

US EPA ARCHIVE DOCUMENT

**Chicago Regional Air Quality  
and Economic Development Strategy**

**Proposed Final Project XL Agreement**

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## **I. Introduction**

The U.S. Environmental Protection Agency (U.S. EPA), in cooperation with State and local authorities, has initiated Project XL to work with interested companies and communities to develop innovative approaches to environmental protection. Project XL is a pilot project program which encourages potential sponsors to come forward with new approaches that can advance our nation's environmental goals more effectively and efficiently than current regulatory and policy tools or procedures. In the development of this XL project, the City of Chicago and the U.S. EPA have worked closely with the Illinois Environmental Protection Agency (Illinois EPA), and local stakeholders, as well as regional and national public interest groups.

This project is about simultaneously promoting clean air improvements and economic growth in an existing urbanized area -- the Chicago metropolitan region. This area, like many urban areas in the United States, has been classified as an ozone "nonattainment" area under the Clean Air Act. One result of this classification is that it is potentially more expensive and difficult for new businesses which generate air emissions to locate there.

The U.S. EPA, the Illinois EPA and the City of Chicago believe that clean air and a healthy economy can and must coexist. Accordingly, this project establishes an innovative approach to allow and encourage targeted growth and development to occur in a large metropolitan area. This project integrates clean air and economic goals and is intended to encourage infill development, brownfield reuse, transit-oriented development, and other measures to advance economic development in existing communities.

### **A. Project Description and Purpose**

In this project, Section 173(a)(1)(B) of the Clean Air Act will be used to promote cleaner air and economic development in the Chicago metropolitan area. As discussed further below, Section 173(a)(1)(B) allows the U.S. EPA Administrator, in consultation with the Secretary of Housing and Urban Development (HUD) to identify zones in which economic development should be targeted. For the purposes of this project, such areas are referred to as "development zones" and the criteria for identifying the zones are being established in consultation with the City of Chicago and stakeholders.

Under the proposal, a new or modified major stationary source which locates in a development zone (within the Chicago ozone nonattainment area) would draw emission reductions from a growth allowance available from the State's emission inventory in lieu of obtaining emission offsets. The growth allowance would be created using emissions reduction activities of Chicago and other municipalities in the metropolitan area.

Clean air and compliance with federal requirements are critical goals for the Chicago nonattainment region. Not only does the region's current nonattainment status impact regional health; it also impacts regional economic development. The traditional approach to emissions reduction has focused on larger point sources. However, mobile and area sources now account for more than 80% of the region's volatile organic compound (VOC) emissions.

The Chicago metropolitan area, although currently designated nonattainment for the one-hour ozone standard, has submitted a modeled attainment demonstration including control measures that have reduced emissions of VOCs from 1216 tons per day in 1990 to 770 tons per day in 1996 (based on Illinois EPA emission inventories approved by U.S. EPA). Reductions in ozone precursors (emissions which lead to the formation of ozone) have continued with additional reductions in VOCs in the Chicago area and reductions in oxides of nitrogen (NO<sub>x</sub>) upwind of Chicago. These reductions have had substantial impacts on the ozone concentrations measured in the Chicago metropolitan area. Monitored ozone concentrations have been reduced from the design value of 0.190 ppm (which was used to classify the area as severe nonattainment for ozone) to the most recent 1999 design value of 0.127 ppm ozone. Monitoring shows that the Chicago area is close to attaining the one-hour ozone standard of 0.12 ppm ozone not to be exceeded more than once per year.

The USEPA proposed on December 16, 1999, (64 FR 70496) to conditionally approve the Chicago one hour ozone attainment demonstration submitted by the Illinois EPA. The conditions imposed on the approval include: the submission of 1) a final revised modeling analysis that fully assesses the impacts of regional NO<sub>x</sub> reductions; 2) control measures necessary to meet the Rate of Progress requirement from 1999 until the attainment year; and 3) VOC and regional emissions control measures sufficient to support the final ozone attainment demonstration. These additional requirements must be submitted by December 31, 2000. The State has already submitted motor vehicle emissions transportation conformity budgets, as required by the Clean Air Act and identified in the notice, that have been found adequate by the USEPA (see USEPA web site [www.epa.gov/oms/transp/conform/adequacy.htm](http://www.epa.gov/oms/transp/conform/adequacy.htm)).

The City of Chicago and other regional municipalities are voluntarily focusing on area and mobile source reductions of VOCs and NO<sub>x</sub> – ozone precursors. Reduction activities include small incinerator bans, expanded alternative fuel use, use of low VOC paints and coatings and other measures. Some of these activities have been completed. Others are under development or are prioritized for future implementation. Chicago and other municipalities in the nonattainment area wish to use these reductions to not only move the region toward attainment, but also to advance economic growth by making it easier for businesses to locate in existing communities within the nonattainment area.

Currently, under the Clean Air Act, a new major facility or a major modification to an existing facility would be required under New Source Review (NSR) to meet Lowest Achievable Emissions Rate (LAER) requirements and to obtain emission offsets. In the case of “severe” nonattainment areas such as the Chicago metropolitan region, the offset requirement is at a ratio of 1.3 tons reduced per 1 ton emitted. Under this XL project, the source would still be required to meet LAER requirements, but would not be required to obtain offsets. Instead, Chicago and other regional municipalities will create emissions reductions from their local activities. The emissions reductions will be generated by communities and then quantified, tracked and submitted to the Illinois EPA and U.S. EPA. The reductions will be used to create a growth allowance which, in turn, will be used in lieu of NSR offsets.

The emissions reductions used in the growth allowance will be surplus to the reductions currently required in the Illinois State Implementation Plan (SIP) to demonstrate attainment of the one-hour ozone standard. Under this project, 40% of the emission reductions which go into the growth allowance will be retired. The remaining 60% will be made available to sources which locate in development zones. The percentage of the growth allowance retired will be reassessed every 2 years. The combination of the percentage retired before source use and the 1.3 to 1 ratio will show a greater overall emission reduction than the currently required 1.3 to 1 ratio alone.

Emissions reductions to be used in the growth allowance will be generated by the City of Chicago, other municipalities and other private and public partners. Much of this work is being done as part of a regional clean air initiative known as the Campaigns for Clean Air and Development -- a partnership of municipalities and regulatory agencies formed to identify clean air strategies for the Chicago metropolitan region that incorporate economic development benefits.

In the absence of this XL Project, the emissions reductions would likely occur in smaller quantities. A major topic for discussion in the Campaigns has been the need for incentives for municipalities and businesses to implement these common sense yet voluntary measures to reduce air pollution. The measures are targeted at small area and mobile sources which are difficult to regulate or not normally regulated and, taken individually, yield small reductions in emissions. This project creates an incentive to put time and money into these initiatives. Emissions reductions from one program may be small, but aggregation of many programs may lead to significant emission reductions. Without the incentive provided by this project, it is less likely that municipalities will dedicate the resources to implement these programs.

A portion of the growth allowance (60%) will be available to companies or facilities which locate or modify operations within development zones. Criteria for development zones are defined in detail in Section II.C., below. In general, these zones are areas to which economic development should be targeted and which meet criteria designed to advance both clean air and economic goals. Under this Agreement, these zones will be identified by the Administrator of the U.S. EPA, in consultation with the Secretary of Housing and Urban Development under Section 173(a)(1)(B) of the Clean Air Act.

This project is innovative because it creates a framework for addressing mobile and area sources of pollution and provides an incentive for communities to seek reductions from these activities. As a further innovation, this project creates an opportunity for the Chicago metropolitan area to use the emissions reductions from the mobile and area sources of pollution in lieu of offsets for economic development. In addition, this XL project will promote growth in areas locally designated for development. This will encourage brownfield redevelopment and is intended to protect habitat and green space.

## **B. Description of the Geographic Area**

The Chicago metropolitan ozone nonattainment region comprises six counties and parts of two additional counties in the northeastern section of the State of Illinois. At more than



9,000,000 inhabitants, the six county area contains approximately two thirds of Illinois' residents. The City of Chicago is the region's largest municipality with a 1998 population of 2,802,079. The older inner ring suburbs and the city are urban in nature with the region's outlying areas having a larger proportion of open and rural space.

