

US EPA ARCHIVE DOCUMENT

[FRL-5321-8]

Notice of Disclosure of Confidential Business Information Obtained Under the Comprehensive Environmental Response, Compensation and Liability Act to EPA Authorized Representative Department of Toxic Substances Control, California Environmental Protection Agency

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for Comment.

SUMMARY: EPA hereby complies with the requirements of 40 CFR 2.310(h)(3) for notice of disclosure to its authorized representative, the Department of Toxic Substances Control ("DTSC"), California Environmental Protection Agency, Superfund confidential business information ("CBI") which has been submitted to EPA Region 9, Hazardous Waste Management Division, Office of Superfund Programs.

DATES: Comments may be submitted until November 13, 1995.

ADDRESSES: Comments should be sent to: Kim Muratore (H-7-4), Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Kim Muratore, Office of Superfund Programs, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-2373.

NOTICE OF REQUIRED DETERMINATIONS, PROVISIONS, AND OPPORTUNITY TO COMMENT:

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ["CERCLA"], as amended, (commonly known as "Superfund") requires the establishment of an administrative record upon which the President shall base the selection of a response action. CERCLA also requires the maintenance of many other records including those relevant to cost recovery. EPA has granted authorized representative status to the State of California Department of Toxic Substances Control, California Environmental Protection Agency. Pursuant to 40 CFR 2.310(h)(3), a state or local governmental agency which has duties or responsibilities under CERCLA or its regulations may be considered an authorized representative of the United States for purposes of disclosure of confidential information and may be furnished such information upon written request if:

(i) The agency has first furnished to the EPA office having custody of the information a written opinion from the agency's chief legal officer or counsel

stating that under applicable state or local law the agency has the authority to compel a business which possesses such information to disclose it to the agency, or

(ii) Each affected business is informed of those disclosures under this paragraph (h)(3) which pertain to it, and the agency has shown to the satisfaction of an EPA legal office that the agency's use and disclosure of such information will be governed by state or local law and procedures which will provide adequate protection to the interests of affected businesses.

Pursuant to 40 CFR 2.310(h)(4), at the time any information is released to a state or local government pursuant to paragraph 2.310(h), EPA must notify the state or local government that the information may be entitled to confidential treatment and that any knowing and willful disclosure of the information may subject the state or local government and its employees to penalties in section 104(e)(2)(B) of CERCLA.

EPA has determined that DTSC has satisfied the requirements of subparagraph 40 CFR 2.310(h)(3)(ii) that the agency demonstrate to the satisfaction of EPA that the agency's use and disclosure of such information will be governed by state or local law and procedures which will provide adequate protection to the interests of affected businesses.

EPA hereby advises affected parties that they are informed of potential disclosures to DTSC under paragraph (h)(3), and that they have ten working days to comment pursuant to 40 CFR 2.301 (h)(2)(iii), incorporated by reference into 40 CFR 2.310 (h)(2). Comments should be sent to: Environmental Protection Agency, Region 9, Kim Muratore (H-7-4), 75 Hawthorne Street, San Francisco, CA 94105.

Dated: October 19, 1995.

Keith Takata,

Deputy Director for Superfund Hazardous Waste Management Division, EPA, Region 9.

[FR Doc. 95-27071 Filed 10-31-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5322-9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of proposals and request for Comment.

SUMMARY: Today, EPA is announcing the XL Community Pilot Program to

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

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

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

DATES: The period for submission of proposals will begin on November 1, 1995 pursuant to the Information Collection Request (ICR No. 1755.2) approved by the Office of Management and Budget (OMB Approval No. 2010-0026) under the Paperwork Reduction Act. This will be an open solicitation with no set end date. Project sponsors wishing to be considered for these pilots should submit proposals in response to this Federal Register Notice. EPA will take proposals on a rolling basis for selection of a limited number of pilots. Prior to the end of 1995, EPA plans to

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

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

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

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

Description of the Program

Through the XL Community Pilot Program, EPA will respond to requests for regulatory flexibility to support local communities' efforts to create innovative, alternative environmental management strategies that are supportive of community economic goals. To this end, EPA is inviting proposals from local entities capable of demonstrating alternative approaches for achieving greater environmental results than would have been obtained under existing approaches to environmental protection. Ideally, XL community pilot projects should be consistent with and help to establish long-range community environmental goals and bring together groups such as

facilities, community organizations, and governments at all levels to achieve the goals of greater environmental quality consistent with economic development. As such, proposals that demonstrate the greatest support from community stakeholders and are consistent with a broader community vision or plan will be given preference in the selection process.

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

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

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

Selection Process

EPA will screen proposals submitted in response to this notice (considering the criteria listed below) to select those that do the most to advance the purposes of this program, and will then work cooperatively with a subset of the applicants to further refine proposals, as necessary. The Agency retains the ultimate authority to select projects based on a qualitative consideration of these criteria. Given the pilot nature of the program, and the limited number of projects that will be selected, proposals that satisfy many or all of the criteria may not be selected if, in the Agency's

judgment, other proposed projects better serve the objectives of the program. Moreover, no person is required to submit a proposal or obtain approval as a condition of commencing or continuing a regulated activity. Accordingly, there will be no formal administrative review available for proposals that are not selected, nor does EPA believe there will be a right to judicial review. Although EPA will work with the most promising applicants, the ultimate responsibility for developing detailed project plans will be with the project proponents. Proposals not chosen may be referred for additional review to other EPA programs which have other community-based activities underway or may be deferred for development at a later time.

