

US EPA ARCHIVE DOCUMENT



# Project XL Progress Report

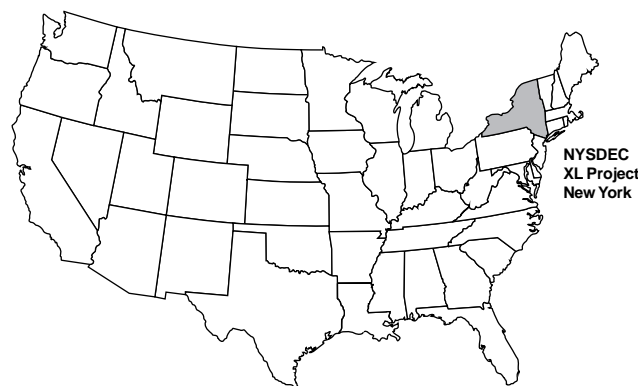
## New York State Department of Environmental Conservation (NYSDEC)



On March 16, 1995, the Clinton Administration announced a portfolio of reinvention initiatives to be implemented by the U.S. Environmental Protection Agency (EPA) as a part of its efforts to achieve greater public health and environmental protection at a more reasonable cost. Through Project XL, which stands for eXcellence and Leadership, EPA enters into specific project agreements with public or private sector sponsors to test regulatory, policy, and procedural alternatives that will produce data and experiences to help the Agency make improvements in the current system of environmental protection. The goal of Project XL is to implement 50 projects that will test ways of producing superior environmental performance with improved economic efficiencies, while increasing public participation through active stakeholder processes. As of October 1999, 15 XL projects are in the implementation phase and 35 XL projects are under development. EPA Project XL Progress Reports provide overviews of the status of XL projects that are implementing Final Project Agreements (FPAs). The progress reports are available on the Internet via EPA's Project XL web site at <http://www.epa.gov/Project XL>. Or, hard copies may be obtained by contacting the Office of Reinvention's Project XL general information number at 202-260-7434. Additional information on Project XL is available on the web site or by contacting the general information number.

### Background

The New York State Department of Environmental Conservation (NYSDEC) was created on July 1, 1970 to bring together in a single agency all state programs directed toward protecting and enhancing the environment. The NYSDEC is responsible for the administration and enforcement of statewide regulations governing the disposal, transport, and treatment of hazardous wastes in an environmentally sound manner. The NYSDEC project would allow public utilities (electric, telephone, and oil and gas) located in New York State to consolidate hazard-



### Major Milestones

May 8, 1996  
NYSDEC XL Proposal  
Submitted

July 12, 1999  
Final Project Agreement  
Signed

January 10, 2000  
EPA Rule Effective Date

January 10, 2005  
Termination of FPA

ous wastes generated at remote locations (e.g., manholes). The project would allow the utilities to consolidate the waste at a utility-owned central collection facility (UCCF) for up to 90 days before transport and disposal, rather than having to transport such wastes piecemeal directly to permitted treatment, storage, and disposal facilities (TSDFs). This project is designed to minimize unnecessary paperwork and more efficiently use time and labor resources. It will also increase public safety by requiring and facilitating the expeditious removal of hazardous wastes that cannot be properly secured and that can create traffic hazards in urban areas. Public utilities should realize considerable direct-cost savings from the more efficient use of transportation from centrally consolidating hazardous wastes and a consequent reduction in the number of lengthy trips by waste-transporting vehicles. The NYSDEC project will eliminate the need to report remote locations under separate identification numbers and will allow the participating utilities to biennially report waste generated at separate remote locations. This will bring about a significant reduction in paperwork and savings in time and labor, both for public utilities and environmental regulatory agencies, which can then redirect such resources to other environmental needs.

