

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF  
R-19J

February 23, 1999

Mr. George Anderson  
Director of Regulatory Compliance  
U.S. Filter Recovery Services, Inc.  
Roseville, MN 55113

Dear Mr. Anderson:

We were pleased to receive the Project XL proposal submitted by U.S. Filter Recovery Systems, Inc. (USF) dated October 21, 1998. We believe that the concept presented in the proposal is consistent with EPA's Project XL theme of regulatory approaches that encourage recycling of hazardous waste.

The proposal has undergone review by an internal team consisting of EPA Headquarters and Regional program offices. Our team recognizes the value of the project's goals of waste recycling and water reuse. To enhance the potential of the proposal, we are requesting additional information about the project's technical operation. This information will help us determine whether the design and operation of the project is at least as protective of human health and the environment as the current regulatory regime.

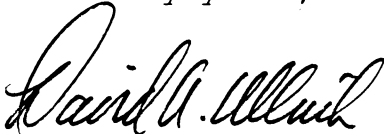
In the current proposal, clarification is needed regarding the disposition of the wastes and how they are being handled or treated at any given point. The proposal should define general design information, including how the potential customer's waste is stored prior to USF collection, and how the waste will be handled by the potential customer and USF. Additional questions about the project's design are included in the enclosure for your review. While not all questions require answers in detail, we need to understand the physical aspects of the proposal as a condition to moving to full project selection. To assist you in responding to our comments, Bob Egan of my staff will be contacting you to schedule a meeting at your earliest convenience to discuss the comments and clarify our needs.

Once the design information has been provided to the satisfaction of the EPA Review Team, we can move to Final Project Agreement (FPA) negotiation and address the other information gaps detailed in the enclosure. We understand that USF may require information from its customers to establish a baseline to show Superior Environmental Performance (SEP). During the first stage of FPA implementation, USF could work in close conjunction with its potential customers to obtain their input. We therefore recommend that the approach to this project be modified to include a two-phased implementation. The first phase would be a study-phase in which we would work together on the baseline data, SEP, and regulatory flexibility. At the completion of the study phase and satisfactory demonstration of SEP, we could develop an appropriate legal mechanism for full project implementation.

As stated above, we would like to meet with you in the near future to clarify the proposal and begin gathering any technical design information that is available at this time. We could make a selection decision within a few weeks following receipt of a satisfactory response to the design information.

We would appreciate a response to this recommendation for a two-phased approach in your reply to this letter. You may respond through either a revised proposal or an addendum. Thank you again for your interest in Project XL. We look forward to our continued dialogue and the further development of the USF proposal. Please feel free to continue to contact team members informally regarding any clarifications you may need to help you in your response. Bob Egan may be reached at (312) 886-6212.

Sincerely yours,



David A. Ullrich  
Acting Regional Administrator

Enclosure

cc: Lisa Thorvig, MPCA

## U.S. EPA Comments and Concerns

U.S. Filter's response to U.S. EPA's comments and concerns may be in the form of a revised proposal or answers to questions. If planning to provide information or re-submit the proposal, please provide U.S. EPA with an approximate submittal date. You are encouraged to consult with U.S. EPA as necessary for clarification on our questions.

### A. Superior Environmental Performance

The Agency is concerned about the present inability to calculate the superior environmental performance in quantitative terms. The EPA XL Proposal Team reviewed the proposal to determine whether sufficient information regarding the proposed SEP is present, as outlined in the April 23, 1997 FR Notice (62 FR 19872) (copy attached). To measure the SEP (referred to as tier 2), a benchmark must first be established. The environmental benchmark (referred to as Tier 1) provides a reasonable estimate of what would happen to the environment absent Project XL. Tier 1 benchmarks are generally set at current actual environmental loadings. It quantifies current performance levels and sets a baseline against which the project's anticipated environmental performance can be compared. For a more detailed description of Tier 1 and 2 requirements, see the April 23, 1997 FR Notice or the September 14, 1998 document "Project XL: Best Practices for Proposal Development" (copy attached). The following questions derive from an analysis of Tier 1 and 2 requirements in the proposal.

- (1) Page 6 of the proposal contains the notion that less waste will be generated under this project versus the present system. Would the generators be making any changes in their processes which would reduce the volume of waste, or would the generated amount be the same, but be recycled instead of disposed?
- (2) Appendix D states that approximately 2.6 million gallons of neutralized effluent will not go to a POTW. This is based on the amount of HCL expected to be removed from treatment by the XL project, but it doesn't give us the baseline figure of how many gallons of HCL would normally be discharged to the POTW by the generators. In other words, the numbers relate to what USF expects to recycle and not any baseline numbers of the present situation. Also, the 2.6 million gallons is a combination of HCL, NaOH and water, but what percentage of each contributes to this total.
  - (a) How is the increase in gallons calculated from the first year to the third year? Is this based on more

participants in the program?

- (b) The proposal states that "job-shop metal finishers" would generate approximately 6,000 to 8,000 gallons of HCL per year. How are these numbers extrapolated to the 580,000, 920,000 and 1.2 million gallons cited in Appendix D?
- (3) Appendix D states that 2.3 million pounds of salt is reduced from discharge to the POTW, but like above, this has to be based on some baseline figure of what generators are currently discharging. How was this number for salt determined?
- (4) Appendix D also states that 5.4 million pounds of virgin acid will not need to be purchased because it will be replaced by the 5.4 million pounds of HCL recycled. Is this a 1:1 ratio of recovery? The benefit appears to be again based on the amount recovered and not the amount used and discharged by generators.
- (5) The Project Benefits section cites reduced hazards due to shortened travel distances. However, no information is provided that correlates the shortened distance with lives saved. If USF wants to make this claim, then it should provide some baseline figures.
- (6) Concerning energy reduction, the proposal claims an overwhelming reduction of energy, but specifics are given only on the energy costs of recycling. How is energy use reduced from the baseline of what is currently used?