As discussed above, under NSR requirements, a new or modified major stationary source in the Chicago metropolitan nonattainment area is required to achieve LAER and obtain emission offsets if the potential VOC emission increase at the facility is greater than 25 tons/year. The U.S. EPA has granted a NOx waiver to Illinois for the Chicago nonattainment area under Section 182(f) of the Clean Air Act, based on ozone modeling. This means that the area is not currently required to achieve additional localized reductions for NOx emissions, including LAER and offsets. However, the entire state should see decreases in NOx as a result of the recent NOx SIP call. The NOx SIP call is a final rule requiring 22 States and the District of Columbia to submit State Implementation Plans that address the regional transport of ground-level ozone through reductions in NOx.

### **C. Purpose of the Agreement**

This Final Project Agreement (the Agreement) is a joint statement of the plans, intentions and commitments of the U.S. EPA, the Illinois EPA and the Chicago Department of Environment (Chicago DOE) on behalf of the City of Chicago to carry out this pilot Project. The Project will be part of the U.S. EPA's Project XL program to develop innovative approaches to environmental protection.

The Agreement does not create legal rights or obligations and is not an enforceable contract or a regulatory action such as a permit or a rule. This applies to both the substantive and the procedural provisions of this Agreement. While the parties to the Agreement fully intend to follow these procedures and commitments, they are not legally obligated to do so. For more detail, please refer to Section VI. (Legal Basis for the Agreement), below.

All parties to this Agreement will strive for a high level of cooperation, communication, and coordination to assure successful, effective, and efficient implementation of the Agreement and the Project.

### **D. List of the Parties that Will Sign the Agreement**

The initial parties to this Final Project XL Agreement are the United States EPA, the Illinois EPA and the City of Chicago Department of Environment. Additional municipalities in the Chicago metropolitan area may subsequently become parties to the Agreement.

Although this project was initiated by the City of Chicago, the development zone criteria in Section II.B. (below) allow use of the growth allowance in municipalities other than Chicago. There are 269 municipalities in the Metropolitan Mayors Caucus, many of which are engaging in voluntary emissions reduction activities and many of which may be eligible to use the growth allowance created under this project. However, at the time this Agreement is being written, it is impossible to know how many (or which) municipalities will wish to use the growth allowance.



To ensure that stakeholder involvement in these additional municipalities is consistent with the stakeholder involvement required in Project XL, municipalities seeking to use the growth allowance must submit a stakeholder involvement plan concurrently with a request to the U.S. EPA to utilize the growth allowance. Presence of an adequate stakeholder plan will be a pre-condition for the approval of the municipality's use of the growth allowance. To qualify for use of the growth allowance, the municipalities must also agree to the additional commitments made by Chicago under Section V.A. of this Agreement – specifically the retirement of 40% of the allowance, use of the 1.3 to 1 offset ratio, committee review of applications for use of the growth allowance, and pollution prevention commitments described in Section II.C. below.

#### **E. List of the Project Contacts**

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## **II. Detailed Description of the Project**

### **A. Specific Project Elements**

As outlined in Section I.A. above, this XL project will implement Section 173(a)(1)(B) of the Clean Air Act, which states:

“...permits to construct and operate [a new or modified source] may be issued if-- ...in the case of a new or modified major stationary source which is located in a zone (within the nonattainment area) identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, that emissions of such pollutant resulting from the proposed new or modified major stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for such pollutant for such area from new or modified major stationary sources under section 172(c);...”

Regulations in Illinois address this provision as part of the U.S. EPA-approved Illinois SIP at 35 Ill. Adm. Code Part 203.302, “Maintenance or Reasonable Further Progress and Emission Offsets,” which states:

“...(a) The owner or operator of a new major source or major modification shall provide emission offsets equal to or greater than the allowable emissions from the source or the net increase in emissions from the modification sufficient to allow the Agency to determine that the source or modification will not interfere with reasonable further progress as set forth in Section 173 of the Clean Air Act (42 U.S.C. 7401 et seq.) .....1.3 to 1 in areas classified as severe....

(B) The Agency shall allow the use of all or some portion of the available growth margin to satisfy subsection (a) above if the owner or operator can present evidence that the possible sources of emission offsets were investigated, none were available at that time and the new or modified major stationary source is located in a zone (within the nonattainment area) identified by the U.S. EPA, in consultation with the Secretary of HUD, as a zone to which economic development should be targeted.”

Using the provisions above, the parties expect that the following specific activities will occur under this XL project:

- 1) The U.S. EPA, in consultation with HUD, Chicago DOE, and stakeholders will identify “development zones.”
- 2) The Illinois EPA will submit a SIP which demonstrates attainment of the one-hour ozone standard (expected to occur by December 2000). In addition, the state will establish accounting mechanisms for tracking emissions reductions above and beyond the attainment plan. These excess reductions, created by municipal clean air initiatives will make up a growth allowance. 40% of the emission reduction credits in the growth allowance account will be retired immediately for regional clean air benefit. The remaining percentage (60%) will be eligible for use only by a new or modified source in a development zone identified as part of this project.
- 3) Chicago DOE and other members of the Campaigns for Clean Air and Development are currently working to generate, quantify and track emission reductions created by

individuals, businesses and communities in the nonattainment area. Prior to implementation of this project, a structure approved by the Illinois EPA and U.S. EPA must be put in place to relay information/quantification of the emission reductions which constitute the growth allowance. This structure is a key component of the project, and as such stakeholders and the public will be provided an opportunity to comment on the structure before the U.S. EPA and the Illinois EPA finalize it.

- 4) New sources or modifications to existing sources within areas identified as development zones may apply to qualifying municipalities to use the growth allowance to meet the 1.3 to 1 offset ratio.

## **B. Criteria for Development Zones**

In order to meet the goals of this project (cleaner air and economic development), the U.S. EPA in consultation with HUD, the Chicago DOE, and the Illinois EPA, have developed a list of criteria which will determine whether an area may be identified as a development zone. The criteria described below are intended to create incentives for businesses to choose locations which are not only within the existing urbanized area, but also have other characteristics which qualify them as zones where economic development should be targeted. The criteria target zones which promote environmentally sound development, the preservation of regionally or locally designated open space, and sites which have adequate, existing infrastructure. Any source using the growth allowance must act consistently with all existing local, state and/or federal requirements and regulations including those regarding natural areas, wetlands and other environmentally sensitive areas.

As discussed above, section 173(a)(1)(B) of the Clean Air Act states that the U.S. EPA Administrator may identify an area to which economic development should be targeted. EPA's interpretation of section 173(a)(1)(B) is that "an area to which economic development should be targeted" should apply to those areas within the larger metropolitan area that need revitalization, redevelopment, creation of jobs, and other similar factors. The U.S. EPA, the Chicago DOE and HUD believe the factors listed below are those that should be used when identifying economic development zones under section 173(a)(1)(B).

### **Criteria:**

A development zone must be within the Metropolitan Chicago ozone nonattainment area, must be within an "urbanized area" as defined by the US Census<sup>1</sup>, must be zoned for industrial use, and must meet at least one of the following criteria:

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<sup>1</sup> Urbanized area - an area consisting of a central place (s) and adjacent urban fringe that together have a minimum residential population of at least 50000 and generally an overall population density of at least 1000 people per square mile of land area. [www.census.gov/geo/www.tiger/glossary.html](http://www.census.gov/geo/www.tiger/glossary.html)

**1) Is designated as or eligible for designation as a Federal Empowerment Zone or Enterprise Community.**

The Empowerment Zone and Enterprise Community (EZ/EC) Initiative is a federal program which provides tax incentives and performance grants and loans to create jobs and expand business opportunities in economically distressed areas of inner cities. The selection criteria for EZ/EC designation are the same. To be eligible for EZ/EC designation, an area:

- \$ cannot be larger than 20 square miles, unless expanded to include 2,000 acres of developable sites;
- \$ can consist of no more than three contiguous areas;
- \$ cannot be located in more than two contiguous States;
- \$ cannot include census tracts that are part of a central business district, unless the poverty rate is at least 35 percent;
- \$ must have a minimum population of 50,000 and a maximum population of 200,000;
- \$ must have poverty rate of 20 percent within each of the census tracts;
- \$ must have a 25% poverty rate in at least 90 percent of the area's census tracts.

