FINAL PROJECT AGREEMENT

US FILTER RECOVERY SYSTEMS

XL PROJECT

September 21, 2000

Table of Contents

I. Introduction to the Agreement

A. Brief Project Description and Purpose

The goal of this project is to improve the quality and management of process waters and recycling of F006 sludges by encouraging the use of ion exchange waste water treatment technology. Ion exchange resins contaminated with wastewaters from electroplating and similar operations are considered a listed hazardous waste (F006) under the Resource, Conservation and Recovery Act, 40 U.S.C. Section 6901 *et seq.* (RCRA) Minnesota hazardous waste rules, Minn. R. ch. 7045, and county hazardous waste ordinances. Therefore, management of these resins is subject to all RCRA, state and county hazardous waste regulations. By providing regulatory flexibility from these regulations, the parties to this Agreement hope to: 1) encourage conservation of potable water; 2) encourage better metals recovery through waste segregation and use of ion exchange columns; 3) reduce energy and other costs associated with water treatment; and 4) reduce cost to generators for record-keeping, manifesting and transportation of this F006 waste.

The U.S. Environmental Protection Agency (EPA), with the cooperation of the State and local authorities, has initiated Project XL to work with interested companies or other potential Project Sponsors to develop innovative approaches to environmental protection. Project XL 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.

B. Description of the Facility and Facility Operations/Community/Geographic Area

U.S. Filter is a leading global provider of industrial and municipal water and wastewater treatment systems, products and services. The Roseville facility, U.S. Filter Recovery Systems (USFRS) is in the business of treating inorganic industrial waste, and whenever technically and economically feasible, USFRS recovers the chemicals or minerals from the received wastes for recycling and reuse. Roseville is a suburb centrally located between the cities of Minneapolis and St. Paul. As part of this Project, USFRS will service the metal finishing industry which generate an ion exchange resin that carries the F006 hazardous waste definition. The metal finishing industry includes, but is not limited to: chemical etching and milling, printed circuit board manufacturing, coating, electroplating, anodizing, and electroless plating. For the shipment of XL waste, USFRS will use only approved transporters that maintain a US DOT "Satisfactory" rating. USFRS will also present all transporter selections to the appropriate agencies for their approval prior to use.

C. Purpose of the Agreement

This Final Project Agreement ("the Agreement" or "FPA") is a joint statement of the plans, intentions and commitments of the U.S. Environmental Protection Agency (EPA), the Minnesota Pollution Control Agency (MPCA), and USFRS to carry out this pilot Project approved for implementation at the USFRS facility in Roseville, Minnesota and at approved customers and transporters of the wastes subject to this FPA. This Project will be part of 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, they are not legally obligated to do so. Federal and State flexibility and enforceable commitments described in this Agreement will be implemented and become effective through a site-specific rule described in Section X, and issuance of a regulatory relief mechanism (such as a variance or state XL permit) by the MPCA to USFRS for its Roseville, Minnesota facility and the approved generators and transporters.

All parties to the 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. Parties to the Agreement

The Parties to this Agreement are the United States Environmental Protection Agency (EPA), U.S. Filter Recovery Systems (USFRS), and the Minnesota Pollution Control Agency (MPCA), Pioneer Tank Lines Inc, and the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

E. Project Contacts

George Anderson, Director of Environmental Compliance and Safety
USFRS

Sandra Panetta, Project Manager
EPA, Headquarters

Bob Egan, Project Manager
EPA, Region 5

Joe Carruth, Project Manager

II Description of the Project

A. Summary of the Project

The USFRS XL project addresses metal finishing, electroplating and similar operations. In most of these manufacturing processes today, wash and rinse water is used once, then treated on-site and discharged to a publicly owned treatment works (POTW) or surface water pursuant to the Clean Water Act (CWA). Metal sludges are typically land disposed off-site. USFRS proposes to install an ion exchange resin system at certain approved customers' facilities that treats waste water with ion exchange, making it available for reuse. The resin system consists of ion exchange canisters and related filters that USFRS would install on the customer's process lines that contain wastewaters. The deionization process causes the metals in the waste water to adhere to the resin material in the canister, rendering the water acceptable for reuse. The water can then be reused in the customer's process lines or discharged to the local POTW. USFRS would collect the spent ion exchange canister containing the metals and related filters, replace the spent canister with a fresh one at the generator facility, and treat to regenerate the spent resin at USFRS' facility. Storage of the canisters and filters on site would be limited to 90 (ninety) days. There would be no long-term storage of spent canisters at a generator facility. Recovered acid and hydroxide from resin regeneration can be reused at USFRS, and the resulting metal sludge will be recovered for reuse by a secondary metals recovery company.

USFRS also has customers who may be interested in using the ion exchange canisters to treat their wastewater even though they are unable to reuse the cleaned water in their processes. These customers may also participate in this XL Project if the resulting metal sludge from USFRS' resin regeneration process is sent to USFRS for recycling by a secondary metals recovery company. These customers may also participate in this XL Project if: 1) they send the resin canisters and filters to USFRS, and 2) the resulting metal sludge from its resin regeneration process and the customers' filters are sent by USFRS for recycling to a secondary metals recovery company.

The resin in the USFRS customer's ion exchange column and the filters would be typically considered a listed hazardous waste (F006) under RCRA if the customer's waste streams include wastewater from electroplating or other similar operations. F006 resins and filters are regulated under RCRA's reporting, storage and transportation requirements. Under current RCRA regulations, taking advantage of recycling and recovery opportunities may trigger certain

requirements for USFRS' customers (including generator requirements related to on-site accumulation, reporting and tracking). USFRS proposes that alternative waste management requirements will be less costly and believes that the removal of certain RCRA regulatory requirements will encourage its potential customers to pursue legitimate recycling of their waste streams rather than continuing to dispose of them by direct discharge to the local POTW or by pretreating prior to discharge with land disposal of sludge. Regenerated resins would be "rented" back to the customers for on-site use, water would be reused by the customer, and residual metals sent out by USFRS for recovery and reuse in other industrial processes.

