March 12, 1996

OFFICE OF THE
REGIONAL ADMINISTRATOR

Dear New England Community Leader:

I am pleased to inform you about Project XL for Communities (Project XLC), a Clinton Administration effort to enable local communities to achieve a higher level of environmental protection by offering substantial regulatory flexibility. Project XL for Communities is not a grant program, but a whole new way of defining EPA's relationship with local government.

Here's how it works: if you know of a way to achieve greater environmental results at less cost than the way the law requires, you propose it to us. If you're right, we will work with you to throw out the current rule book and adopt a more environmentally and economically effective approach. For your reference, I enclose a copy of the "XL Community (XLC) Pilot Program Information Package," which details project criteria, the selection process, and examples of the program at work.

EPA-New England is already in the process of implementing its first Project XL programs with the Hadco Corporation of New Hampshire and the IBM Corporation of Vermont. These projects, part of Project XL for Facilities, have received national recognition as examples of regulatory reinvention by changing the regulatory system so as to improve the environment and at the same time reduce costs for both business and government. It is the objective of Project XL for Communities to bring this type of common sense regulation to the state and local governments of New England.

EPA-New England is committed to helping any community that wishes to apply. As an initial step, I have asked members of my staff to meet with interested parties. They will plan presentations or workshops with each of the six municipal associations of New England, and as time permits, will meet with as many individual communities or organizations as possible. They can explain Project XL for Communities in detail, and can provide sample proposals and application information in person.

Project XL for Communities has a rolling admission process, so there is no deadline for submission. Please note, however, that we will choose the first proposals in the next few months. Proposals should confirm the support of relevant stakeholders, potentially including communities, citizens, and environmental groups.

If you are interested in learning more about Project XL for Communities or any of our other initiatives geared toward the regulated community, please call George Hawkins at (617) 565-9125. I look forward to working with you on this important project.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. DeVillars". The signature is stylized with a long horizontal stroke at the end.

John P. DeVillars
Regional Administrator

Enclosure



What might the key elements of a pilot project include?

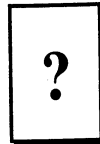
1. Environmental results;
2. Stakeholder involvement, support, and community participation;
3. Economic opportunity;
4. Feasibility;
5. Transferability;
6. Monitoring, reporting and evaluation;
7. Equitable distribution of environmental risks;
8. Community planning; and
9. Innovative approaches/multi-media focus/pollution prevention.



Who may submit project proposals?

- Local governments (city or county);
- Regional area consortia or governments;
- Neighborhood and community organizations;
- Empowerment Zones and Enterprise Communities;
- Community development corporations; and
- Other local entities, both public and private.

⇒ Projects should focus on a specific geographic area such as watersheds, other ecologically defined areas, existing political jurisdictions such as city boundaries or tribal lands, or community-identified areas such as neighborhoods.



When will this program begin?

⇒ EPA will review applications on an ongoing basis with no set end date; however, the Agency intends to select a limited number of outstanding proposals on a rolling basis in 1995 and 1996.

XL Community Pilot Program: Questions and Answers

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What is XL for Communities?

⇒ One of 25 initiatives launched by President Clinton in a March 16, 1995 report, *Reinventing Environmental Regulation*, that will give a limited number of communities an opportunity to demonstrate excellence and leadership (XL) in environmental protection.

⇒ Excellence and leadership will be demonstrated through community-based alternative environmental management strategies which achieve greater levels of environmental quality.

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How will the program work?

⇒ EPA, in conjunction with state or tribal agencies, will grant flexibility in the implementation of environmental regulations to communities in exchange for a commitment to achieve greater environmental performance. *XL for Communities does not have funding to provide grants to applicants.*

⇒ While regulatory flexibility will be the focus of the XL Communities program, other innovative approaches will also be considered.

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What are we striving to demonstrate with XL for Communities reinvention pilots?

⇒ Specific examples of how environmental management actions tailored to local conditions can deliver greater environmental quality than uniform "command-and control" approaches which structure solutions nationally through separate legislative mandates.

⇒ Stakeholder participation in effective community-based environmental strategies that include comprehensive environmental planning.

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What are the incentives for a community to participate in this pilot program?

⇒ An opportunity for communities to tailor environmental management strategies to local needs, thereby increasing efficiency and environmental quality.

⇒ An opportunity to build community capacity and infrastructure directed at reaching sustainable environmental and economic goals.

⇒ An opportunity to reinvent the way EPA and communities work together to protect the environment.