Pending approval by EPA and NYSDEC, any company that operates wholesale or retail oil and gas pipelines, or that provides electric power or telephone service and is regulated by New York State's Public Service Commission, or the New York Power Authority, is eligible for inclusion in this XL project. EPA expects this XL project to result in superior environmental performance in New York State, while providing cost savings to participating utilities, by

- reducing the risk of accidental hazardous waste releases at remote locations where no staffed facilities exist;
- allowing the consolidation of similar waste at UCCFs, thereby reducing the number of vehicle trips required to transport hazardous wastes from remote locations to TSDFs;
- reducing the need for human resources, time, and paperwork, which in turn will allow utility and regulatory agency resources to focus instead on high-priority environmental issues; and
- requiring each participating utility to reinvest one-third of its direct cost savings into one or more new environmentally beneficial projects.

## **The Experiment**

The NYSDEC project aims to minimize unnecessary paperwork and increase public safety by facilitating and requiring the expeditious removal of hazardous wastes that cannot be properly secured and that can create traffic hazards in urban areas. The NYSDEC project would allow public utilities located in New York State to take the hazardous wastes generated at remote locations (e.g., manholes) and consolidated that waste at UCCFs for up to 90 days before transport and disposal, rather than having to transport such wastes in a piecemeal manner to permitted commercial hazardous waste TSDFs.

## **The Flexibility**

The NYSDEC is working with EPA, New York State utilities, and the community to achieve superior environmental performance and to dispose of remotely generated hazardous waste in a more flexible, cost-effective manner. As an incentive to achieving superior environmental performance, NYSDEC is being offered regulatory flexibility in the area of hazardous waste management.

The statutory program, and the EPA office administering the program, that is affecting the NYSDEC XL project is the Resource Conservation and Recovery Act (RCRA) program, administered by EPA's Office of Solid Waste.

*Hazardous Waste Consolidation:* Under RCRA, producers of sufficient amounts of hazardous waste at remote locations must transport the waste directly to a permitted TSDF. The majority of hazardous waste generated at remote locations is the direct result of contaminated sediments accumulating at utility access points. In the case of electric power and telephone systems, the remote locations involved are usually access manholes, service boxes, and street vaults, which often contain sediments that fail the Toxicity Characteristic (TC) for lead, particularly in urban areas. In the case of oil and gas pipelines, the waste may consist of pipeline condensate which collects in “drip” pipes downstream of pressure-regulating systems and which commonly exhibits ignitability and fails the TC for benzene. For electric power systems and oil and gas pipelines, polychlorinated biphenyl (PCB) contamination is also possible.

Prior to the implementation of the XL project, the responsible utility was required to transport all quantities of hazardous waste—no matter how small—directly to a TSDF for disposal. Authorization from a TSDF must be obtained before hazardous waste can be included in the manifest, often resulting in a delay in the removal of waste from the remote location. During this delay period, the possibility of either an accidental release of the waste or onsite vandalism is greatly increased, posing a risk to human health and the environment. RCRA regulations generally do not allow the shipment to, or consolidation of, hazardous waste at offsite facilities other than a permitted or interim-status TSDF or other designated facility. Currently, utilities are allowed to accumulate hazardous waste without RCRA permits at the remote location where it is generated for up to 90 days (or, under certain circumstances, 180 days) prior to transporting the waste to a TSDF. The FPA between EPA, NYSDEC, and New York State public utilities expresses the parties’ intention to allow participating public utilities to consolidate hazardous waste generated at remote locations at designated UCCFs for up to 90 days, subject to specified requirements. At staffed, secured UCCFs, the utilities could safely consolidate compatible types of hazardous wastes collected from different remote locations to ensure that the most efficient transportation and storage methods are employed. By consolidating hazardous wastes at UCCFs, the number of vehicle trips from remote locations to often distant TSDFs could be greatly reduced, thereby reducing mobile source emissions. Storing wastes at fully staffed and approved UCCFs will also greatly diminish the possibility of hazardous waste spillage or seepage at remote locations, from either accident or vandalism. Under this XL project, all other applicable Federal and state regulations governing collection, transport, and storage of hazardous materials will remain in effect.

*Reporting:* Under current regulations, each remote location that generates more than 100 kilograms of hazardous waste in a single month is issued its own EPA identification number. Each location must open a record file, both in state-only databases and in the Federal database Resource Conservation and Recovery Information System (RCRIS). In addition, the responsible utility must prepare a Hazardous Waste Report/Biennial Report for each of the remote locations that generate more than 1,000 kilograms in a single month, including manholes and drip pipes. The RCRA-authorized state processes each report and enters the data into state databases, and EPA enters it into the Biennial Report System (BRS) database.