The City of Chicago currently contains areas designated as Federal Empowerment Zones. There are no designated Federal Enterprise Communities in the nonattainment area. For more information on Federal Empowerment Zones or Enterprise Communities, see: <http://www.hud.gov/progdesc/ezec.html>.

**2) Is designated as or eligible for designation as a State Enterprise Zone Community.**

The Illinois Enterprise Zone Program was created to stimulate economic growth and neighborhood revitalization at the local level. This is accomplished through state and local tax incentives, regulatory relief, and improved governmental services. State and local governments have designated Enterprise Zone Communities throughout the state.

Communities can no longer receive this designation, but existing zones can be expanded if they fall under one of the following scenarios:

- Addition of new territory
  - The proposed addition must provide an immediate substantial utility or benefit to the established zone and/or its residents or businesses by: creating or retaining specific jobs, or removing or correcting an impediment to economic development which exists in the established zone; or, stimulating neighborhood residential or commercial revitalization. Specific commitments, plans and timetables must be provided to show a high degree of likelihood that inclusion of the area will cause, or be an essential ingredient in achieving, the intended utility or beneficial result.
- Addition of a New Unit of Government. An area proposed for addition to an enterprise zone must find that the proposed zone and new unit of government:
  - Is contiguous.
  - Results in a zone which is not more than 12 square miles in total area. If the enterprise zone is a joint effort of three or more units of government and the certification has been in effect at least one year, the total area shall comprise not more than thirteen square miles. If the enterprise zone is a joint effort of four or more units of government the total area shall comprise not more than fifteen square miles.

- Is consistent with the character, purposes and objectives of the established zone, and not detrimental to the public and private interests served by the established zone.
- In addition, the proposed addition to the zone and new unit of government must qualify under at least one of the following criteria:
  - The poverty rate for each census tract, minor civil division or county civil division which contains any part of the proposed new unit of government was at least 20 percent as of the 2000 census.
  - At least 70 percent of the households in the proposed new unit of government have incomes equal to or less than 80 percent of the mean household income of the larger geography<sup>2</sup> in which the zone is located.
  - The proposed new unit of government has an estimated annual average unemployment rate at least 120 percent of the state's average unemployment rate for the most recent annual twelve month period.
  - The population loss criterion is met if the proposed new unit of government suffered less than a 20 percent population decrease between 1990 and 2000 as determined from the 2000 census.

The Metropolitan Chicago ozone nonattainment area contains 18 enterprise zones. There are 16 in Cook County, 6 of which are in the City of Chicago, as well as 1 in Will County and 1 in Kane County. For more information on state enterprise zones, see:

<http://www.legis.state.il.us/ilcs/ch20/ch20act655.htm>

### **3) Meets criteria for the Community Renewal and New Markets Act of 2000 as proposed in H.R. 4923.**

This Act has been passed by the United States House of Representatives and is under consideration by the United States Senate at the time this agreement is being written. The Act is intended to provide tax incentives for the renewal of distressed communities and to encourage investments in new markets. Eligible areas for this proposed Federal program include those census tracts in which 20% or more of the population was in poverty as of the latest census or in which the median family income for the tract was less than 80 percent of the greater of either: median family income for the surrounding metropolitan area or median family income for the state (as of the latest census). For additional information on HR 4923, see: <http://thomas.loc.gov/cgi-bin/bdquery/z?d106:h.r.04923>:

### **4) Is Enrolled in the Illinois EPA Site Remediation Program (Brownfields).**

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<sup>2</sup> "Larger geography" means the area to which the proposed new unit of government is being related or compared in order to calculate eligibility. In the case of an application from a single unit of government, such as a city, the larger geography is the city if the boundaries of the enterprise zone include less than the corporate limits of that city. If the boundaries of the enterprise zone are the corporate limits of the city, the larger geography is the county in which the city is located, or the aggregate of the counties if the city is located in more than one county. If a census geography has a mean household income of 125 percent or more of the mean household income of the larger geography, it shall not be included in either the calculation of the low income criterion or the proposed addition.

The intent of this criteria is to encourage redevelopment of brownfield sites. The remediation program provides remediation applicants (i.e. the persons seeking to voluntarily perform investigation or remedial activities) the opportunity to receive review and evaluation services, technical assistance and “no further remediation” determinations from the Illinois EPA. Within 30 days of the receipt of the application and service agreement and any initial project documents, the Illinois EPA will approve or deny a remediation program application based on completeness and eligibility. The Illinois EPA will issue an enrollment letter acknowledging receipt of the application and service agreement and advance partial payment and identifying the Illinois EPA project manager assigned to the project. Successful participation in the program results in the issuance of a “no further remediation” letter by the Illinois EPA. The U.S. EPA and Illinois EPA have entered into a Superfund Memorandum of Understanding through which the USEPA concurs that further response actions will not be required by the U.S. EPA at sites which have received a no further action letter. For more information on the Illinois Site Remediation Program, see: (<http://www.epa.state.il.us/land/site-remediation/index.html>). The Site Remediation Program database identifies the status of all voluntary remediation projects administered through the Pre-Notice Site Cleanup Program (1989 to 1995) and the Site Remediation Program (1996 to the present). The SRP database can be found at: (<http://srp.epa.state.il.us/search.asp>).

The USEPA and the Chicago DOE believe that the criteria for selection of the development zones under this project should include both economic development and superior environmental benefits in the form of reduced regional air emissions. In particular, the criterion below focused on transit oriented development can help advance these goals by reducing the use of single passenger vehicles. The inclusion of this additional criterion will provide incentives to develop zones in an environmentally sound manner and provide additional environmental benefits to the project. As such, we believe that the following criterion should be included and solicit public comment on: 1) the appropriateness of applying a transportation related criterion; and, 2) the criterion as written below.

- 5) Is located within ½ mile of a Metra or Chicago Transit Authority rail station or within ½ mile of an established CTA or PACE bus stop on a set route with regularly scheduled service.**

### **C. Process for New or Modified Sources to Use Growth Allowance**

Under this project, the Administrator of the U.S. EPA will identify development zones. This action will consist of a *Federal Register Notice* to be published concurrently with the Final Project Agreement identifying those areas which meet the criteria in Section II.C. (above) as development zones. It is possible that an area which does not qualify at one point in time may later meet the requirements.

In order to use credits from the growth allowance, a new or modified source must comply with the terms in this Agreement and with all other relevant federal, state and/or local permitting and other requirements. In addition, to apply for use of the growth allowance, a new source must select a site which meets the development zone criteria outlined in this Agreement (or in the case



of a modified existing source, it must be located in an area which meets the development zone criteria). Once a business has identified (or in the case of a modified source, is located on) such a site, it will submit a request in writing to the Chicago DOE (or other municipality) to use the growth allowance. The request must specify the street address of the development zone in which it plans to locate, and describe how the site complies with the development zone criteria. Upon the request of the Illinois EPA, the U.S. EPA will confirm that the source is located in a development zone and is eligible to use the growth allowance.

The City of Chicago will allocate growth allowance credits to businesses through its existing Emissions Credit Banking and Trading (E.R.C.) Program as authorized in Section 11-4-575 of the Chicago Municipal Code. This Section establishes an E.R.C. committee to review applications for credits and the criteria for the receipt of credits. The E.R.C. committee will accept applications for the distribution of growth allowance credits obtained under this proposal according to the requirements of Section 11-4-575 of the Chicago Municipal Code. The E.R.C. Committee must consider the applicant's compliance with federal and state emissions regulations, employment numbers and composition, commitment to performance of a supplemental environmental project, and Hazardous Air Pollutant emissions among other factors. Section 11-4-575 of the Chicago Municipal Code is available on the City's web site: [www.cityofchicago.org](http://www.cityofchicago.org).