XL Community Pilot Program: Selection Criteria for Projects

Environmental results. Projects should demonstrate, within a defined geographic area, environmental results that are superior to what would be achieved under existing and reasonably foreseeable future national regulations. Project proponents should explain in clear and common sense terms how the environmental results from the alternative strategy for their specific project will be better than present routine compliance. Although EPA is open to a qualitative demonstration of results, project proponents are encouraged to provide, where possible, a quantitative comparison between anticipated environmental results under current requirements and projected results under the proposed alternative approach. Improved environmental quality can be achieved either directly through the environmental activities of the project or through cost savings resulting from the project which are invested in follow-up activities that produce greater environmental results. XL for Communities is not an opportunity to propose exchanges of regulatory flexibility for non-environmental benefits or to seek waivers or reductions from national environmental goals. The Final Project Agreement should include explicit goals, benchmarks, and requirements, including measurable performance objectives. For example, a variety of environmental measures may be used-- from waste stream sampling and ambient air quality monitoring to rougher measures such as acres of habitat preserved, greater bio-diversity, and/or more open space created--depending on the project.

Stakeholder involvement, support, and capacity for community participation. EPA encourages proposals for projects that will build, support, and promote cooperation among citizens, businesses, government, and non-profit organizations at the community level for the purposes of formulating effective environmental strategies and economic sustainability. Project proposals that incorporate processes for building and supporting a framework for community participation will be given greater consideration. Project proposals should at a minimum identify key stakeholders for the project, drawn from affected sectors of the community. Depending on the nature of the project, stockholders will likely include one or more of the following: local government agencies; members of environmental and other public interest groups; businesses in the community; community development corporations; citizens or officials from communities near or adjacent to the project; or other affected people of entities. Where available, project proposals should present evidence of support from key stakeholders including partnerships with individuals, community groups, and regulated entities.

Economic opportunity. Pilots which demonstrate ways of creating economic opportunity through, or in conjunction with, improved environmental quality are encouraged. For example, recent experience with restoration of greenways to reduce runoff to waterways has led to revitalization and development of commercial and recreational waterfront activities and created new industries providing the community with jobs and resources.

Feasibility. Project proponents should demonstrate the technical, administrative, and financial capability to implement project proposals.

Transferability. EPA will favor project proposals that demonstrate potential to serve as models for EPA, states, tribes, local governments, regional entities, and other communities nationwide.

Selection Criteria for XL Community Pilot Program (Con't)

Monitoring, reporting and evaluation. Projects should have clear environmental objectives that will be measurable in order to allow EPA and the public to evaluate the success of the project. The project proposal should clearly identify the entity which will be accountable for project results. The project sponsor should state the time frame within which results will be achieved, and propose interim dates and the means by which progress could be measured, evaluated, and shared with stakeholders.

Equitable distribution of environmental risks. The project should not subject anyone to unjust or disproportionate environmental degradation. Implementation of project proposals should not significantly transfer pollution to, or add to environmental degradation of, a jurisdiction outside of a project area. Additionally, project proposals that lessen the burden of environmental degradation to people and places that have traditionally shouldered a disproportionate share of the burden will be given greater consideration.

Community planning. EPA encourages proposals for projects that use participatory community planning and consensus-based goals to build constituencies and marshal resources for community improvement. Projects which facilitate the creation of community plans and/or promote the use of existing community goals and plans are encouraged. Projects should be consistent with any existing community plans or goals..

Innovative approaches/multi-media focus/pollution prevention. EPA is looking for projects that test innovative strategies for achieving environmental results. These strategies may include innovative community planning or a process for articulating a community vision, new facility technologies, or environmental management practices such as source water protection. EPA also encourages project proposals that test alternatives to current, single-media environmental management programs (i.e., improvements in more than one environmental medium). EPA has a preference for protecting the environment by preventing the generation of pollution rather than by controlling pollution once it has been created.

Enforcement and compliance history. Although applicants are not requested to address this criterion in their proposals, EPA will consider the enforcement and compliance history of regulated entities that are proposed to be subject to final project agreements. A perfect compliance history is not a prerequisite to participation in XL for Communities. At the same time, this program is designed to demonstrate excellence and leadership by providing regulatory flexibility to entities that are committed to achieving superior environmental performance. In addition, regulatory flexibility may mean that regulated entities are subject to less oversight, or alternative kinds of oversight, as compared with existing schemes. Accordingly, as part of the selection process, EPA will consider the entities' prior compliance history.