Following the implementation of this XL project, hazardous waste generated at remote locations that is transported to a UCCF can be accounted for in a combined Biennial Report from the utility. The utility, therefore, avoids having to submit a Biennial Report for each remote location. Unstaffed remote locations will use the same EPA identification number as the designated UCCF to which the wastes are transported. A separate Biennial Report must still be prepared for hazardous waste sent from a remote location directly to a permitted TSDF. This regulatory flexibility will streamline the reporting process, resulting in a reduction in duplicative paperwork and cost savings to the EPA, NYSDEC, and the utilities.

*Environmental Stewardship:* Under the XL agreement, each utility must reinvest one-third of its direct savings into other environmental enhancement or pollution prevention activities that go beyond what is

legally required and that were not previously planned. Savings will be estimated by comparing the costs incurred before and after the implementation of the project. Expected savings should result from reductions in report production, paperwork, labor, vehicle trips, and storage costs.

## Promoting Innovation and System Change

Project XL provides EPA opportunities to test and implement approaches that protect the environment and advance collaboration with stakeholders. EPA is continually identifying specific ways in which XL projects are helping to promote innovation and system change. The innovations and system changes emerging from the NYSDEC XL project are described below.

*Alternative Handling of Wastes--Statewide Regulatory Flexibility.* The NYSDEC project seeks to enable innovative management practices to safely and effectively deal with the problems associated with the generation of hazardous wastes at remote locations. These new management practices can benefit utilities across the country facing similar problems with the remote generation, transportation, and secure storage of hazardous wastes. This project provides the opportunity to examine whether immediate transport of hazardous waste to central collection facilities reduces accidental releases and risks to human health and the environment. Also, this project tests the effectiveness of regulatory flexibility within and across industry sectors (electric, telephone, and oil/natural gas) throughout an entire state.

*Administrative Burden Reduction.* A number of XL projects are testing different approaches to reducing the administrative permitting and reporting requirements imposed by Federal, state and local regulatory agencies. The NYSDEC pilot project serves as a test bed for a utilitywide burden-reduction strategy for remote generators of hazardous waste. EPA and NYSDEC may also benefit from a reduction in administrative and financial resources as a result of this XL project. This XL project's foundation is testing the environmental and economic feasibility of this administrative change.

*Environmental Stewardship--Cost Savings Reinvestment.* As part of the final FPA, a portion of the cost savings incurred by the utilities as a result of regulatory flexibility will be reinvested in new environmental initiatives. These new initiatives will be documented by the utilities according to established FPA guidelines and tracked by EPA and NYSDEC.

## Project Commitment Summary

This table and the environmental performance section that follows summarize progress in meeting commitments described in the FPA for the NYSDEC XL project.

Commitment	Status
<b>New York State Utilities Commitments</b>	
Utilities must identify to local governments and communities those facilities they intend to designate as UCCFs, and must solicit public comment on the proposed plan.	To be completed after January 10, 2000.
Eligible utilities wishing to participate in this XL pilot must submit to NYSDEC and EPA a formal notification of intent to enter into the project.	To be submitted after January 10, 2000.