USFRS and its customers would comply with requirements, enforceable through either a site-specific rule or an equivalently approved state mechanism, that are as protective of public health and the environment as the RCRA requirements that would otherwise be applicable. Additionally, USFRS will be required to retain and submit certain reports which RCRA would normally require of its customers, recycle the metals from its treatment of the resins, and report ongoing environmental performance and efforts to meet the targets listed in Section III A, in accordance with Attachment A of this Agreement.

The MPCA will issue USFRS a regulatory relief mechanism (such as a variance or state XL permit) incorporating required elements of this program. The MPCA has indicated that it anticipates issuing general permits to the generators and transporters under its XL statute. It will seek RCRA authorization from EPA for those general permits. EPA has agreed to expedite the review of that request for authorization. MPCA also plans to amend USFRS' RCRA permit to incorporate the changes required by this Project.

B. Description of Project Elements

The following 20 project elements describe the elements of the site-specific rule, 40 CFR Part 266, subpart N, that will detail the standards for the management of USFRS XL wastes, the USFRS facility, and its customers' facilities. The site-specific rule will impose requirements on USFRS and approved USFRS XL waste generators and transporters and will contain provisions regarding participant approval procedures, waste identification and handling, accumulation and storage of waste, releases and closure, termination, and record keeping and reporting. The project elements described below are presented in terms of the federal site-specific rule for ease of reference. They must be adopted in a legally acceptable form by the State of Minnesota before they can be implemented.

Project Element #1. Purpose, scope, and applicability.

The purpose of the new subpart N is to implement the U.S. Filter Recovery Services (USFRS) eXcellence in Leadership (XL) Project. Any person who is a USFRS XL waste generator or transporter must handle the USFRS XL waste in accordance with the requirements contained within the new subpart N. The standards and requirements of the new subpart N also apply to USFRS and its facility located at 2430 Rose Place, Roseville, Minnesota. These requirements are imposed on USFRS in addition to any requirements contained in its RCRA hazardous waste permit or other applicable state or federal law. USFRS XL waste generators and transporters are not required to comply with the requirements of 40 CFR 261.5, parts 262-266 (except the new subpart N) 268, 270, 273 and 279 provided they manage USFRS XL waste in compliance with the requirements of the new subpart N.

Project Element #2. Procedures for adding persons as generators to EPA's USFRS XL Project.

(a) Any person who wishes to participate in the USFRS XL Project as a generator must obtain the approval of the EPA and the Minnesota Pollution Control Agency (MPCA). The approval of the County Agency is also required if that person will generate USFRS XL waste at a location in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington, Minnesota. The procedures identified in the site-specific rule are to be followed to obtain EPA approval to add a person to the federal USFRS XL Project. USFRS and a proposed generator must also comply with the procedures identified by the MPCA, and appropriate County Agencies. A person may not be added to the federal USFRS XL Project unless it has the approval of EPA, MPCA and as appropriate the County Agencies.

(b) USFRS is the only entity which may propose to add a person as a generator to the USFRS XL Project. USFRS may propose to EPA to add persons to the USFRS XL Project at any time provided, USFRS complies with the requirements of the site-specific rule. Prior to being considered a USFRS XL waste generator, a person must first be approved as a USFRS XL waste approved customer. Only a USFRS XL waste approved customer may become a USFRS XL waste generator. A person becomes a USFRS XL waste generator after it first generates or causes USFRS XL waste to be regulated.

(c) USFRS will conduct a preliminary evaluation of any person it wishes to propose to EPA to add to the USFRS XL Project as a generator. USFRS will complete this preliminary evaluation prior to proposing to EPA to add such a person to the USFRS XL Project. The preliminary evaluation will consist of the following activities: USFRS will require any person who wishes to become a

USFRS XL waste generator to complete and sign the USFRS XL Waste Application Form; USFRS will complete the waste characterization required by 40 CFR 266.306(b); USFRS will evaluate the person's storage area for the USFRS XL waste to determine whether it meets the standards of the new subpart N; and USFRS will provide the person with a copy of the USFRS XL waste MSDS, FPA and training module.

(d) After successfully completing the activities identified in paragraph (c) above, USFRS will provide EPA with the name and such other information as the Agency may require to determine if a person may participate in the USFRS XL Project as a generator. USFRS will propose for inclusion into the USFRS XL Project only those person(s) whose wastes are compatible with the ion exchange resin process and canisters and whose storage area meets the standards in the new subpart N. EPA's approval shall be effective within twenty one days of EPA's receipt of USFRS's written notice proposing to add a person to the USFRS XL Project unless EPA, within that time period, provides USFRS with a written notice rejecting such person.

(e) After securing the approval of EPA, MPCA and the County Agencies, USFRS shall notify the person it proposed to add to the USFRS XL Project in writing that it is approved for participation in the USFRS XL Project. USFRS will assign to that person a unique client number and waste profile number for each waste stream approved for this XL project. USFRS will obtain from that person a copy of the signed USFRS XL waste FPA and a certification that it has read and agrees to follow the USFRS XL waste training module. USFRS shall also ensure that as part of this certification the approved customer identifies its contact person as required by 40 CFR 266. 308(h). Upon request by EPA, USFRS will provide EPA with a copy of the signed documents or other documents it requests.

(f) USFRS will accept USFRS XL waste only from those persons who have received the approval of EPA, MPCA and, as appropriate, the County Agencies and who have signed the USFRS XL Project FPA and the certification identified in subparagraph (e) above. A person's participation in this USFRS XL Project is effective after EPA, MPCA and, as appropriate, the County Agency approve of them and on the date that USFRS receives the signed USFRS XL waste FPA and certification. At that time the person is a USFRS XL waste approved customer. A USFRS XL waste approved customer becomes a USFRS XL waste generator when it first generates or causes USFRS XL wastes to be regulated. A USFRS XL waste generator must handle all USFRS XL wastes generated after the effective date of it being added to the USFRS XL Project in accordance with the provisions of the new subpart N. USFRS XL waste that is generated prior to this date is not subject to the new subpart N and it must be handled according to the appropriate hazardous waste characterization for that waste, (e.g.. F006 and any

other applicable waste code).