XL Community Pilot Program: Example Projects

XL for Communities seeks to support examples of community-based environmental protection that plan for the unique needs and circumstances of a specific community. Some examples are provided below:

Example 1

In response to the projected costs of wastewater treatment plant upgrades (required to meet water quality standards), and the costs of treating a drinking water supply increasingly threatened by contamination from residential and commercial development, a city has undertaken a comprehensive watershed protection and community development plan. The city requests regulatory flexibility from EPA, proposing to defer expensive modifications at its wastewater treatment facility and achieve instream water quality goals through an alternative plan involving community groups in restoring riparian and instream habitats. The city would work with a broad coalition of local stakeholders to launch a water quality inventory, surveillance, and monitoring program; create partnership programs with watershed residents; inspect and remediate septic systems; establish a land trust and stream corridor protection program; and take other actions to enhance watershed protection. By improving the biological and physical conditions of the watershed's riparian areas, the city anticipates that the project will save money and obtain environmental results which exceed those that would have been achieved by relying on wastewater treatment plant upgrades alone. Benefits will include reducing drinking water treatment costs and providing greenway corridors which enhance the aesthetics of the area and create additional recreational opportunities for the community.

Example 2

With broad-based local participation, a community has developed a plan to revitalize its environmental and economic health, with pollution prevention and energy efficiency as its primary theses. As part of its sustainable development planning efforts, the community intends to revitalize a former industrial area by developing an eco-industrial park where waste products, excess energy and by-products of one firm could be used as inputs into another firm's manufacturing process. The community plans to incorporate pollution prevention, waste exchange, and energy and water conservation technologies, as well as routine environmental audits, into the design and operation of the park. The community proposes that, in order to facilitate the project, EPA and the authorized state regulatory agency agree to use their enforcement discretion to provide flexibility from certain manifesting requirements of the Resource Conservation and Recovery Act (RCRA) within the confines of the eco-industrial park.

The community expects to achieve much higher levels of energy efficiency, resource efficiency, pollution prevention and emissions reduction than would be achieved through full compliance with applicable environmental regulation. They also expect to increase overall regulatory compliance and pollution prevention throughout the park, particularly for small businesses that would not otherwise have the access and capacity to adopt new technology and implement environmental auditing and pollution practices. Further, they expect that transportation costs and impacts (freight, highways) will

be reduced because of the proximity of related businesses. Finally, they plan to undertake a community-wide environmental literacy campaign, aimed at households and schools in the community, to increase knowledge about environmental opportunities and benefits. Following this approach will enhance the community's ability to participate in decisions related to the long-term development of the eco-industrial park. The environmental literacy campaign is also expected to increase household recycling levels, source reduction, energy efficiency and water conservation while generating new jobs and economic opportunities.

Example 3

A growing metropolitan area is faced with mounting traffic congestion, air pollution, urban sprawl, a diminished supply of affordable housing and open space, threatened wildlife, and socially isolated communities. As part of the strategy for meeting federal environmental standards for the next decade, a coalition of local governments and state agencies proposes that EPA provide regulatory flexibility and federal agency coordination to develop a comprehensive plan to redirect urban growth to patterns which reduce automotive dependence and support alternative modes of transportation, reducing air pollution while ameliorating other urban sprawl and development related pressures. Implementation of this integrated development and transportation plan, in conjunction with other measures, would accomplish multiple goals. It would go beyond meeting Clean Air Act standards, protect the natural environment and community character, reduce the need for roadway expansions, save city and state money, and meet citizens' mobility needs. By limiting urban sprawl, the plan would also reduce the costs of future water and sewer infrastructures and protect water resources by decreasing the total impervious surfaces (and urban runoff) from the area's development.

XL Community Pilot Program: Selection Process

This page outlines the process by which EPA and its partners in the state and tribal environmental agencies select XL for Communities projects. The process was created with comments from EPA headquarters, regions, state and tribal environmental agencies, environmental groups, the regulated community, and communities. As XL evolves, so may the selection process, perhaps becoming largely regional. Our goals for the process are to minimize administrative burdens on applicants and ourselves and to maximize opportunities for input. We also hope that a decentralized process will increase cross-agency and stakeholder support for good ideas. The process has three stages: triage, technical review, and selection. It should take two to three months for selection of community projects. Selected proposals move on to development of a Final Project Agreement.