In addition, the E.R.C. committee will assure that any recipient of growth allowance credits is located or will be located in an area which meets the development zone criteria outlined in Section II.B., above. Municipalities other than Chicago should use a committee process similar to that outlined above to review applications for use of growth allowance credits. Such a process should be described in the stakeholder participation plan a municipality must submit as part of their application for utilization of the growth allowance.

As part of the application process to use the growth allowance, the City of Chicago will require businesses to demonstrate a commitment to implementing additional environmental programs. The City currently requires such programs for businesses as part of its credit banking and trading program. Section 11-4-575 (e)(2)(J) of the Municipal Code of Chicago states that all applicants must provide information regarding their:

“commitment to the development of a supplemental environmental project that will benefit the environment. Examples include but are not limited to: planning and implementing pollution prevention measures; adopting and employee commute options program when not required or providing other alternative means of commuting; providing recycling or using recycled materials; and conducting beautification programs, such as planting trees or community gardens or refurbishing neighborhood parks...”

The City of Chicago will focus these additional environmental programs on pollution prevention measures that reduce the overall emissions of the facility. Municipalities other than the City of Chicago which intend to use the growth allowance should require similar pollution prevention measures.



### III. How the Project Will Meet the XL Acceptance Criteria

#### A. Superior Environmental Performance

This project is designed to deliver superior environmental protection while allowing flexibility in satisfying the offset requirement under the NSR program. The superior environmental benefits accrue in a number of ways.

- The proposed growth allowance will only count emissions reductions which are in excess of those necessary for the Chicago metropolitan region to demonstrate attainment with the one-hour ozone standard. In other words, before this project can be implemented, the Chicago region must submit a modeled attainment demonstration for the one-hour standard which does not rely on reductions from the growth allowance. The Chicago area is classified as a severe ozone nonattainment area for the one-hour standard and must show attainment of the one-hour standard by the year 2007. By creating an incentive for municipalities to implement emission reduction initiatives, this project will help reduce emissions and move the area toward attainment of the one-hour standard earlier than 2007.
- 40% of the emissions reductions generated for the growth allowance will be retired immediately. The remaining percentage (60%) will be available for new or modified sources locating or expanding in development zones, to use in lieu of obtaining offsets. Therefore, the emissions reduction under this proposal will be greater than the 1.3 to 1 ratio reduction currently required.
- By creating a concrete incentive (cost savings to new development in the zones) to implement programs, an increased number of the activities will likely be funded and carried out. This project will quantify the emission reductions created by the actions of people, communities, or businesses. Taking emissions reduction activities out of the realm of “intangible benefits” and placing them in the realm of real economic benefits should create demand and have a positive effect on the environment. This shift should cause reductions in all parts of the emissions inventory (stationary, mobile, and area).
- Participating municipalities plan to achieve real reductions in stationary, mobile and area sources. Local governments, in particular, are in a unique position to reduce mobile and area sources through actions such as zoning decisions, purchasing preferences and municipal ordinances.
- Using development zone criteria which provide incentives for locating in areas where infrastructure such as utilities and transportation exist may result in preservation of open space.
- Additional air quality benefits may be realized by locating new facilities in regionally central sites and near public transportation, thus reducing the amount of driving required to reach the facilities.

- The City of Chicago will require businesses to demonstrate a commitment to implementing additional environmental programs as described in Section II.C., above. These programs will include pollution prevention measures to reduce the overall emissions of the facilities using the growth allowance.

### **B. Anticipated Benefits, such as Cost Savings and Operational Flexibility**

This proposal provides both flexibility and cost savings. Flexibility is achieved by giving sources an alternative method of compliance with the offset requirement as well as giving participating communities in the Chicago metropolitan area the opportunity to create value from emissions reductions and the ability to use the growth allowance to attract businesses to areas where development is most advantageous. Cost savings will be realized by the new source (because absent the project, they would be required to obtain offsetting emissions which would most likely be purchased from another source) and benefits will be realized by the communities through increased economic activity. Recent costs for sources purchasing VOC emissions offsets in the Midwest have ranged from \$2000-\$8000/ton.

### **C. Stakeholder Involvement and Support**

Stakeholder involvement is considered essential by the Illinois EPA, the Chicago DOE and the U.S. EPA. It is important that all interested parties have a voice in decisions which impact the air quality and economic development in their communities. This project has been discussed in the Campaigns for Clean Air and Development, where representatives from communities, local governments, businesses and environmental groups have been given an opportunity to discuss and comment on the project.

Additional stakeholder involvement activities which have taken place include two meetings prior to the publication of this proposed Agreement, on July 24, 2000 and on August 7, 2000. An extensive list of participants was invited and the meetings were open to the public. An additional stakeholder meeting is planned during the comment period for this proposed Agreement on August 28, 2000. A Stakeholder Participation Plan developed by the Chicago DOE is attached to this document as *Appendix A* and is available on the U.S. EPA web site at:

<http://www.epa.gov/projectxl/chicago/index.htm>. The plan is intended to supplement previous activities and describe how stakeholders can continue their involvement throughout the duration of the project.

Stakeholder input and community goals have been and will continue to be considered as this project is implemented. An annual stakeholder meeting for the purpose of keeping interested parties informed of the progress and status of the project and the growth allowance will be held by the Chicago DOE. Although many city-wide organizations and representatives of various interest and community groups have been consulted in the development of this Agreement, additional stakeholder involvement will be necessary when components of the project are implemented.

Because the specific qualifying development zone sites and new sources which will take advantage of this project are not currently known, any municipality intending to use the growth allowance must seek additional community input when specific new sources (or modifications for existing sources) and their locations are proposed. This additional involvement is intended to solicit the input of neighborhoods and communities adjacent to and nearby the proposed location of a new or modified source under this project.

Existing permitting procedures for location or modification of a new source in the Chicago metropolitan area currently require the source to have a 30 day public comment period on the proposed construction permit. The community in which the project is proposed will receive notification of the project in a local newspaper of general circulation. These requirements apply to sources seeking to use the growth allowance. Notices will also be sent to persons/groups in the community that have notified the Illinois EPA that they wish to be aware of projects going to public notice in their community. There may also be a public hearing and/or public meetings for the proposed construction project based on the level of interest in the community. The City of Chicago and other municipalities will use existing public comment processes for site development and distribution of the growth allowance credits. These processes may include hearings before the City Council, the E.R.C. committee, the Community Development Commission and the Zoning Board of Appeals. These processes should be sufficient to ensure that the use and potential impact of the growth allowance is transparent to the public. For instance, the processes should ensure the public is informed in a timely manner when a facility will be using the growth allowance, how many credits will be used, where they will be used, and potential impacts of their use.

#### **D. Innovative Approach and Multi-Media Pollution Prevention**

This is an innovative strategy because:

- Section 173(a)(1)(B) of the Clean Air Act has not previously been implemented;
- The project will use innovative criteria, as described in section II.C. above, to designate the development zones;
- U.S. EPA, the Illinois EPA, the Chicago DOE and other municipalities will quantify and count toward the growth allowance, a number of innovative emissions reduction activities.

The project encourages pollution prevention by providing an incentive for municipalities as well as individuals and businesses to generate emission reductions beyond what is required under existing rules. In addition, firms using the growth allowance in the City of Chicago will be required to demonstrate a commitment to additional pollution prevention measures aimed at reducing overall emissions of any source using the growth allowance (see Section II.C. above).

#### **E. Transferability of the Approach to Other Entities or Sectors**

Although this project is designed to build on the activities being conducted specifically in the Chicago metropolitan nonattainment area, the basic concept of 173(a)(1)(B) may be employed in other nonattainment areas of the country.

#### **F. Feasibility of the Project**

The Illinois EPA, the Chicago DOE and U.S. EPA have the administrative and technical capability to implement this proposal. The parties have committed adequate staff resources to implement the project. Assistance will also be provided by stakeholders in the Campaigns for Clean Air and Development, including the U.S. EPA and Illinois EPA.