(g) USFRS will require a USFRS XL waste approved customer and generator to update the USFRS XL waste application form prior to adding to or modifying the waste streams or processes identified on its initial USFRS XL waste application form. USFRS will notify EPA, MPCA and as appropriate, the County Agencies whenever a customer or generator notifies USFRS that it has or will add or modify waste streams or processes. EPA will notify USFRS if any further EPA approvals are required.

Project Element # 3. Procedures for adding persons as transporters to EPA's USFRS XL Project.

(a) Any person who wishes to participate in the USFRS XL Project as a transporter must obtain the approval of the EPA and the MPCA. The approval of the County Agencies is also required if that person's principal place of business is located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington. The procedures identified in this rule are to be followed to obtain EPA approval to add a person as a transporter to the federal USFRS XL Project. USFRS and a proposed transporter must also comply with the procedures identified by the MPCA, and as appropriate the County Agencies. A person may not be added to the federal USFRS XL Project unless it has received the approval of EPA, MPCA and as appropriate the County Agencies.

(b) USFRS is the only entity which may propose to EPA to add a person as a transporter to the USFRS XL Project.

(c) USFRS and Pioneer Tank Lines are approved USFRS XL waste transporters. USFRS may propose to EPA to add other persons as USFRS XL waste transporters provided USFRS complies with the requirements of this section. USFRS will conduct a preliminary evaluation of any person who it proposes to add as a USFRS XL waste transporter. As part of that preliminary evaluation USFRS will ascertain whether the transporter has a valid EPA identification number, a valid Minnesota hazardous materials registration ("Minnesota registration") and a satisfactory safety rating from USDOT within the last year.

(d) After successfully completing the activities identified in paragraph (c) above USFRS will provide EPA with the name of the transporter, the unique USFRS client identification number for the transporter, the results of its preliminary evaluation identified in paragraph (c) above and other information as EPA may require to determine if that person may participate in the USFRS XL Project. USFRS will propose for inclusion into the USFRS XL Project only those person(s) who have a satisfactory safety rating from USDOT. EPA's approval shall be

effective within twenty one days of its receipt of USFRS's written notice proposing to add a person to the USFRS XL Project unless EPA, within that time period, provides USFRS with a written notice rejecting such person.

(e) After receiving the approval of EPA, MPCA and as appropriate the County Agencies USFRS shall notify the person in writing that it is approved for participation in the USFRS XL Project. USFRS will obtain from that person a copy of the signed USFRS XL waste FPA and a certification that it has been trained by USFRS on the proper handling of USFRS XL wastes and understands its responsibilities under the new subpart N.

(f) USFRS will allow only USFRS XL approved transporters to transport USFRS XL wastes. A person's participation in this USFRS XL Project is effective after it receives the approval of EPA, MPCA and the County Agencies, as appropriate, and on the date that USFRS receives the signed USFRS XL waste FPA and certification. A USFRS XL waste approved transporter becomes a USFRS XL waste transporter when it first transports or accepts for transport USFRS XL waste.

(g) USFRS will require a USFRS XL waste approved transporter or USFRS XL waste transporter to notify it of any change in its rating from USDOT, its Minnesota registration or its EPA identification number. USFRS will notify EPA, MPCA and, the appropriate County Agencies in writing of any such changes. EPA will notify USFRS in writing of any additional information or steps that may be required as a result of such changes.

Project Element #4. USFRS requirements related to the development, use and content of USFRS XL Waste Training Module.

(a) USFRS will develop, implement and maintain a USFRS XL Waste Training Module. USFRS will provide this training module to every person who applies for participation in the USFRS XL Project. USFRS may use any recorded communication media that is appropriate for communicating the requirements of the new subpart N (e.g., printed brochures, videos, etc.).

(b) The Training Module will, at a minimum, identify the hazards presented by the USFRS XL waste: for generators, explain how to handle the installation and replacement of the ion exchange resin canisters and pre and post-resin filters; and explain the requirements imposed on the generator or transporter pursuant to this part.

(c) USFRS shall submit this training module to EPA for approval prior to accepting the first shipment of USFRS XL wastes.

Project Element #5. USFRS requirements relative to the development, use and content of USFRS XL waste MSDS.

USFRS will develop a material safety data sheet (MSDS) for the USFRS XL waste. For ease of reference this form shall be referred to as the USFRS XL waste MSDS. (USRFS may call this form by a different name provided it has the information required by this project element.) USFRS will provide a copy of this MSDS to every person who applies for participation in the USFRS XL Project. USFRS will ensure that the MSDS prominently instructs individuals in the proper handling and emergency response procedures for spills or leaks of the USFRS XL wastes.

Project Element #6. Waste characterization.

(a) Submission of USFRS XL Waste Application Form by USFRS XL Waste Generator. A person who proposes to participate in the USFRS XL Project as a generator of USFRS XL wastes must properly identify the wastes and processes which contribute to the production of the USFRS XL waste at its company. For the purposes of the new subpart N it shall identify only those waste streams which meet the F006 listing and shall identify them on the USFRS XL waste application form. It shall complete and submit to USFRS the USFRS XL Waste Application Form. It shall update and submit to USFRS the XL Waste Application prior to changing any process which contributes to the USFRS XL waste it generates.

(b) USFRS Waste Profile Analyses. For any person which USFRS proposes to add to the USFRS XL Project as a generator, USFRS will perform a waste profile analysis of the waste stream(s) and process(es) which will contribute to the USFRS XL waste at that company. USFRS will update such analyses whenever a USFRS XL waste generator notifies USFRS of a change or modification to its waste stream or process contributing to its USFRS XL waste. USFRS will include in the waste profile analysis a complete chemical analysis of the waste stream(s) and a determination of its compatibility with the ion exchange resin process and canisters. USFRS shall complete such analysis in accordance with the testing methods identified in the waste analysis plan contained within its RCRA hazardous waste permit. USFRS shall assign to each generator a unique customer identification number and waste profile number.