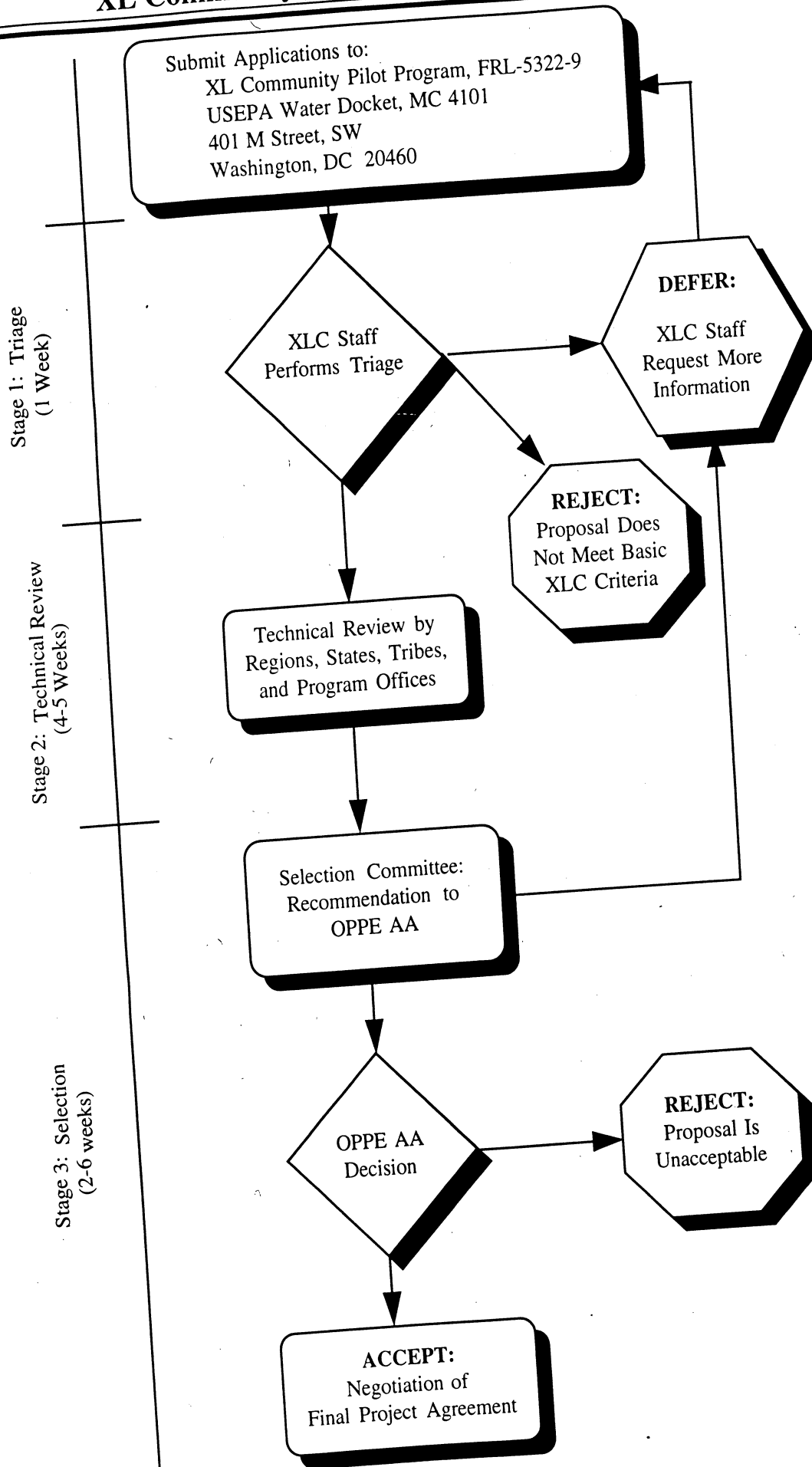
All proposals are received at EPA's Water Docket (Mailcode 4101) and forwarded to the XLC staff in the Office of Policy, Planning and Evaluation (OPPE). The XLC staff enters each proposal in a tracking system, prepares a one page summary, and forwards the proposal to triage.

Triage (1 week): Triage culls proposals that do not meet the basic definition of XLC or do not contain sufficient information for technical review. The XLC staff and members of the XLC steering committee perform triage. Proposals that pass triage advance to technical review.

Technical Review (4 - 5 weeks): Proposals are distributed for technical review through XLC contacts in EPA program offices, regional offices, and state and tribal environmental agencies. The Office of Enforcement and Compliance Assistance conducts a compliance screen of the applicants, and the Office of the General Counsel evaluates legal authority to implement the proposal. Since technical reviewers will also typically be involved in implementation, a second purpose at this stage is to gauge overall support for the project.

Selection (2 - 6 weeks): OPPE's XLC staff compile and summarize information gathered during technical review. The XLC Selection Committee, composed of the technical review leads from across the Agency and others, nominates proposals for selection based on technical review and the XLC selection criteria. Proposals must be backed by the state or tribal agency to be eligible for nomination. The Selection Committee may also recommend that project proposals be further refined before proceeding to development of a Final Project Agreement. The Selection Committee forwards proposals nominated for selection to the Assistant Administrator for Policy, Planning, and Evaluation. Final selections are made by the Assistant Administrator for Policy, Planning and Evaluation.