#### **G. Monitoring, Reporting, Accountability, and Evaluation Methods to be Used**

Emission reductions generated by municipal activities and used for this project must be approved by the Illinois EPA and U.S. EPA. In order to insure accurate accounting of the growth allowance, prior to implementation of this project, a structure must be put in place to quantify and track the emission increases and reductions that will occur. The methodology and structure of the tracking system must be agreed upon by both the U.S. EPA and Illinois EPA. This is important to assure the integrity of the growth allowance. While this structure is not in place at the time this Agreement is being written, it must be in place before the project is implemented. The process for structuring and approval of the accounting system will be publicly accessible and interested stakeholders will have an opportunity to comment on the system before its final approval and implementation. It is the goal of the parties that the methodology and structure will be transparent to the public, and provide interested parties with timely and sufficient information to verify emission reductions made available through the growth allowance.

#### **H. Avoidance of Shifting the Risk Burden to Other Areas or Media**

This project is consistent with Executive Order 12898 on Environmental Justice. The project is intended to balance the need for both cleaner air and economic development. The U.S. EPA believes that no unjust or disproportionate shifting of the risk burden will occur. Under current NSR rules, a source obtains offsets from another stationary source reduction within the nonattainment area. Under this project, the community in which the development zone is located will create net emissions reductions thereby leading to a region wide reduction, while also providing a closer geographic connection between the source of the new emissions and the source of emissions reductions. Any source using the growth allowance will still be required to meet existing control technology requirements under major New Source Review regulations as well as any applicable rules regarding hazardous air pollutants.

The majority of the emissions reductions used in any development zone will be generated by the municipality the zone is located in. Because 40% of the reductions will be retired, there will be an overall reduction in emissions in any municipality where a source uses the allowance. This geographic linking of emissions reductions and use of the growth allowance will reduce the chances of a localized increase in overall emissions.

Even so, some new sources which take advantage of this project may pose site-specific challenges depending on the nature of emissions and location of the development zones. For example, while emissions reductions would accrue throughout the entire municipality, it is possible that emissions in the immediate vicinity of a development zone may increase.

Under the criteria described in Section II.B. above, it is possible that economically depressed areas could be a site of new emissions under this project. The U.S. EPA believes that

such areas should not be excluded from the economic benefit which may result from this project and have therefore structured the criteria in a way that will allow a variety of appropriate development zones, including areas with lower incomes. The U.S. EPA believes that location of a business in a low-income area under this project would not be an unjust or disproportionate shifting of the risk burden.

In addition, each business which uses the growth allowance to locate in a development zone in the City of Chicago will be required to demonstrate a commitment to implementing additional environmental programs as described in Section II.C. above. Specifically, pollution prevention measures will be required which reduce emissions in the immediate surrounding area.

#### **IV. Description of the Requested Flexibility and Implementing Mechanisms**

##### **A. Requested Flexibility**

The flexibility requested in this project is the use of section 173(a)(1)(B) and the approval to quantify and track new types of emissions reductions and count them towards a growth allowance in the SIP. Section 173(a)(1)(B) of the Clean Air Act has not previously been implemented. The emission reduction activities to be conducted as part of this project will be reflected in the Illinois SIP, but they are categories of emissions which have not historically been regulated or are difficult to regulate. Using XL for this project allows the Illinois EPA, the Chicago DOE and U.S. EPA to pilot and study the quantification and use of such reductions. Under this project, compliance with regulations will not be deferred as is often the case under Project XL.

##### **B. Legal Implementing Mechanisms**

Under this project no site specific rule will be required. The official actions taken by U.S. EPA will be:

- 1) Identification of development zones which are eligible for participation in this project. This action will consist of a *Federal Register Notice* to be published concurrently with the Final Project Agreement; and,
- 2) Appropriate action to approve a method of quantifying and tracking emission reductions associated with the Campaigns for Clean Air and Development. Implementation of this project is contingent on U.S. EPA approval of an acceptable tracking and quantification scheme. The growth allowance cannot be used until the emissions reductions are generated and approved into the allowance through the approved tracking system.

#### **V. Discussion of Intentions and Commitments for Implementing the Project**

##### **A. Intentions and Commitments of the Chicago Department of Environment**

- 1) The Chicago DOE and other participating municipalities will continue to work with other participants and stakeholders in the Campaigns for Clean Air and Development to generate and keep data on emissions reductions.



- 2) The Chicago DOE will follow the processes described in the Stakeholder Participation Plan for the duration of the project.
- 3) The Chicago DOE and other participating municipalities will work with U.S. EPA, Illinois EPA and interested parties to set up and implement a process for the quantification and tracking of emission reductions. The tracking system must be approved by U.S. EPA prior to implementation of this project.
- 4) The Chicago DOE and other participating municipalities will permit use of the growth allowance only for sources located in a development zone identified under this project.

#### **B. U.S. EPA Intentions and Commitments and Illinois EPA's Role**

- 1) U.S. EPA will use Section 173(a)(1)(B) as the basis for identifying zones to which economic development should be targeted (development zones).
- 2) U.S. EPA and Illinois EPA will work with the Chicago DOE, other participating municipalities and interested parties to set up and approve a system to establish, track and enforce the growth allowance prior to implementation of this project.
- 3) Illinois EPA will review the terms of this project to ensure that the project is allowable under the Illinois SIP.
- 4) Illinois EPA and U.S. EPA will ensure that no emissions reductions used in the SIP to demonstrate attainment of the one-hour ozone standard will be used as credits in the growth allowance.
- 5) Illinois EPA and U.S. EPA will ensure that the system for verifying and tracking emissions reductions is transparent to the public, that the public has sufficient information to independently verify the reductions, and that the public is provided timely and detailed information on the use of offsets from the growth allowance.

#### **C. Project XL Performance Targets**

Although it is extremely difficult to predict how many emissions reductions will be generated, Chicago DOE estimates that 3 to 7 tons of emissions reductions per day will be achieved under this project.

#### **D. Proposed Schedule and Milestones**

- Municipal emissions reduction activities. (Currently and ongoing during life of project)
- The Illinois EPA and the U.S. EPA approve a tracking and quantification process for emissions reductions which will make up the growth allowance. (December 2000)
- Growth allowance open for access by new and modified sources. (January, 2001)

#### **E. Project Tracking, Reporting and Evaluation**

For the duration of this Agreement, the Chicago DOE will provide an annual summary report to U.S. EPA and, upon request, to stakeholders. The Chicago DOE will make all project-related data and reports available to stakeholders on request. The Chicago DOE will also post the annual reports on its Internet web site at <http://www.cityofchicago.org>. The first annual report will be due [insert date which is the last day of the month the Final Project Agreement is signed] of the year following the signing of this Agreement. Succeeding annual reports will be due [insert date from above] of each year during the life of this Agreement.

In each annual report the Chicago DOE will provide:

- 1) The name and location of all new or modified sources which have used the growth allowance to locate in development zones under this project;
- 2) The amount and nature of emissions generated by the new or modified sources as well as the amount of offsetting emissions drawn from the growth allowance and the activities performed to create the growth allowance.
- 3) A summary of stakeholder involvement and activities undertaken as part of the project;
- 4) Information regarding the status of the Campaigns for Clean Air and Development including quantification of the emissions reductions generated and the total amount used and remaining; and,
- 5) Other reports or information produced as part of the project which address these subjects.

#### **F. Periodic Review by the Parties to the Agreement**

The parties to this Agreement will hold periodic performance review conferences to assess their progress in implementing this Project. Unless they agree otherwise, the date for those conferences will be concurrent with annual stakeholder meetings. No later than thirty (30) days following a periodic performance review conference, Chicago DOE will provide a summary of the minutes of that conference to all Direct Stakeholders (a list of Direct Stakeholders is available on the EPA web site for this project at: <http://www.epa.gov/projectxl/chicago/index.htm>). Any additional comments of participating Stakeholders will be reported to U.S. EPA.