Final Project Agreements

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

phase of the program involves implementation, monitoring and evaluation of the agreement terms.

Project Selection Criteria

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

I. Environmental Results

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

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

EPA encourages proposals for projects that will build, support, and promote cooperation among citizens, businesses, government, and non-profit organizations at the community level for the purposes of formulating effective environmental strategies and economic sustainability. Project proposals that incorporate processes for building and supporting a framework for community participation will be given greater consideration. Project proposals should

at a minimum identify key stakeholders for the project, drawn from affected sectors of the community. Depending on the nature of the project, stakeholders will likely include one or more of the following: Local government agencies; members of environmental and other public interest groups; businesses in the community; community development corporations; citizens or officials from communities near or adjacent to the project; or other affected people or entities. Where available, project proposals should present evidence of support from key stakeholders including partnerships with individuals, community groups, and regulated entities.

III. Economic Opportunity

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

IV. Feasibility

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

V. Transferability

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

VI. Monitoring, Reporting and Evaluation

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

VII. Equitable Distribution of Environmental Risks

The project should not subject anyone to unjust or disproportionate environmental degradation. Implementation of project proposals should not significantly transfer

pollution to, or add to environmental degradation of, a jurisdiction outside of a project area. Additionally, project proposals that lessen the burden of environmental degradation to people and places that have traditionally shouldered a disproportionate share of the burden will be given greater consideration.

VIII. Community Planning

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

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

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

X. Enforcement and Compliance History

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

Relationship of XL Community Pilots to Other Community-Based Reinvention Efforts

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

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

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

A third reinvention initiative, the Sustainable Development Challenge Grant Program will be announced in a Federal Register Notice later this year. For information on the Sustainable Development Challenge Grant Program

contact the Office of Regional Operations and State and Local Relations; 202-260-4719.

Legal Mechanisms for Pilot Projects

EPA will seek to use a variety of administrative and compliance mechanisms to provide regulatory flexibility where necessary for final project agreements. Regulatory flexibility will be conditioned on the pilot project meeting the alternative requirements specified in the project plan. In particular circumstances, EPA may consider changes in underlying regulations or may seek changes in underlying statutes. EPA recognizes that these questions raise issues of importance both to the Government and to potential participants in pilot projects that seek regulatory flexibility. Applicants are invited to present EPA with proposed approaches tailored to provide the flexibility for their pilot projects.

Request for Comment on Pilot Program

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

Paperwork Reduction Act

The information collection provisions in this Notice, for solicitation of proposals, have been approved by the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* (ICR No. 1755.2 and OMB Approval No. 2010-0026). Copies of the ICR (ICR No. 1755.2) may be obtained from Sandy Farmer; U.S. Environmental Protection Agency; Information Policy Branch, Mail Code 2136; 401 M Street, S.W.; Washington, D.C. 20460; or by calling (202) 260-2740. Public reporting burden for this collection of information is estimated to total 133,800 hours annually for all respondents combined, and an additional 27,760 hours annually for all co-regulators combined. These estimates cover all information burdens associated with Project XL including application, selection, development of Final Project Agreement, tracking of project progress, determination of bottom-line environmental results, evaluation of project outcome, and all information required by Project XL for these activities.

Dated: October 26, 1995.

Fred Hansen,

Deputy Administrator.

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[FRL-5324-2]

Meetings of the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meetings.

SUMMARY: The United States Environmental Protection Agency (USEPA) is announcing a meeting of the Grand Canyon Visibility Transport Commission (Commission) and meetings of its Communications Committee, Operations Committee, and Public Advisory Committee.

The Commission will meet from 10:00 AM to 12:00 NOON on Wednesday, November 15, 1995, at the Fountain Suites Hotel, 2577 West Greenway Road, Phoenix, Arizona. Agenda items will include a presentation of Options for Western Vistas, the draft evaluation of the Commission's emissions management scenarios, a report from the Operations Committee on adequacy of the Commission's organizational structure and the completeness of its analytical approach, and an election of Commission officers.

The Operations Committee will meet in conjunction with the Commissioners' meeting from 8:30 AM to 9:30 AM, and from 1:00 PM to 5:30 PM on Wednesday, November 15, 1995, at the Fountain Suites Hotel, 2577 West Greenway Road, Phoenix, Arizona. During the morning meeting the Committee will prepare for the Commissioners' meeting, and during the afternoon it will plan implementation of Commission actions.

The Communications Committee will meet from 10:00 AM to 8:00 PM on Tuesday, November 14, 1995 at the Fountain Suites Hotel, 2577 West Greenway Road, Phoenix, Arizona. The agenda will include facilitator training for the public meetings being held by the Commission in late November and early December 1995.

The Public Advisory Committee will meet from 8:30 AM on Thursday, November 16 to 5:00 PM on Friday, November 17 at the Fountain Suites Hotel, 2577 West Greenway Road, Phoenix, Arizona. The meeting will include a review of *Options for Western Vistas*, the draft evaluation of the Commission's emissions management scenarios, and preparations for the