Project Element #7. USFRS XL Waste Identification and Handling.

(a) USFRS XL waste will be denoted by the hazard waste code XL001 while it is handled by the USFRS XL waste generator or transporter. At the USFRS facility, the USFRS XL waste will be denoted by the waste code(s) it would have had at the generator but for its characterization as USFRS XL waste (i.e., F006 and any

other applicable characteristic waste code). USFRS and others who may receive residuals from the USFRS XL waste will handle the USFRS XL waste and residuals according to the wastes code(s) it would have had at the generator (i.e., F006 and the appropriate characteristic hazardous waste code) and not according to the XL001 designation. USFRS shall handle the USFRS XL waste at its facility in accordance with its State issued RCRA hazardous waste permit and any applicable federal requirements.

(b) USFRS may not accept any customers into this Project unless and until it has arranged for recycling of the metals contained in the XL001 wastes it receives. USFRS shall continue to recycle the metals contained in the XL001 waste it receives throughout the duration of the XL Project.

(c) USFRS shall identify a spill response coordinator at its facility. This person shall be responsible for coordinating the proper response to any spill, leaks or emergencies of USFRS XL wastes at the generator or during transport. He will also be responsible for receiving the calls from the generators and transporters required by the new subpart N for such spills, leaks or emergencies.

Project Element #8. Accumulation and storage prior to off-site transport.

A USFRS waste generator may store its USFRS XL waste on-site for less than 90 days, provided it complies with the following:

(a) Condition and use of containers. Except as provided in paragraph (e) below, the USFRS waste generator will store the USFRS XL waste in the USFRS water treatment resin canisters and filter containers. At the time it places the resin canisters or filter containers in storage it will ensure that they are disconnected from any processes and are sealed. It will ensure that the USFRS XL wastes are not mixed with other solid wastes. It will affix to the canisters and filter containers a warning statement containing the information presented in subparagraph (c) below.

(b) Condition of storage area. It will store the USFRS XL waste on an impervious surface. The USFRS waste generator will store the USFRS XL waste separately from other wastes or materials and will ensure that there is adequate aisle space to determine the condition of the USFRS XL waste and to notice and respond to any leaks of USFRS XL waste.

(c) Pre-transport requirements. It will place the following warning statement prominently on the USFRS XL waste *XL001 wastes–USFRS ion exchange resin process wastes- Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste*

and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). If found, contact USFRS and the nearest police, public safety authority, EPA or MPCA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number_____" If spilled immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.

(d) Inspections. The USFRS waste generator will inspect the condition of the USFRS XL waste weekly while it is in storage at its company. It will maintain a log of these inspections. The log will indicate the date the USFRS XL waste was placed in storage, the condition of the water treatment resin canister and filter container at that time, the date(s) of the inspection, the person conducting the inspection, and the condition of the water treatment resin canisters and filter containers and the storage area at the time of the inspection.

(e) Response to spills or leaks. The USFRS waste generator will immediately contain and collect any spill or leak of USFRS XL wastes. It will orally notify USFRS, and the duty officer at MPCA (Non-metro: 1-800-422-0798; Metro: 651-649-5451) within 24 hours of discovery of the spill or leak. It will place any spilled or leaked materials in an appropriately sized polycontainer compatible with the USFRS XL wastes and comply with the requirements of paragraphs (a) to (c) above. It will arrange with USFRS for the disposal of that spilled or leaked material with the next shipment of USFRS XL wastes from its company. If allowed by the local POTW it may discharge any leaked or spilled water to its permitted drainage system. Otherwise, such waters will be sent to USFRS.

(f) Decontamination of storage area. The USFRS waste generator will decontaminate all areas, equipment or soils used for or contaminated with USFRS XL waste no later than the dates provided in section §§266.312, 266.314 and 266.315.

(g) USFRS XL Waste MSDS. It shall maintain and exhibit in a prominent location the USFRS XL waste MSDS. It shall provide a copy of the USFRS XL waste MSDS to all local entities responsible for responding to releases of hazardous materials or wastes, (e.g., local police and fire departments, hospitals, etc.). It shall retain documentation of its efforts to comply with this subsection (g).

(h) Contact person. No later than the date that it signs the FPA it will designate to USFRS a person who is responsible for handling its USFRS XL waste and its

compliance with the new subpart N. That person shall complete training for the proper handling of USFRS XL waste and shall certify that he has read and understands the requirements imposed by the new subpart N and the USFRS XL waste training module. That person shall also be responsible for responding to spills or leaks at the generator.

(i) Communication devices. It shall have an operating communication device (e.g., telephone, alarm, etc.) which allows the contact person to notify the appropriate state, local and federal officials and local hospitals and company personnel in case of an emergency.

Project Element #9. USFRS XL waste transporter pre-transport requirements.

A USFRS XL waste transporter will ensure that the USFRS XL waste is within an approved container which prominently displays the following warning statement: *XL001 wastes–USFRS ion exchange resin process wastes-- Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). If found, contact USFRS and the nearest police, public safety authority, MPCA or EPA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number_____" If spilled immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.*

Project Element #10. USFRS XL Waste Transport and Transportation Tracking Document.

A USFRS XL Transportation Tracking Document and USFRS XL Waste MSDS will accompany every shipment of USFRS XL waste from a USFRS XL waste generator off-site. Each resin canister and filter container will have the warning statement required by §§266.308(c) and 309 affixed to it. USFRS, and the USFRS XL waste generator and transporter shall comply with the following requirements:

(a) USFRS. USFRS will require each USFRS XL waste generator to contact USFRS to arrange for the transportation of the USFRS XL waste. USFRS will contact and use only USFRS XL waste transporters to transport the USFRS XL waste. USFRS will require that the USFRS XL waste transporter pick-up the USFRS XL waste prior to the expiration of the storage time limit provided to the

generator pursuant to §266.308. USFRS will complete and send the Transportation Tracking Document and warning statement identified in §§266.308(c) and 309 with the transporter to the USFRS XL waste generator. USFRS will include on the Transportation Tracking Document all information EPA determines is required to comply with the new subpart N. USFRS will direct the USFRS XL waste transporter to ship the USFRS XL waste to its facility at 2430 Rose Place, Roseville, Minnesota within 30 days of its pick-up from a USFRS XL waste generator. If a shipment is not received within 30 days, USFRS will contact the transporter to determine the disposition of the load. If USFRS does not receive the shipment within 5 days of its scheduled arrival date, it will notify EPA, MPCA, the USFRS XL generator and as appropriate the County Agencies. USFRS will send a copy of the Transportation Tracking Document to the USFRS XL waste generator within 10 days of USFRS' receipt of the XL001 waste from the transporter.