#### **G. Duration**

This XL project is intended to set up a new and innovative process which is allowable under existing statutory and regulatory requirements. The parties to the Agreement believe that it will be appropriate to continue the project until December 31, 2007 unless the project is modified or ended by withdrawal of one of the parties as provided under Section VIII., or Section X., below. If all parties agree that the project has been successful, then the duration of the project may be extended by mutual agreement using the processes outlined in Section VIII., below.

### **VI. Legal Basis for the Project**

#### **A. Authority to Enter Into the Agreement**

By signing this Agreement, the U.S. EPA, the Chicago DOE and any subsequent signatories acknowledge and agree that they have the respective authorities, discretion, and resources to enter into this Agreement and to implement all applicable provisions of this Project, as described in this Agreement.

#### **B. Legal Effect of the Agreement**

This Agreement states the intentions and commitments of the Parties with respect to the project. The Parties have stated their intentions and commitments seriously and in good faith, and expect to carry them out.



This Agreement in itself does not create or modify legal rights or obligations, is not a contract or a regulatory action, such as a permit or a rule, and is not legally binding or enforceable against any party. Rather, it expresses the plans, commitments and intentions of the parties without making those plans and intentions binding requirements. This applies to the provisions of this Agreement that concern procedural as well as substantive matters. Thus, for example, the Agreement establishes procedures that the parties intend to follow with respect to dispute resolution and termination (see Sections IX. and X.). However, while the parties fully intend to adhere to these procedures, they are not legally obligated to do so.

This Agreement is not a “final agency action” by U.S. EPA, because it does not create or modify legal rights or obligations and is not legally enforceable. This Agreement itself is not subject to judicial review or enforcement. Nothing any party does or fails to do that deviates from a provision of this Agreement, or that is alleged to deviate from a provision of this Agreement, can serve as a basis for any claim for damages, compensation or other relief against any party.

### **C. Other Laws or Regulations That May Apply**

Except as provided in the legal implementing mechanisms for this Project, the parties do not intend that this Project will modify any existing or future laws or regulations.

### **D. Retention of Rights to Other Legal Remedies**

Except as expressly provided in the legal implementing mechanisms described in Section IV., nothing in this Agreement affects or limits the Chicago DOE’s, U.S. EPA’s, or Illinois EPA’s legal rights. These rights may include legal, equitable, civil, criminal or administrative claims or other relief regarding the enforcement of present or future applicable federal and state laws, rules, regulations or permits.

Although the Chicago DOE does not intend to challenge agency actions implementing the Project (including any rule amendments or adoptions, permit actions, or other action) that are consistent with this Agreement, the Chicago DOE reserves any right it may have to appeal or otherwise challenge any U.S. EPA, or Illinois EPA action to implement the project. With regard to the legal implementing mechanisms, nothing in this Agreement is intended to limit the Chicago DOE’s right to administrative or judicial appeal or review of those legal mechanisms, in accordance with the applicable procedures for such review.

## **VII. Amendments or Modifications to the Agreement**

This project is an experiment designed to test new approaches to environmental protection and there is a degree of uncertainty regarding the environmental benefits and costs associated with activities to be undertaken in this project. Therefore, it may be appropriate to amend this Agreement at some point during its duration.

This Final Project Agreement may be amended by mutual agreement of all parties at any time during the duration of the project. The parties recognize that amendments to this agreement

may also necessitate modification of legal implementation mechanisms or may require development of new implementation mechanisms.

In determining whether to amend the Agreement, the parties will evaluate whether the proposed amendment meets Project XL acceptance criteria and any other relevant considerations agreed on by the parties. All parties to the Agreement will meet within ninety (90) days following submission of any amendment proposal (or within a shorter or longer period if all parties agree) to discuss evaluation of the proposed amendment. If all parties support the proposed amendment, the parties will (after appropriate stakeholder involvement) amend the Agreement.

If the Agreement is amended, the U.S. EPA and the Chicago DOE expect to work together with the Illinois EPA other regulatory bodies and stakeholders to identify and pursue any necessary modifications or additions to the implementation mechanisms in accordance with applicable procedures. If, after appropriate stakeholder involvement, all parties support the proposed amendment, the parties will (after appropriate public notice and comment) amend the Agreement.

## **VIII. Process for Resolving Disputes**

Any dispute that arises with respect to the meaning, application, implementation, interpretation, amendment, termination or modification of the FPA will, in the first instance, be the subject of informal discussions. To initiate informal discussions, any Party that believes it has a dispute with any other party will identify and explain the matter(s) in dispute in writing to all parties. This initial contact should involve staff at the appropriate level for the nature of the dispute.

If the parties cannot resolve a dispute within 30 days of the initial contact (or such longer time as agreed to by the disputants) through informal negotiations, the parties may invoke non-binding mediation by describing the dispute with a proposal for resolution in a letter to the respective chief administrative officials (signatories to this Agreement). The Regional Administrator for the U.S. EPA Region 5 will serve as the non-binding mediator and may request an informal mediation meeting to attempt to resolve the dispute. He or she will then issue a written opinion that will be non-binding and does not constitute a final EPA action. If this effort is not successful, the parties still have the option to terminate or withdraw from the Agreement, as set forth in Section IX, below.

Nothing in this section will be construed to alter the parties' expectations regarding the ability to terminate or withdraw from the FPA, as set forth in the provision of Section IX, Withdrawal From or Termination of the Agreement.

## **IX. Withdrawal From or Termination of the Agreement**

### **A. Expectations**

Although this Agreement is not legally binding and any party may withdraw from the Agreement at any time, it is the desire of the parties that it should remain in effect through December 31, 2007, and be implemented as fully as possible unless one of the conditions below occurs:

- 1) Failure by any party to (a) comply with the provisions of the enforceable implementing mechanisms for this project (Illinois SIP), or (b) act in accordance with the provisions of this Agreement. The assessment of the failure will take its nature and duration into account.
- 2) Failure of any party to disclose material facts during development of the Agreement.
- 3) Failure of the project to provide superior environmental performance consistent with the provisions of this Agreement.
- 4) Enactment or promulgation of any environmental, health or safety law or regulation after execution of the Agreement, which renders the project legally, technically or economically impracticable.

In addition, the U.S. EPA does not intend to withdraw from the Agreement if the Chicago DOE does not act in accordance with this Agreement or its implementation mechanisms, unless the actions constitute a substantial failure to act consistently with intentions expressed in this Agreement and its implementing mechanisms. A decision to withdraw will take the failure's nature and duration into account. The Chicago DOE will be notified by the U.S. EPA that they are considered to have "substantially failed" in some aspect of implementing the FPA, and the U.S. EPA at its discretion, may offer Chicago DOE an opportunity to remedy the "substantial failure" before the U.S. EPA's withdrawal. If there is a disagreement between the parties over whether a "substantial failure" exists, the parties will use the dispute resolution mechanism identified in Section VIII. of this Agreement. The U.S. EPA retains its discretion to use existing enforcement authorities, including withdrawal or termination of this project, as appropriate. The Chicago DOE retains any existing rights or abilities to defend itself against any enforcement actions, in accordance with applicable procedures.

## **B. Withdrawal Procedures**

The parties agree that the following procedures will be used to withdraw from or terminate the Project before expiration of the project term.

- 1) A party wishing to terminate or withdraw from the project will provide written notice to the other parties at least sixty (60) days before the withdrawal or termination.
- 2) If requested by any party during the sixty (60) day period noted above, the dispute resolution proceedings described in this Agreement may be initiated to resolve any dispute relating to the intended withdrawal or termination. If, following any dispute resolution or informal discussion, a party still desires to withdraw or terminate, that party will provide written notice of final withdrawal or termination to the other parties.
- 3) The procedures described in this Section apply only to the decision to withdraw or terminate participation in this Agreement. Procedures to be used in modifying or

rescinding any legal implementing mechanisms will be governed by the terms of those legal mechanisms and applicable law. It may be necessary to invoke the implementing mechanism's provisions that end authorization for the project (called "sunset provisions") in the event of withdrawal or termination.