XL Community Pilot Program: Application Process



XL Community Pilot Program: Regional Contacts

Region 1: George Hawkins
CT, RI, MA phone: (617) 565-9125
NH, VT, ME fax: (617) 565-3415

Region 2: Sherry Bishko
NY, NJ, PR phone: (212) 637-3571
VI fax: (212) 637-5045

Region 3: Russell Swan
VA, PA, DE phone: (215) 597-1318
WV, MD, D.C. fax: (215) 597-1203

Region 4: Bill Patton
GA, NC, SC phone: (404) 347-3555 x6898
FL, AL, KY fax: (404) 347-5207
MS, TN

Region 5: Marilou Martin
IL, OH, IN phone: (312) 353-9660
MI, MN, WI fax: (312) 353-7499

Region 6: David Bond
AR, LA, NM phone: (214) 665-6431
OK, TX fax: (214) 665-7446

Region 7: John Houlihan
IA, KS, MO phone: (913) 551-7432
NE fax: (913) 551-7765

Region 8: Nola Cooke
CO, MT, ND phone: (303) 312-6599
SD, UT, WY fax: (303) 312-6961

Region 9: Linda Powell
AZ, CA, HI phone: (415) 744-1629
NV, AS, GU fax: (415) 744-2499

Region 10: Jim Wertz Ann Dalrymple
AK, ID, OR phone: (206) 553-2634 phone: (206) 553-0199
WA fax: (206) 553-1775

XL Community (XLC) Pilot Program Information Package



WHAT'S INSIDE . . .

Letter from Chris O'Donnell, Team Leader for XLC
Questions and Answers
Selection Criteria
Example Projects
Selection Process
Application Process
Regional Contacts
Federal Register Notice



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Dear Colleagues,

OFFICE OF
POLICY, PLANNING AND EVALUATION

Thank you for your interest in Project XL for Communities (XLC), a critical component of EPA's effort to reinvent environmental regulation. Project XL for Communities gives local entities which are capable of demonstrating excellence and leadership, the flexibility to implement their own community-designed and directed strategies to achieve greater environmental quality. We believe that XL Community projects can be the building blocks for a new performance-based environmental management system for the 21st Century.

The attached information explains the program and the criteria for project selection. Along with our partners in the state environmental agencies, EPA intends to select a limited number of XL for Communities pilot projects, and to begin implementing them as soon as possible. After having reviewed this information, if you have additional questions, please call the XLC information line at (703) 934-3241 or you may call Project XL's twenty-four hour automated phone system at (202) 260-8590 to request that documents be faxed and/or mailed to you. Applications should be mailed to Regulatory Reinvention Pilot Projects: XL Community Pilot Program, FRL-5322-9; Water Docket, Mail Code 4101; U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C., 20460. Once again, thank you for your interest in XL for Communities.

Sincerely,

A handwritten signature in black ink that reads "Chris O'Donnell".

Chris O'Donnell
Team Leader, XL for Communities

Final 11/1/95 (60 FR 55569)

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5322-9]

Regulatory Reinvention (XL) Pilot Projects: XL Community Pilot Program

AGENCY: Environmental Protection Agency (EPA)

ACTION: Solicitation of Proposals and Request for Comment

SUMMARY: Today, EPA is announcing the XL Community Pilot Program to demonstrate community-designed and directed strategies for achieving greater environmental quality consistent with community economic goals. In partnership with states, local governments, communities, tribal governments, and other local entities (either public or private), EPA will provide an opportunity to test flexible and innovative strategies in the implementation of environmental regulatory requirements in exchange for a commitment to achieve greater environmental quality than would have been realized under traditional approaches.

This document responds to one of President Clinton's March 16, 1995 initiatives listed in the report, *Reinventing Environmental Regulation*. In that report, the President stated that EPA would implement four pilot programs to give a limited number of regulated entities and communities an opportunity to demonstrate eXcellence and Leadership (XL) in environmental protection. An earlier Federal Register Notice, published on May 23, 1995 (60 FR 27282), discusses the XL pilot programs for facilities, industry sectors, and government agencies. This Federal Register Notice addresses the XL Community Pilot Program and is a solicitation for comments and an invitation for proposals from public and private entities interested in initiating XL community pilot projects. The XL Community Pilot Program is not a grant program and is limited to alternative and innovative strategies for increased environmental protection. EPA has set a goal of implementing a total of fifty projects in the four program areas.

In the section on "Alternative strategies for communities" in the President's March 16, 1995 report, the President stated that the Agency would undertake an additional program for communities unable to meet existing requirements. For more information on this program, see the section below on other community-based reinvention efforts.