(b) USFRS XL waste generators. A USFRS XL waste generator must contact USFRS for the off-site transport, treatment, storage or disposal of USFRS XL wastes. A USFRS waste generator will use only a USFRS XL waste transporter to transport the USFRS XL waste to the USFRS Roseville, Minnesota facility located at 2430 Rose Place. It must verify the accuracy of the USFRS XL Waste Transportation Tracking Document and warning statement, make any corrections to them that are necessary and sign the Transportation Tracking Document. It must affix the warning statement to each resin canister and filter container and provide a copy of the USFRS XL Waste Transportation Tracking Document and USFRS XL waste MSDS to the USFRS XL waste transporter at the time it provides the transporter with the USFRS XL waste.

(c) USFRS XL waste transporter. A USFRS XL waste transporter shall verify the accuracy of the information contained on the USFRS XL Waste Transportation Tracking Document and on the warning statement. It shall sign and date the USFRS Transportation Tracking Document for each shipment of USFRS XL waste it transports and carry it with each shipment that it carries. It shall carry the USFRS XL waste MSDS with each shipment. It shall pick-up each shipment of USFRS XL waste prior to the expiration of the storage time limit provided to the generator pursuant to §266.308. It shall deliver each shipment of USFRS XL waste to the USFRS Roseville, Minnesota facility located at 2430 Rose Place within 30 days of it being picked-up at a USFRS XL waste generator. A USFRS transporter may store USFRS XL waste for no more than 10 days at a transfer facility without being subject to regulation under 40 CFR parts 270, 264, 265 and 268 for the storage of those wastes.

Project Element #11. Releases of USFRS XL waste during transport.

In the event of a release of USFRS XL waste during transportation, a USFRS XL waste transporter must take appropriate immediate action to protect human health and the environment, including preventing the spilled material from entering a water system or a water body. The USFRS XL waste transporter also must comply with the provisions of subpart 263.31. The USFRS XL waste transporter will contact USFRS and the nearest police, public safety authority, EPA or MPCA, provide any emergency responder with a copy of the USFRS XL waste MSDS, handle the spilled material in accordance with the USFRS XL waste MSDS and the direction of any governmental entity charged with emergency response authority and transport any spilled USFRS XL waste and contaminated soils or equipment to the USFRS facility located at 2430 Rose Place, Roseville, Minnesota in an appropriately sized polycontainer compatible with the wastes.

Project Element #12. USFRS XL Waste Generator Closure.

(a) Generator responsibilities. At the time of termination of a USFRS XL generator's participation in the USFRS XL Project, the USFRS XL waste generator will disconnect its process(es) from the water treatment resin canisters and filter containers; implement the alternative treatment or disposal required by subpart 266.313 of the site-specific rule; arrange for the off-site transport to USFRS of all USFRS XL waste that it has in storage; properly decontaminate any area used for storage of its USFRS XL waste and any equipment or soils contaminated by such USFRS XL waste; and document its efforts to comply with this closure requirement.

(b) USFRS responsibilities. Prior to termination of a USFRS XL waste generator's participation in the USFRS XL Waste Project USFRS will remove all of the USFRS XL waste in the generator's storage area. USFRS will inspect the USFRS XL waste generator to determine if all USFRS XL wastes have been removed and to document the condition of the USFRS XL waste storage area. USFRS will provide a written summary to the customer, EPA, MPCA and as appropriate the County Agencies of its evaluation pursuant to the site-specific rule.

Project Element #13. USFRS XL waste generator requirements to maintain alternate treatment or disposal capacity.

During the period that it is participating in the USFRS XL waste Project, a USFRS XL waste generator shall maintain the ability to legally treat or dispose of its process wastes contributing to the USFRS XL waste by methods other than through transportation and treatment to USFRS' Roseville, Minnesota facility. A USFRS XL waste generator may use this alternative treatment or disposal method only after its participation in this XL Project has been terminated.

Project Element #14. Termination of a USFRS XL waste approved customer's participation in the USFRS XL Project.

The provisions in this section apply to a USFRS XL waste approved customer who has not yet generated USFRS XL waste. If a USFRS XL waste approved customer has generated or first caused to be regulated USFRS XL waste, then it is a USFRS XL waste generator and must comply with the termination provisions contained in §§266.315. The procedures identified below are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste approved customer's participation in the USFRS XL Project will terminate when the USFRS' XL Project ends. It may terminate earlier either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the appropriate County Agency or at the termination of the new subpart N.

(a) Termination by the USFRS XL waste approved customer. A USFRS XL waste approved customer may terminate its participation in the USFRS XL Project at any time prior to its first generating USFRS XL wastes. The USFRS XL waste approved customer will provide 5 days written notice to USFRS, EPA, MPCA and as appropriate the County Agencies its desire to terminate its participation in the USFRS XL Project. No further action is required by such USFRS XL waste approved customer.

(b) Change in Ownership. A USFRS XL waste approved customer' participation will automatically terminate upon a change in ownership. A USFRS XL waste approved customer must notify USFRS, EPA, MPCA and as appropriate the County Agencies within 5 days of a change in its ownership.

(c) Termination by EPA, MPCA, County Agency or USFRS. If EPA or USFRS propose to terminate a USFRS XL waste approved customer they shall provide it with 5 days written notice. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency terminates such person's participation in the federal USFRS XL Project, such person will be automatically terminated without further proceedings under the new subpart N.