## **X. Compliance After the Project is Over**

In most XL projects, provisions are made for an orderly return to compliance with the regulations which would be in effect absent the XL project. In the case of this project, it is not anticipated that any entity would be out of compliance with existing regulations if the project ends -- either prematurely due to withdrawal of a party or by completion of the project term. For example, if a source takes advantage of the growth allowance created by this project and locates in a development zone, the requirement that it obtain offsetting emissions reductions will be fulfilled by the growth allowance. Under this project, the source would be required to comply with all other applicable regulations -- local, state and federal. Therefore, if the project should end any time after a new source has obtained offsets from the growth allowance, the source would have fulfilled its obligation to obtain the offsets.

### **A. Orderly Return to Compliance with Otherwise Applicable Regulations, if the Project Term is Completed.**

If the Project is terminated because the term has ended, the Chicago DOE or other municipalities using the growth allowance will take actions to come into compliance with all otherwise applicable regulations unless the Project is amended or modified in accordance with Section VIII. of this Agreement (Amendments or Modifications). The Chicago DOE or other municipalities using the growth allowance are expected to anticipate and plan for all activities to return to compliance sufficiently in advance of the end of the Project term. The Chicago DOE and other municipalities using the growth allowance may request a meeting with the U.S. EPA and the Illinois EPA to discuss the timing and nature of any actions that the Chicago DOE and other municipalities using the growth allowance will be required to take. The parties should meet within thirty days of receipt of the Chicago DOE's written request for such a discussion. At and following such a meeting, the parties should discuss in reasonable, good faith, which of the requirements deferred under this project will apply after termination of the project.

### **B. Orderly Return to Compliance with Otherwise Applicable Regulations in the Event of Early Withdrawal or Termination.**

In the event of a withdrawal or termination not based on the end of the project term, the parties to the Agreement will determine an interim period to provide sufficient time for participating municipalities to return to compliance with all otherwise applicable regulations. The interim period will extend from the date on which a party to the Agreement provides written notice of final withdrawal or termination of the project, in accordance with Section IX, above. By the end of the interim period, the municipalities will cease use and issuing of emission offset credits from the growth allowance. During the interim period, the U.S. EPA or the Illinois EPA may issue an order, permit, or other legally enforceable mechanism establishing a schedule for

ending use of the growth allowance and return to compliance with otherwise applicable regulations. This schedule cannot extend beyond 6 months from the date of withdrawal or termination. Participating municipalities must be in compliance with all applicable Federal, State, and local requirements as soon as is practicable, as will be set forth in the new schedule.

#### **XI. Signatories and Effective Date**

## Appendix A

### Stakeholder Participation Plan

The City of Chicago's Project XL Stakeholder Participation Plan addresses public involvement both in the development of the FPA and on an ongoing basis. This plan outlines the specific activities undertaken by the City to involve stakeholders in the Project XL development and approval process. It also describes how interested citizens can stay involved after the program is in place. Specifically, the plan describes how the City will accommodate stakeholder concerns throughout the application and review process for use of the growth allowance.

Stakeholder outreach for the Chicago's Project XL proposal utilizes the existing participants in the ongoing regional clean air efforts. In the Chicago non-attainment region, the public and private sector have teamed up to address the issue of air quality and economic development. These partners have created the Campaign for Clean Air and Development, the goal of which is reduce emissions from households, developments, industry and institutions, local government, and federal and state government. The campaign is developing specific emissions reduction targets and the strategies and incentives necessary to reach these targets. A steering committee, with representatives of the region's businesses, government agencies, institutions, non-profits and advocacy groups and chaired by the Metropolitan Mayors Caucus, is overseeing the implementation of the campaign.

Because of its broad organizational and regional composition, the steering committee will be the main mechanism for seeking stakeholder input on the proposal. In addition, the Metropolitan Mayors Caucus Clean Air Task Force, and the Clean Air Communities Campaign Committee have been asked to participate in the stakeholder process. With the Campaign for Clean Air and Development Steering Committee, this combination of groups will allow Chicago DOE to reach the widest range possible of stakeholders. Many of the committees within the Campaign for Clean Air and Development are open to any interested party, composed of the public and private sector, and have ties to many other organizations.

The City began the stakeholder process on July 13, 2000 when Chicago DOE presented the Project XL proposal to a Clean Air Communities Campaign Committee meeting. Attendees were provided with an overview of the process and the proposal itself. The proposal was discussed among the committee members. See attachment A1 for a complete list of people who attended the meeting. Clean Air Communities Campaign Committee meetings are open to all interested parties.

The second stakeholder meeting was held on July 24, 2000. Chicago DOE notified the Metropolitan Mayors Caucus Clean Air Task Force, the Campaign for Clean Air and Development Steering Committee, and the Clean Air Communities Campaign Committee. See Attachment A2 for a complete list of people who were notified of the hearing as well as a list of those who attended.



At the July 24 meeting, USEPA presented an overview of the Project XL program in general. This was followed by a presentation of the City of Chicago's proposal by Chicago DOE. After the presentations, USEPA and Chicago DOE answered questions about the process and the City's proposal. The primary concerns of those in attendance involved the criteria for site selection, disparate impacts in the community, the program's relationship to ERMS, and the potential scope of the project.

At the August 7, 2000 meeting the primary focus was to discuss the criteria for selecting development zones. USEPA and Chicago DOE presented the thinking behind the proposed criteria. The goal of development zone designation is to give a broad range of communities an incentive to reduce their emissions and to encourage environmentally sound location decisions within their municipality. Other FPA questions were addressed at the close of the meeting.

The remaining schedule for public participation is as follows:

Week of August 21, 2000

Announcement of the availability of a proposed FPA will be printed in the Federal Register and a two-week period will follow during which interested parties may comment on the proposal. The draft FPA will be sent to stakeholders prior to the Federal Register notice.

August 28, 2000 – 77 W. Jackson, 12<sup>th</sup> Floor at 3:00 p.m.

This meeting will provide an opportunity for interested parties to discuss and ask questions about the proposal before the two-week comment period expires. Additionally, this date will allow interested parties time to read the proposal and develop questions.

For these meetings, Chicago DOE will continue to notify by e-mail and fax the same groups that were notified about the earlier meetings and any individuals who have attended any of the prior stakeholder meetings.

Stakeholder involvement will continue after the Final Project Agreement has been signed. In particular, there will be opportunities for stakeholders to comment with respect to the distribution of the emissions credits generated under this agreement. Chicago currently has a multi-step process for the redevelopment of a site and the distribution of credits and intends to use public hearings and comment periods. The City of Chicago will use its existing public comment processes for site development and distribution of the growth allowance credits. These processes may include hearings before the Community Development Commission, City Council, the Emissions Reduction Credit (E.R.C.) Committee, and the Zoning Board of Appeals.

The main venue for ongoing public involvement will be the City's existing Emissions Reduction Credit Banking and Trading Program, which will be the mechanism for disbursing credits from the growth allowance. The public will have an opportunity to comment during both the application and final approval phases for specific sources seeking to use the growth allowance.



All applications for emissions credits will be reviewed by the Emissions Reduction Credit (ERC) Committee. After receiving an application, the Committee must decide within 90 days whether or not to approve the application. Of this 90 days, the Committee must provide for a minimum of 30 days for public review and comment.

This requirement is codified in Section 11-4-575 (g)(3)(F) of the City of Chicago Municipal Code. This section of the Code requires the ERC Committee to maintain a management plan that will specify at a minimum:

“A process that provides citizens who may be affected by a proposed facility with reasonable notice and opportunity to provide comments to the E.R.C. committee at least 30 days before the committee makes a recommendation to the City Council that credits be awarded to a qualified applicant.”

It has been the practice of the ERC Committee to include a public hearing, along with the comment period, in the community where the new business seeks to locate.

After the ERC committee makes its recommendation, the matter then goes before the City Council for final approval. The Council must approve any transactions involving emissions reduction credits in the City. This process involves a required public hearing and comment period. Thus, stakeholders will have a second opportunity for involvement before final approval.