<b>Commitment</b>	<b>Status</b>
<b>New York State Utilities Commitments</b>	
New York State utilities must remain in compliance with all applicable Federal and state laws governing hazardous waste storage, transport and disposal.	Ongoing.
Participating utilities must submit an annual Project XL Progress Report to NYSDEC and EPA within 90 days after the end of a project (calendar) year.	First report due March 31, 2001.
Utilities must maintain and make available for inspection for a period of 3 years copies of (1) all manifests for hazardous wastes transported to or from the UCCF; (2) the UCCF's annual Hazardous Waste Reports; and (3) any PCB test results for hazardous wastes brought to the UCCF from remote locations.	To be completed following project implementation in January 2000.
Each participant must reinvest one-third of its direct savings into other environmental remediation or pollution prevention activities; these savings and reinvestments must be clearly identified in the annual Project XL reports.	To be completed following project implementation in January 2000.
<b>EPA Commitments</b>	
EPA will issue a final rule providing regulatory flexibility under RCRA that will allow New York State utilities to consolidate hazardous waste generated at remote locations at designated UCCFs for up to 90 days.	Final rule (40 Code of Federal Regulations Part 262) was promulgated on July 12, 1999 and will become effective on January 10, 2000.
<b>NYSDEC Commitments</b>	
NYSDEC may initiate implementation of this project through the adoption of an interim Enforcement Directive (ED).	Will be adopted following the effective date of the Federal rule (after January 10, 2000).
NYSDEC must propose and promulgate a specific state rule allowing for the change in state regulations governing hazardous waste management.	Must be promulgated within one year after the adoption of the ED.
NYSDEC must review and approve the applications submitted by utilities to redesignate their facilities as UCCFs.	To be completed following project implementation in January 2000.
NYSDEC must conduct RCRA inspections at each designated UCCF at least once per New York State Fiscal Year during the term of the FPA.	To be completed annually following project implementation in January 2000.

Commitment	Status
<b>NYSDEC Commitments</b>	
NYSDEC will prepare and submit to EPA Region 2 a statewide Project XL annual Progress Report within 180 days following the end of each project (calendar) year.	First report due June 30, 2001.

## Environmental Performance

This section summarizes progress in meeting the environmental performance described in the FPA for NYSDEC. No information regarding performance measures will be available until after project implementation begins in January 2000. Anticipated results will be displayed in three subsections.

*Utility Participation:* Participation in this XL project is open to all public utilities that provide telephone, electric power, or oil and gas services within New York State. Utilities that wish to participate must notify local governments and communities of their intent to designate specific UCCFs and must solicit public comment. This section will include a graph detailing the number of utilities participating in the XL Project by industry. The section will also include the number of remote locations statewide for which hazardous waste was handled during the preceding project year.

*Hazardous Waste Consolidation:* Superior environmental performance will be achieved by allowing utilities to store hazardous waste for up to 90 days at UCCFs before transport and disposal. The FPA stipulates that each participating utility must submit an annual Progress Report that includes the total tonnage of hazardous waste generated at remote locations, along with the number of remote locations statewide that generated between 100 and over 1,000 kilograms of hazardous waste during a generation event. This information will be graphically represented in this section.

*Cost Savings/Reinvestment Highlights:* Both New York State public utilities and Federal and state regulatory agencies will realize cost savings as a direct result of Project XL regulatory flexibility. These cost savings will be the result of significant reductions in paperwork, transportation and storage costs, and labor costs. An estimate of the monetary value, on a utilitywide basis (electric power, telephone, and oil and gas) of the direct savings realized by participation in this project will be graphically displayed in this section. Also included will be a summary of the innovative environmental programs into which select utilities are reinvesting these savings (e.g. environmental compliance, remediation, pollution prevention activities).

## Stakeholder Participation

The organizations directly involved in negotiating the FPA included NYSDEC, EPA, and the utility industry in New York State. Bell Atlantic, Consolidated Edison, and KeySpan Energy acted as the lead representatives for the telephone, electric power, and oil and gas pipeline industries, respectively. The development of the FPA was accomplished through implementation of the Public Participation and Outreach Plan, which provided the opportunity for participation by potential industrial participants, environmental organizations, and the general public. This Outreach Plan also provides for public participation in the designation and approval of eligible UCCFs. Before a facility can be designated as a UCCF, the responsible utility must notify local community members of its intentions by publishing an advertisement in a local newspaper, along with two additional means of community notification outlined in the FPA. Utilities must furnish NYSDEC and local governments with a list of all public comments received during the comment period, along with

the utility's response to each received comment or question. The Outreach Plan stipulates that each participants's annual Project XL Progress Report be made available to any and all interested parties.

## Six-Month Outlook

The key focus areas for continued successful implementation of the FPA over the next six months will be the following.

- NYSDEC's issuance of an enforcement directive and pursuit of a final state rule that will allow regulatory flexibility in the area of remotely generated hazardous waste consolidation.
- New York State public utilities beginning the Project XL implementation process, including initiating public outreach and submitting notifications of intent to participate to NYSDEC.