Project Element #15. Termination of a USFRS XL waste generator's participation in the USFRS XL Project.

The procedures identified in the site-specific rule are to be followed to terminate a waste generator's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste generator's participation in the USFRS XL Project will terminate when the USFRS' XL Project ends. It may terminate earlier either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the County Agency or at the termination of part 266, subpart N.

(a) Termination by the USFRS XL waste generator. The USFRS XL waste generator will provide 60 days written notice to USFRS, EPA, MPCA and the County Agencies of its desire to terminate its participation in the USFRS XL Project. Within the 60 days the USFRS XL waste generator shall accomplish closure required by §266.312.

(b) Termination by EPA, MPCA or the County Agency. EPA, MPCA or the County Agency may terminate a USFRS XL waste generator's participation. If EPA proposes to terminate such person's participation then it will provide the generator with written notice. EPA retains the right to terminate a USFRS XL waste generator's participation in the USFRS XL Project if the USFRS XL waste generator is in non-compliance with the requirements of the new subpart N. In the event of termination by EPA, EPA will provide USFRS, the USFRS XL waste generator, MPCA, and as appropriate the County Agencies with 15 days written notice of its intent to terminate a generator's continued participation in the USFRS XL Project. During this period, which commences on receipt of the notice to terminate by the generator, the generator will have the opportunity to come back into compliance or to provide a written explanation as to why it was not in compliance and how it intends to return to compliance. If, upon review of the written explanation EPA re-issues a written notice terminating the generator from this XL Project the generator shall close in accordance with §266.312. The USFRS XL waste generator shall complete the closure and comply with §266.312 within sixty days of EPA's re-issuance of the notice of termination. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency terminates such person's participation in the federal USFRS XL Project, that person's participation will be automatically terminated without further proceedings under this rule and such person must comply with the closure requirements contained in §266.312.

(c) Termination by USFRS. USFRS may terminate a USFRS XL waste generator's participation in the USFRS XL Project only after providing 60 days written notice to the generator, EPA, MPCA and the county agency. Within this time USFRS will arrange for the transport to its facility of the USFRS XL waste in storage. Additionally, USFRS will inspect the USFRS XL waste generator in accordance with §266.312(b).

(d) Termination as a result of changes in ownership. A USFRS XL waste generator will provide written notice to USFRS, EPA, MPCA and as appropriate the County Agencies of a change in its ownership. It will provide such notice within 10 days of the change in ownership. Within the 60 days of the change in ownership the USFRS XL waste generator shall accomplish the closure required by §266.312 unless within that time period EPA has approved of the new owner and EPA has approved of any modifications the new owner may have proposed to the old owner's closure responsibilities.

Project Element #16. Termination of a USFRS XL waste approved transporter's participation in the USFRS XL Project.

The provisions in this subsection apply to a USFRS XL waste approved transporter who has not transported or accepted for transport USFRS XL waste. If a USFRS XL waste approved transporter has transported or accepted for transport USFRS XL waste it is a USFRS XL waste transporter and must comply with the termination provisions contained in §266.317. The procedures identified in the site-specific rule are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste approved transporter's participation in the USFRS XL Project will terminate when the USFRS' XL Project ends. It may terminate earlier either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the County Agency or at the termination of part 266, subpart N.

(a) Termination by the USFRS XL waste approved transporter. A USFRS XL waste approved transporter may terminate its participation in the USFRS XL Project at any time prior to its first transporting or accepting for transport USFRS XL wastes. The USFRS XL waste approved transporter will provide 5 days written notice to USFRS, EPA, MPCA, and as appropriate the County Agencies of its desire to terminate its participation

in the USFRS XL Project. No further action is required by such USFRS XL waste approved transporter.

(b) Change in Ownership. A USFRS XL waste approved transporter will be automatically terminated upon a change in ownership. A USFRS XL waste approved transporter must notify USFRS, EPA, MPCA and as appropriate the County Agencies within 5 days of a change in its ownership.

(c) Termination by EPA, MPCA, the County Agencies or USFRS. EPA, MPCA, the County Agencies and USFRS may also terminate a USFRS XL waste approved transporter's participation in the USFRS XL. If EPA or USFRS propose such termination they will provide the transporter, each other, MPCA and the appropriate County Agencies with 5 days written notice.

Project Element #17. Termination of a USFRS XL waste transporter's participation in the USFRS XL Project.

The procedures identified in this rule are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste transporter's participation in the USFRS XL Project will terminate when the USFRS' XL Project ends. It may terminate earlier either voluntarily, upon a change in ownership of the transporter, upon notice by USFRS, EPA, MPCA or the County Agencies or at the termination of part 266, subpart N.

(a) Termination by the USFRS XL waste transporter - voluntary and changes in ownership. The USFRS XL waste transporter will provide 10 days written notice to USFRS, EPA, MPCA and as appropriate the County Agencies of its desire to terminate its participation in the USFRS XL Project or of a change in ownership. Within 30 days of that notice the USFRS XL waste transporter will ensure that all of its shipments of USFRS XL waste are delivered to the USFRS facility.

(b) Termination by EPA, MPCA or the County Agencies. EPA, MPCA or the County Agencies may terminate a USFRS XL waste transporter's participation in the USFRS XL Project. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If

MPCA or the County Agency does terminate such person's participation, such person's participation in the federal USFRS XL Project will be automatically terminated without further proceedings under the site-specific rule and the transporter shall ensure that all shipments of XL waste are delivered to the USFRS facility within 30 days of notice of termination. If EPA proposes to terminate a transporter's participation in the USFRS XL Project EPA will provide such person, MPCA, the County Agency and USFRS with a 30 days written notice prior to terminating such person's participation in the USFRS XL Project. EPA retains the right to terminate a USFRS XL waste transporters participation in the USFRS XL Project if the USFRS XL waste transporter is not in compliance with the requirements of the new subpart N. During this period, which commences on receipt of the notice by the transporter, the USFRS XL waste transporter will have the opportunity to come back into compliance or to provide a written explanation as to why it was not in compliance and how it intends to return to compliance. If, upon review of the written explanation EPA re-issues a written notice terminating the USFRS XL waste transporter from this XL Project the USFRS XL waste transporter shall ensure that all shipments of USFRS XL waste are delivered to the USFRS facility within 30 days of such re-issued notice.