The Emissions Reduction Credit Management Plan requires that businesses applying for credits show proof of notification of all property owners within 500 feet of the facility or proposed facility where the credits will be used. In addition to this notification, DOE will continue to utilize the Clean Air Counts campaigns to alert people of activity with regard to this program. In addition, the DOE web site will contain information about applications to use the growth allowance as well as information about comment periods and public hearings for applicants.

In addition to the hearings and public comment periods provided for under the ERC Committee process, all redevelopments of a significant size in Chicago are required to go before the Community Development Commission (CDC) for review and approval. The CDC process includes a public hearing format. After approval by the CDC, redevelopment applications are forwarded to the City Council for hearing, review and approval. As with the distribution of credit, the City Council holds a hearing before its relevant subcommittee prior to the final vote of the Council. In addition, a site may require approval and hearing before other agencies such as the Zoning Board of Appeals and the Department of Environment which have public hearing and comment procedures.

Finally, existing permitting procedures for location or modification of a new source in the Chicago metropolitan area currently require the source to have a 30-day public comment period on the proposed construction permit. The community in which the project is proposed will receive notification of the project in a local newspaper of general circulation. This same procedure will apply here. Notices will also be sent to persons/groups in the community that have notified the

Illinois EPA that they wish to be aware of projects going to public notice in their community. There may also be a public hearing and/or public meetings for the proposed construction project based on the level of interest in the community.

Many opportunities will be provided on a continuing basis for community members and other interested stakeholders to comment on the distribution of credits generated under the guidelines of this agreement.

## Attachment A1

### Clean Air Communities Campaign Meeting July 13, 2000

#### Attendee List

<u>Name</u>	<u>Affiliation</u>
G. E. Beckstead	Illinois EPA
Megan Swanson	West Central Municipal Conference
Mindy Barrett	South Suburban Mayors and Managers Association
Leslie Hawkes	DuPage Mayors and Managers
Beth Helgeson	Dukane Valley Council
Dave Bennett	Northwestern Municipal Conference
Beth Penesis	The Delta Institute
Maya Culbertson	The Delta Institute
Tim Brown	The Delta Institute
Steve Schlickman	Schlickman and Associates
Steve Rosenthal	U.S. EPA
Joe Deal	City of Chicago Department of Environment
Bethany Wezeman	City of Chicago Department of Environment
Carla Clemons	U.S. DOE
John Novinson	Village of Northbrook
Alexandra Holt	City of Chicago Department of Environment
Rita Athas	City of Chicago Mayor's Office
Noelle Gaffney	Chicago Transit Authority
Steve Call	FHWA-USDOT
Doug Gerleman	Federal Transit

## Attachment A2

### Project XL: Metropolitan Chicago Regional Air Quality and Economic Development–Public Hearing July 24, 2000

#### Notification List

<u>Name</u>	<u>Affiliation</u>
William Abolt	City of Chicago Department of Environment
Alan Anderson	Will County Governmental League
Amy Anderson	Chicagoland Chamber of Commerce
Rita Athas	City of Chicago Mayor's Office
Mary Sue Barrett	Metropolitan Planning Council
Mindy Barrett	South Suburban Mayors and Managers Association
Mitch Beaver	Illinois Dept. of Commerce and Community Affairs
Dave Bennett	Northwest Municipal Conference
Scott Bernstein	Center for Neighborhood Technology
James Bower	Divine Interventures
Tim Brown	The Delta Institute
Peter Burchard	City of Naperville
Ron Burke	American Lung Association of Metropolitan Chicago
Steven Call	FHWA-U.S. DOT
James Cavallo	Argonne National Laboratories
Carla Clemons	U.S. DOE
Jane Clougherty	Center for Neighborhood Technology
Keary Cragan	U.S. EPA
Maya Culbertson	The Delta Institute
Michael Dierickx	Richard Oliver International
Donna Ducharme	The Delta Institute
Nancy Firfer	City of Glenview
Tim Fluck	DuPage Mayors and Managers Conference
Dick Forbes	Illinois EPA
Jim Ford	Northeastern Illinois Planning Commission
Douglas Gerleman	Federal Transit
Leslie Hawkes	DuPage Mayors and Managers Conference
Beth Helgeson	DuKane Valley Council
Henry Henderson	RCF Consulting
Erik Herzog	U.S. EPA
Alexandra Holt	City of Chicago Department of Environment
Norine Hughes	Office of Honorable Virginia Rugai, 19 <sup>th</sup> Ward Alderman
Robert Irvin	Village of Barrington
Alex Johnson	The Delta Institute

Judy Johnson  
Marta Keane  
Al Kennedy  
Hon. Dean Koldenhoven  
David Kramer  
Jolie Krasinski  
Frank Kruesi  
Henry Kurth  
Bob Lahey  
Dennis Lawler  
Vince Long  
Tara LoPresti  
Steve Marquardt  
Bharat Mathur  
L. Ann Mccabe  
Jen McGraw  
Patricia Morris  
Kay Nelson  
John Novinson  
Ed Paesel  
Ellen Partridge  
Al Patterson  
Matthew Payne  
Donald Peloquin  
Beth Penesis  
Albert Rigoni  
Jerry Roper  
Dan Rosenblum  
Steve Rosenthal  
Steve Rothblatt  
Eugene Ryan  
Steve Schlickman  
Craig Sieben  
Thomas Skinner  
Art Smith  
Vicki Smith  
Kevin Staniel  
Megan Swanson  
David Ullrich  
Jim Van der Kloot  
Tom Weisner  
Ken Westlake  
Chris Wilson  
Shane Winn  
Deanna Zalas

South Suburban Mayors and Managers Association  
City of Naperville  
City of Aurora  
Mayor, Palos Heights  
Illinois Dept. of Commerce and Community Affairs  
Openlands  
Chicago Transit Authority  
Illinois Dept. of Commerce and Community Affairs  
West Central Municipal Conference  
Illinois EPA  
City of Countryside  
Northwest Municipal Conference  
U.S. EPA  
U.S. EPA  
BP Amoco  
Center for Neighborhood Technology  
U.S. EPA  
North Indiana Center for Land Reuse  
Village of Northbrook  
South Suburban Mayors and Managers Association  
Chicago Transit Authority  
City of Joliet  
U.S. EPA  
City of Blue Island  
The Delta Institute  
Village of Skokie  
Chicagoland Chamber of Commerce  
Environmental Law and Policy Center  
U.S. EPA  
U.S. EPA  
Chicago Area Transportation Study  
Schlickman and Associates  
Sieben Energy Associates  
Illinois EPA  
NI Source  
Southwest Conference of Local Governments  
Chicago Transit Authority  
West Central Municipal Conference  
U.S. EPA  
U.S. EPA  
City of Aurora  
U.S. EPA  
Lake County Municipal League  
Northwest Municipal Conference  
Chicago Transit Authority

## Attachment A2

### Project XL: Metropolitan Chicago Regional Air Quality and Economic Development–Public Hearing July 24, 2000

#### Attendee List

<u>Name</u>	<u>Affiliation</u>
Alexandra Holt	City of Chicago Dept. of Environment
John Summerhays	U.S. EPA
Francisco Acevedo	U.S. EPA
David Kramer	IL DCCA
Joan Tanaka	U.S. EPA
Tim Torma	U.S. EPA
Rita Athas	City of Chicago Mayor's Office
David Daskal	City of Chicago Mayor's Office
Louise Gross	U.S. EPA - Office of Regional Counsel
Alex Johnson	Delta Institute
Carol Brown	City of Chicago Department of Environment
Joanna Hoelscher	Citizens for a Better Environment
Diane Bailey	Citizens for a Better Environment
Jen McGraw	Center for Neighborhood Technology
Steve Schlickman	Business Leaders for Transportation, Clean Air Counts BII Committee
Amy Anderson	Chicagoland Chamber of Commerce
Jane Clougherty	Center for Neighborhood Technology
Steve Marquardt	U.S. EPA
Joe Deal	City of Chicago Department of Environment
Bethany Wezeman	City of Chicago Department of Environment