## Project Contacts

- Phil Flax, EPA Region II, (212) 637-4143.
- Nancy Birnbaum, EPA/XL HQ, (202) 260-2601.
- Lawrence Nadler, NYSDEC, (518) 485-8988.
- Eric Dessen, Consolidated Edison Company (electric power utilities), (212) 460-4889.
- John Quatrone, Bell Atlantic (telephone utilities), (212) 338-7141.
- Dennis Harkawik (General Counsel), KeySpan Energy (oil and gas utilities), (716) 843-3848.

## Information Sources

The information sources used to develop this progress report include (1) the FPA for the NYSDEC XL project, and (2) the Final Rule adopted by EPA on July 12, 1999. The information sources are current through July 1999.

## Glossary

**Baseline:** The measure by which future environmental performance can be compared.

**Biennial Reporting System (BRS) Database:** A national system that collects data on the generation, management, and minimization of hazardous waste. BRS captures detailed data on the generation of hazardous waste from large-quantity generators and data on waste management practices from treatment, storage, and disposal facilities.

**Final Project Agreement (FPA):** The FPA outlines the details of the XL project and each party's commitments. The project's sponsors, EPA, State agencies, Tribal governments, other regulators, and direct participant stakeholders negotiate the FPA.

**Hazardous Waste:** By-products of society that can pose a substantial or potential hazard to human health or the environment when improperly managed. They either possess at least one of four characteristics (ignitability, corrosivity, reactivity, or toxicity), or appear on special EPA lists.

**Manifest:** An invoice of materials carried on a truck or train.

**Media:** Specific environments—air, water, soil—which are the subject of regulatory concern and activities.

**Multi-media:** Several environmental media, such as air, water, and land.



Polychlorinated Biphenyls (PCBs): Mixtures of synthetic organic chemicals with the same basic chemical structure and similar physical properties, ranging from oily liquids to waxy solids. Due to their nonflammability, chemical stability, high boiling point and electrical insulating properties, PCBs were used in hundreds of industrial and commercial applications including electrical, heat transfer, and hydraulic equipment; as plasticizers in paints, plastics and rubber products; in pigments, dyes and carbonless copy paper; and in many other applications.

Remote Location: A location within a utility's right-of-way network that is not permanently staffed.

Resource Conservation and Recovery Act (RCRA): RCRA gives EPA the authority to control hazardous waste from the "cradle-to-grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also promotes resource recovery techniques and methods to reduce the generation of hazardous waste. RCRA focuses only on active and future facilities and does not address abandoned sites.

Resource Conservation and Recovery Information System (RCRIS): A national program management and inventory system of RCRA hazardous waste handlers. RCRIS captures identification and location data for all handlers and a wide range of information on TSDFs regarding permit/closure status, compliance with Federal and state regulations, and cleanup activities.

Right-of-way Network: A fixed, integrated network of above-ground or underground conveyances, including land, structures, fixed equipment, and other appurtenances, controlled or owned by a utility, and used for the purpose of conveying its products and services to customers.

Small-quantity Generator - A generator that produces less than 1,000 kilograms of hazardous waste at a site per month or less than one kilogram of acutely hazardous waste per month; this includes standards for becoming a conditionally exempt small-quantity generator.

Toxicity Characteristic: The criteria used to define wastes as hazardous and which are therefore subject to regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA) due to their potential to leach significant concentrations of specific toxic constituents.

Treatment, Storage, and Disposal Facility (TSDf): Permitted facilities engaged in the treatment, storage, or disposal of hazardous waste.

Utility: Any company that operates wholesale and/or retail oil and gas pipelines, or any company that provides electric power or telephone service and is regulated by New York State's Public Service Commission, or the New York Power Authority.

Utility-owned Central Collection Facility (UCCF): A utility-owned facility within the utility's right-of-way network to which hazardous wastes generated by the utility at remote locations within the same right-of-way network, are brought. The UCCFs act as consolidation points for a utility's waste prior to its transport and disposal, and mitigate the costs and inefficiencies associated with piecemeal transfer of the waste.