DATES: The period for submission of proposals will begin upon publication of this Federal Register Notice pursuant to the Information Collection Request (ICR No. 1755.2) approved by the Office of Management and Budget (OMB Approval No. 2010-0026) under the Paperwork Reduction Act. This will be an open solicitation with no set end date. Project sponsors wishing to be considered for these pilots should submit proposals in response to this Federal Register Notice. EPA will take proposals on a rolling basis for selection of a limited number of pilots. Prior to the end of 1995, EPA

plans to invite a small number of project proponents to begin development of Final Project Agreements. The period for comment on all aspects of the program will begin with publication of this Notice and extend for thirty days.

SUBMISSION OF COMMENTS AND PROJECT PROPOSALS: Project proposals and all comments on the pilot program should be sent to: Regulatory Reinvention Pilot Projects: XL Community Pilot Program, FRL-5322-9; Water Docket, Mail Code 4101; U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C., 20460. This docket accepts no faxes. Project proposals should include a one-page cover sheet that summarizes: the environmental problems that the project addresses; a brief description of the project identifying the regulatory flexibility being requested; and the project's anticipated results. Cover sheets should also include the applicants' names, addresses, and phone numbers. Project proposal narratives should explain the relationship of the proposal to the first nine criteria for project selection described in this Notice. In their proposals applicants should also identify any current initiatives in the project area upon which the proposed project could build. An original and three copies should be submitted to the Docket. Proponents of projects are invited, but by no means required, to submit other useful materials in paper, audio/visual, or electronic formats.

Documents referenced in this Federal Register Notice are available for review at EPA's Water Docket; 401 M Street, S.W., Washington, D.C.. For access to the Docket materials, call 202-260-3027 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: The XL Community Pilot Program at 703-934-3241.

DESCRIPTION OF THE PROGRAM: Through the XL Community Pilot Program, EPA will respond to requests for regulatory flexibility to support local communities' efforts to create innovative, alternative environmental management strategies that are supportive of community economic goals. To this end, EPA is inviting proposals from local entities capable of demonstrating alternative approaches for achieving greater environmental results than would have been obtained under existing approaches to environmental protection. Ideally, XL community pilot projects should be consistent with and help to establish long-range community environmental goals and bring together groups such as facilities, community organizations, and governments at all levels to achieve the goals of greater environmental quality consistent with economic development. As such, proposals that demonstrate the greatest support from community stakeholders and are consistent with a broader community vision or plan will be given preference in the selection process.

Proposals are invited from a range of community entities and should be designed around a defined geographic area. Community entities include, but are not limited to, local governments, tribal governments, regional area consortia/governments, councils of government, private non-profit citizen/neighborhood/community organizations, non-profit educational institutions, Empowerment Zones and Enterprise Communities designated under the Administration's Community Empowerment Initiative, and other local entities either public or private.

Geographic areas could include: urban and rural areas; political jurisdictions; tribal lands; and ecologically-defined areas such as watersheds and ecosystems, among others. EPA encourages community groups within the same geographic area whose project objectives are similar to consolidate their proposals.

In many cases states, federally-recognized tribal agencies, or other agencies, are responsible for administering environmental regulations. Therefore, to be designated an XL Community, a project must have the support and approval of the agency that has regulatory responsibility within the scope of the project. In addition, where possible, state or tribal environmental agencies will be the lead agency working with communities to implement the XL Program. Accordingly, support for the project by the responsible agency should be obtained as the applicant, assisted by EPA if necessary, develops the final project agreement.

SELECTION PROCESS: EPA will screen proposals submitted in response to this notice (considering the criteria listed below) to select those that do the most to advance the purposes of this program, and will then work cooperatively with a subset of the applicants to further refine proposals, as necessary. The Agency retains the ultimate authority to select projects based on a qualitative consideration of these criteria. Given the pilot nature of the program, and the limited number of projects that will be selected, proposals that satisfy many or all of the criteria may not be selected if, in the Agency's judgment, other proposed projects better serve the objectives of the program. Moreover, no person is required to submit a proposal or obtain approval as a condition of commencing or continuing a regulated activity. Accordingly, there will be no formal administrative review available for proposals that are not selected, nor does EPA believe there will be a right to judicial review. Although EPA will work with the most promising applicants, the ultimate responsibility for developing detailed project plans will be with the project proponents. Proposals not chosen may be referred for additional review to other EPA programs which have other community-based activities underway or may be deferred for development at a later time.