(c) Termination by USFRS. USFRS may terminate a USFRS XL waste transporter's participation in the USFRS XL Project only after providing 30 days written notice to the transporter, EPA, MPCA and as appropriate the County Agencies. Within this time USFRS will arrange for the transport to its facility of the USFRS XL waste in the possession of the USFRS XL waste transporter.

(d) Change in Ownership. A USFRS XL waste transporter will be automatically terminated upon a change in ownership. A USFRS XL waste transporter must notify USFRS, EPA, the County Agencies and MPCA within 5 days of a change in its ownership.

Project Element #18. Termination of USFRS's participation in this XL Project.

The procedures identified in this rule are to be followed to terminate USFRS' participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating USFRS' participation from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate USFRS' continued participation in this USFRS XL Project. USFRS' participation in the USFRS XL Project will terminate when the

USFRS' XL Project ends. It may terminate earlier either voluntarily, upon a change in ownership of USFRS, upon notice of EPA, MPCA or as appropriate the County Agencies or upon termination of part 266, subpart N. The USFRS XL Waste Project is terminated if USFRS' participation is terminated, unless there is a change of ownership in USFRS and EPA, MPCA and the County Agencies have approved the new owner's continuation in this XL Project as provided in paragraph (b) below.

(a) USFRS' termination of its participation in this XL Project - voluntary termination. USFRS will provide written notice to all USFRS XL Project participants (e.g., USFRS XL waste approved customers and approved transporters, USFRS XL waste generators and transporters), EPA, MPCA and the County Agencies of its desire to terminate its participation in the USFRS XL Project ("voluntary termination") USFRS will provide its notice of voluntary termination 120 days prior to the date it proposes to terminate this XL Project. Within this 120 days USFRS will arrange for the transition of it and the USFRS XL waste Project participants to return to compliance with the RCRA requirements. During this time all USFRS XL Project participants will complete all closure activities required by §266.312.

(b) Termination as a result in a change of ownership of USFRS. USFRS will provide written notice to EPA, MPCA and the County Agencies of any change in ownership of USFRS. USFRS will provide this notice 90 days prior to the change in ownership. At that time, if the new owner wishes to continue the USFRS XL Project it will submit any proposed revisions to this FPA. If EPA and the new owner are able to agree upon and sign the proposed revisions to the FPA within that time frame then the new owner may continue this Project. If an agreement and signature is not obtained within that time frame, this XL Project will be terminated and USFRS will arrange for the transition of all USFRS XL waste Project participants to return to compliance with the RCRA requirements within 120 days of the change in ownership. All USFRS XL waste Project participants will complete all closure activities required by part 266.312.

(c) EPA or MPCA termination of the USFRS XL Project. EPA or MPCA may terminate this XL Project after providing written notice to USFRS. EPA retains the right to terminate this XL Project if: (1) USFRS is in non-compliance with the requirements of the new subpart N, (2) this Project does not provide superior environmental benefit; or, (3) if there is repeated non-compliance by USFRS XL waste generators or transporters. In the event of termination by EPA, EPA will provide USFRS, MPCA and the County Agencies with 30 days written notice of its intent to terminate this

XL Project. During this period, which commences on receipt of the notice by USFRS, USFRS will have the opportunity to come back into compliance, to provide a written explanation as to why it was not in compliance and how it intends to return to compliance or otherwise respond to the reasons for EPA's proposed termination. If, upon review of the written explanation EPA re-issues a written notice terminating this XL Project then USFRS shall submit to EPA within 30 days of its receipt of the re-issued notice its plan for transitioning all USFRS XL waste Project participants to compliance with the RCRA requirements. This transition plan shall contain a proposed schedule which accomplishes compliance with RCRA within 120 days of EPA's re-issued written notice.

Project Element #19. USFRS record keeping and reporting requirements.

(a) *Annual reporting.* USFRS will provide an annual report, on October 1, on all USFRS XL wastes. It will provide the information separately for each USFRS XL waste generator. The annual report, at a minimum, will include:

(1) an identification of each USFRS XL waste generator who sent USFRS XL wastes to USFRS; the quantity of XL waste that USFRS received from each USFRS XL waste generator during the calendar year and a certification by USFRS that those USFRS XL wastes were treated and recycled at USFRS in accordance with the new subpart N .

(2) the amount of water recycled by the generators, the pretreatment chemicals and energy the generators did not use as a result of participating in this USFRS XL Project, the amount of water discharged to the local POTW before and during this project, the amount of sludge recovered by USFRS before and during this project, the amount of sludge recovered as opposed to disposed of by a generator (if the generator disposed of the sludge prior to participating in this project), the quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected from each facility (monthly), the frequency of resin canister and filter replacements in terms of process volume, the constituents in the material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected at each facility (e.g., recoverable metals, contaminants/non-recoverable materials), and constituents in the material (ion exchange resins, filters, other wastewater treatment sludge, residues) disposed by each facility (e.g., contaminants/non-recoverable material).

(3) quantity of material (ion exchange resins, filters, other wastewater

treatment sludge, residues) to be processed from the XL waste at the USFRS Roseville facility, quantity of the metals recovered from the XL waste at the USFRS Roseville facility, the constituents of the recovered material (ion exchange resins, filters, other wastewater treatment sludge, residues from the XL waste), quantity and constituents of the non-recoverable material from the XL waste (ion exchange resins, filters, other wastewater treatment sludge, residues), and how it was disposed of; and

(4) the quantity of each metal recovered at each metals reclamation facility it uses for this Project.