#### B. Regulatory Flexibility

Project XL participants should articulate the link in their project between the flexibility sought and the superior environmental performance expected. Where that link is strong (i.e., where flexibility and other benefits are factually or legally linked) the project's ideas are more likely to be applicable at other sites. The closer the factual link between the requested flexibility and anticipated environmental benefits, the more likely EPA is to approve the project.

- (1) The proposal indicates that relief from RCRA requirements (e.g., manifesting, reporting, storage, and transportation) is needed. Although the proposal does include a table identifying portions of the regulations which are applicable to the project, more specific information on which

requirements or which provisions of these requirements should be included, with references to specific regulatory citations. A side-by-side comparison of the RCRA regulatory requirement, relief sought, and what USF plans to provide in its place would be helpful to the reviewers.

- (2) Do the requirements in the rules matrix relate to both waste streams or a specific waste stream?
- (3) How will the project affect the permit currently held by USF for discharge? How will generator/customer permits (CWA and RCRA) be affected?
- (4) What paperwork and reporting is envisioned during the project and how does that compare to the current reporting system?
- (5) Would the project provide any regulatory relief to USF or only to the customers? If USF is seeking regulatory relief for itself, please specify what that relief would include.

#### C. Storage

- (1) Please provide more specific information regarding the clients' storage of the wastes under the XL project and how those wastes will be handled by the clients and USF. If USF expects that it will provide drums or other stand-alone storage vessels (i.e., wastes would not be stored in existing CWA-regulated units currently owned/operated by USF customers), then please describe the vessels and how the participants will handle them.
- (2) As part of the service agreement, does USF envision a requirement that the customer will notify USF on a specific frequency regarding the emptying of the vessels and will the customer inspect the vessels with some specified frequency? Will USF oversee compliance with the project requirements and will it conduct "inspections" at its client? Who will determine the suitability of the containers?

#### D. Participants

- (1) Keeping in mind that it is difficult to address cost savings without a firm number of users established prior to implementation, it would be helpful to know the estimated savings that would be achieved by a potential participant. The proposal mentions that the actual cost of recycling over treatment would increase, so a scenario showing the cost

savings resulting from paperwork burden reduction, product reuse, etc., would be helpful in demonstrating incentives for user participation.

- (2) How has USF provided the details of the project to potential customers to determine the actual feasibility and likelihood of implementation? Does USF believe that potential customers might be interested in participating in the writing of the rule that would be developed on their behalf?
- (3) USF proposes to obtain the materials for recycling from certain customers. The proposal cites 352 potential customers including metal platers, finishers and semiconductor manufacturers. We are concerned about the type of agreement that USF will have with the participants. The proposal alludes to a voluntary commitment on the part of the participants. If so, how can USF comply with the projected benefits stated in the proposal without commitments from participants?
- (4) USF should develop and submit the generic service or participant agreement that it will enter with its customers. This will allow us to assess the requirements which will be contractually imposed and any disclaimers which should be given to the customers (e.g., participation does not prevent the regulatory agencies from exercising their enforcement authorities).
- (5) In the agreement between USF and the customers, what stipulations does USF envision to address RCRA-type issues such as spills at the customer's location, failure to comply with the agreement, return to the use of a Clean Water Act discharge permit, and storage beyond the agreed-upon time limit?
- (6) More thought needs to be given to a process for removal of participants from the program. There may be reasons other than environmental compliance, such as failure to pay bills, which warrant removal of customers from the project. It should be clear what standards will be used, and who will determine compliance with the agreement. Whether a customer is removed from the program, or voluntarily drops out, the agreement will need to clearly state that the Agencies will be immediately notified and that the wastes will then have to be handled according to applicable regulations. It may also be necessary to develop an equitable system which could be used in the event that USF and the regulating agencies disagree on the participation of a potential customer.

- (7) It would be helpful if USF would provide the Agency with a list of all the general categories of generators that may be subject to the project and any specifications that USF may have for acceptance of the waste (e.g., certain pH levels in the HCL).

E. Transportation

- (1) If the wastes are transported by a transporter other than USF, what, if any agreements, will be in place to ensure that the transporters comply with the XL project requirements for transportation?
- (2) The "bill of lading" which will be used in lieu of the hazardous waste manifest must be submitted as part of the project proposal so that its equivalence can be determined prior to project approval. Additionally, please explain how this document will be used. For example, the manifest system relies on multiple copies and exception reporting to ensure that wastes arrive at the designated facility. How will these safeguards be maintained with the bill of lading system?
- (3) Please advise whether the XL wastes will be hazardous wastes or hazardous materials under the DOT regulations, and how, if at all, the DOT regulations would result in a different handling of these XL wastes when transported, including packaging, placarding, and spill response.

F. Reporting

- (1) USF must specify its biannual reporting frequency. This appears to be a burden which USF has volunteered to undertake on behalf of the customers. Can USF supply this information on the normal frequency that such reporting is required in Minnesota?

G. USF's RCRA Permit

- (1) Please provide a copy of the relevant portions of USF's RCRA Permit that USF believes relates to this XL project.