Final Project Agreements

After a second review a final group of selected project proponents will be invited to join EPA, state, or tribal environmental agencies, and other co-regulators to develop a Final Project Agreement. Only the signing of a Final Project Agreement will constitute the acceptance of a full-fledged pilot project. Parties to the Final Project Agreement will include at least EPA, project participants, state or tribal environmental agencies, as well as other co-regulators. These agreements will deal with project-specific issues such as legal authority for project implementation, resource commitments to the project, and provision for regulatory flexibility and technical or other support if requested, public involvement, specific time commitments to environmental progress, and expected environmental results. Each Final Project Agreement will clearly set forth requirements that the project participants have agreed to meet including measurable performance objectives and should include an explicit statement concerning what data and analyses are needed to evaluate project results. To address regulatory flexibility, EPA anticipates that the Agreements will be structured so that any enforcement relief EPA has provided with respect to applicable requirements will be conditioned on the project participants' compliance with the terms of the Agreements. EPA invites project proponents to include in their proposals suggestions for additional or alternative approaches to enforcing the commitments

made in the Final Project Agreements. Unless otherwise agreed to by both EPA and the proponent, the time to negotiate and sign a Final Project Agreement should be limited to six months from the date of initial project acceptance. The final phase of the program involves implementation, monitoring and evaluation of the agreement terms.

PROJECT SELECTION CRITERIA: EPA will consider the following criteria in evaluating pilot project proposals:

I. Environmental Results

Projects should demonstrate, within a defined geographic area, environmental results that are superior to what would be achieved under existing and reasonably foreseeable future national regulations. Project proponents should explain in clear and common sense terms how the environmental results from the alternative strategy for their specific project will be better than present routine compliance. Although EPA is open to a *qualitative* demonstration of results, project proponents are encouraged to provide, where possible, a *quantitative* comparison between anticipated environmental results under current requirements and projected results under the proposed alternative approach. Improved environmental quality can be achieved either directly through the environmental activities of the project or through cost savings resulting from the project which are invested in follow-up activities that produce greater environmental results. The XL Community Pilot Program is not an opportunity to propose exchanges of regulatory flexibility for non-environmental benefits or to seek waivers or reductions from national environmental goals. The Final Project Agreement should include explicit goals, benchmarks, and requirements, including measurable performance objectives. For example, a variety of environmental measures may be used -- from waste stream sampling and ambient air quality monitoring to rougher measures such as acres of habitat preserved, greater bio-diversity, and/or more open space created -- depending on the project.

II. Stakeholder Involvement, Support, and Capacity for Community Participation

EPA encourages proposals for projects that will build, support, and promote cooperation among citizens, businesses, government, and non-profit organizations at the community level for the purposes of formulating effective environmental strategies and economic sustainability. Project proposals that incorporate processes for building and supporting a framework for community participation will be given greater consideration. Project proposals should at a minimum identify key stakeholders for the project, drawn from affected sectors of the community. Depending on the nature of the project, stakeholders will likely include one or more of the following: local government agencies; members of environmental and other public interest groups; businesses in the community; community development corporations; citizens or officials from communities near or adjacent to the project; or other affected people or entities. Where available, project proposals should present evidence of support from key stakeholders including partnerships with individuals, community groups, and regulated entities.

III. Economic Opportunity

Pilots which demonstrate ways of creating economic opportunity through, or in conjunction with, improved environmental quality are encouraged. For example, recent experience with restoration of greenways to reduce runoff to waterways has led to revitalization and development of commercial

and recreational waterfront activities and created new industries providing the community with jobs and resources.

IV. Feasibility

Project proponents should demonstrate the technical, administrative, and financial capability to implement project proposals.

V. Transferability

EPA will favor project proposals that demonstrate potential to serve as models for EPA, states, tribes, local governments, regional entities, and other communities nationwide.

VI. Monitoring, Reporting And Evaluation

Projects should have clear environmental objectives that will be measurable in order to allow EPA and the public to evaluate the success of the project. The project proposal should clearly identify the entity which will be accountable for project results. The project sponsor should state the time frame within which results will be achieved, and propose interim dates and the means by which progress could be measured, evaluated and shared with stakeholders.

VII. Equitable Distribution of Environmental Risks

The project should not subject anyone to unjust or disproportionate environmental degradation. Implementation of project proposals should not significantly transfer pollution to, or add to environmental degradation of, a jurisdiction outside of a project area. Additionally, project proposals that lessen the burden of environmental degradation to people and places that have traditionally shouldered a disproportionate share of the burden will be given greater consideration.

VIII. Community Planning

EPA encourages proposals for projects that use participatory community planning and consensus-based goals to build constituencies and marshal resources for community improvement. Projects which facilitate the creation of community plans and/or promote the use of *existing* community goals and plans are encouraged. Projects should be consistent with any existing community plans or goals.

IX. Innovative Approaches/Multi-Media Focus/Pollution Prevention

EPA is looking for projects that test innovative strategies for achieving environmental results. These strategies may include innovative community planning or a process for articulating a community vision, new facility technologies, or environmental management practices such as source water protection. EPA also encourages project proposals that test alternatives to current, single-media environmental management programs (i.e., improvements in more than one environmental medium). EPA has a preference for protecting the environment by preventing the generation of pollution rather than by controlling pollution once it has been created.

X. Enforcement and Compliance History

Although applicants are not requested to address this criterion in their proposals, EPA will consider the enforcement and compliance history of regulated entities that are proposed to be subject to final project agreements. A perfect compliance history is not a prerequisite to participation in the XL

Community Pilot Program. At the same time, this program is designed to demonstrate excellence and leadership by providing regulatory flexibility to entities that are committed to achieving superior environmental performance. In addition, regulatory flexibility may mean that regulated entities are subject to less oversight, or alternative kinds of oversight, as compared with existing schemes. Accordingly, as part of the selection process, EPA will consider the entities' prior compliance history.

RELATIONSHIP OF XL COMMUNITY PILOTS TO OTHER COMMUNITY-BASED REINVENTION EFFORTS: EPA is undertaking several other community-based initiatives as part of its regulatory reinvention efforts. Under the Compliance Incentives for Small Communities Initiative EPA intends to issue a small community enforcement flexibility policy later this year. This policy will provide guidance to states and tribes that want to offer compliance flexibility to small local governments that, unlike XL communities, are struggling to meet existing requirements, and that employ a rational process for setting priorities based on local conditions and needs (for information on the Flexibility Policy contact Kenneth Harmon; Office of Enforcement and Compliance Assurance; 202-564-7049).

In several instances, states, with varying degrees of EPA involvement, have negotiated or are in the process of negotiating compliance flexibility with small communities that seek to achieve and/or maintain compliance with existing environmental requirements. These programs exist in Oregon (Environmental Partnerships for Oregon Communities), Idaho (Idaho Small Community Mandates Pilot Project) and Nebraska (Nebraska Mandate Initiative). For more information on these programs contact the individual state environmental agencies.

A second EPA community-based initiative, the Community-Based Risk Assessment project, is designed to promote risk-based decision making in communities, States, and tribes and to provide communities with a better understanding of human health and ecological risks. In this project, EPA will work with communities to identify available risk tools that meet specific community needs. EPA will initially focus on the provision of risk assessment and comparative risk software, databases, training courses, and information materials, but is also interested in providing more focused technical assistance in a few pilot communities. EPA believes that risk assessment and comparative risk are important tools to help communities develop goals, determine priorities, and demonstrate results. For more information about this project contact Jane Metcalfe; Office of Research and Development; 202-260-7669.

A third reinvention initiative, the Sustainable Development Challenge Grant Program will be announced in a Federal Register Notice later this year. For information on the Sustainable Development Challenge Grant Program contact the Office of Regional Operations and State and Local Relations; 202-260-4719.

LEGAL MECHANISMS FOR PILOT PROJECTS: EPA will seek to use a variety of administrative and compliance mechanisms to provide regulatory flexibility where necessary for final project agreements. Regulatory flexibility will be conditioned on the pilot project meeting the alternative requirements specified in the project plan. In particular circumstances, EPA may consider changes in underlying regulations or may seek changes in underlying statutes. EPA recognizes that

these questions raise issues of importance both to the Government and to potential participants in pilot projects that seek regulatory flexibility. Applicants are invited to present EPA with proposed approaches tailored to provide the flexibility for their pilot projects.

REQUEST FOR COMMENT ON PILOT PROGRAM: Interested members of the public are invited to comment on all aspects of the pilot project program. EPA requests specific comment on the legal mechanisms for implementing project agreements, and the data requirements for determining both existing environmental conditions and the level of environmental quality that would result from selected projects.

PAPERWORK REDUCTION ACT: The information collection provisions in this Notice, for solicitation of proposals, have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (ICR No. 1755.2 and OMB Approval No. 2010-0026). Copies of the ICR (ICR No. 1755.2) may be obtained from Sandy Farmer; U.S. Environmental Protection Agency; Information Policy Branch, Mail Code 2136; 401 M Street, S.W.; Washington, D.C. 20460; or by calling (202) 260-2740.

Public reporting burden for this collection of information is estimated to total 133,800 hours annually for all respondents combined, and an additional 27,760 hours annually for all co-regulators combined. These estimates cover all information burdens associated with Project XL including application, selection, development of Final Project Agreement, tracking of project progress, determination of bottom-line environmental results, evaluation of project outcome, and all information required by Project XL for these activities.

Consent Communication #8

S-164

Communication was received from John P. DeVillars, Regional Administrator, United States Environmental Protection Agency, transmitting information regarding Project XL for Communities (Project XLC).

In City Council March 25, 1996

Referred to City Manager