(b) *Quarterly reporting.* USFRS will submit a quarterly report to EPA, MPCA and the County Agencies on October 1, January 1, April 1 and July 1 which will include:

(1) sufficient information for EPA to determine the amount of superior environmental benefit resulting from this project. That report will, at a minimum, contain information which includes, but is not limited to: the volume of water and waste collected and recycled; the amount of metals recycled; the volume of recycled material sold to others; data regarding the management of the ion exchange canisters and filter containers; the constituents of the sludge; and information regarding how the sludge and residues are managed; and.

(2) financial information related to the costs and savings realized as a result of implementation of this project. USFRS will collect baseline and XL costs. The baseline costs shall be calculated using two scenarios: 1. typical expenses (including any hazardous waste taxes) of the generator (prior to the XL Project) for pretreating and disposing effluent wastewater under the applicable Clean Water Act requirements and the costs for manifesting, transporting and disposing of F006 sludges; and 2. Typical expenses of the generator that would be incurred if waste were recycled in compliance with RCRA and requirements for manifesting and transportation of those hazardous wastes (including tax obligations under both scenarios). The XL costs will include the costs to the generator for completing the Transportation Tracking Document, the transportation costs for XL wastes, the generator's cost to install the ion exchange canisters and filter containers, any other costs the generator incurs such as cleaning up any spills, payment of hazardous waste taxes, etc., the cost to USFRS of metals reclamation off-site (including costs associated with transportation or disposal). USFRS will compare the baseline costs to the XL costs and provide an analysis of whether the project is resulting in cost savings for generators and which aspects of the XL Project produce any savings.

USFRS will also submit any of the information required in subsections (i) and (ii) herein upon request by EPA, MPCA or the County Agency.

(3) a list of all USFRS XL Waste Approved Customers and Generators. USFRS shall include on that list the customer and generator's name, a summary of the results of the USFRS waste characterization of the customer and generator's waste stream(s) and process(es), the customer's and generator's process waste streams approved for participation in the USFRS XL Waste Project, the unique client number USFRS has assigned to the customer and generator and its waste stream, the date of USFRS notice to EPA and MPCA proposing to add the customer and generator to the USFRS XL Project; the date on which USFRS notified the customer that it is approved for participation in this USFRS XL Project; and the date USFRS received the signed FPA and certification from the customer or generator. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes from the generator and the date USFRS conducted its visual evaluation of the condition of the USFRS XL waste storage areas and notice of compliance with §266.312. USFRS will update it waste customer and generator list when new customers and generators have been approved by EPA, MPCA and the County Agencies or when a customer or generator has been terminated from this XL Project.

(4) a list of all USFRS XL Waste Approved Transporters. USFRS shall include on this list the transporter's unique USFRS client number, and if available, its shall include on that list the transporter's name, EPA identification number and its Minnesota registration number, the date of USFRS notice to EPA and MPCA proposing to add the transporter to the USFRS XL Project; the date on which USFRS notified the transporter that it is a USFRS XL Waste Approved Transporter; and the date on which it received the signed USFRS XL waste FPA and certification. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes from the transporter. This USFRS XL waste transporter list may be modified upon approval of EPA and MPCA.

(c) *Recordkeeping.* USFRS will retain for three years a copy of USFRS XL waste application forms, and correspondence with each USFRS XL waste approved customer and generator; records of any spill or leak notifications it receives; records of its compliance with the new subpart N; and the USFRS XL waste Transportation Tracking Document for each shipment from a USFRS XL waste generator.

Project Element #19. USFRS XL waste generator record keeping and reporting requirement.

A USFRS XL waste generator will retain for three years a copy of the USFRS XL Waste FPA, with all appropriate signatures; its USFRS XL waste certification; its log of weekly inspections required by §266.308(d); its record of any notification of spills or leaks of its USFRS XL wastes required by §266.308(e); its compliance with the training and facility contact requirements of §266.308(h); a copy of the signed Transportation Tracking Document for USFRS XL waste it generated; and documentation of its compliance with §266.312.

Project Element #20. USFRS XL waste transporter record keeping and reporting requirement.

A USFRS XL waste transporter will retain for three years a copy of the USFRS XL Waste FPA, with all appropriate signatures; its USFRS XL waste certification; a copy of the signed Transportation Tracking Document for USFRS XL waste it transported; and its record of any notification of spills or leaks of its USFRS XL wastes required by §266.311.

III How the Project Will Meet the XL Project Acceptance Criteria

A. Superior Environmental Performance

The USFRS XL project will provide superior environmental performance by promoting recycling of water and recovery and reuse of metals that would otherwise be land disposed. Estimated reductions in discharge to the POTW (that correspond to potential metals recovered) are as follows:

TABLE A: USFRS Projected Reductions in Discharge to POTW and Metals

Recovered

Pollutants	**FIRST YEAR**	**SECOND YEAR**	**THIRD YEAR**	**FOURTH YEAR**	**FIFTH YEAR**
Rinse Water	13,500,000 gallons*	16,875,000 gallons*	22,500,000 gallons*	67,000,000 gallons**	90,000,000 gallons***
Copper, Nickel and Zinc	1,350 lbs.*	1,688 lbs.*	2,250 lbs.*	6,700 lbs.**	9,000 lbs.***

(*) Based on 12 current customers in the first year, plus 3 new customers in the second year, and 8 new customers in the third year within the State of Minnesota.

(**) Based on expansion to 200 current out-of-state customers if similar rules are adopted in other states or if a national rulemaking is issued.

(***) Based on further expansion to 200 new out-of-state customers.

USFRS and its customers will be complying with requirements, enforceable through a site-specific rule, that are as protective of public health and the environment as the RCRA requirements that would otherwise be applicable. USFRS' modified RCRA permit will incorporate required elements of this program. Additionally, USFRS will be required to retain and submit certain reports which RCRA would normally require of its customers, recycle the metals from its treatment of the resins, and report ongoing environmental performance and success in meeting its targets in accordance with Attachment A of this Agreement.

B. Anticipated Benefits, such as Cost Savings, Paperwork Reduction, and Operational Flexibility

The USFRS project has the potential for cost savings by making recycling of wastes more cost competitive with traditional treatment/disposal options. Costs avoided would include those associated with: purchase of additional potable water for single use; treatment of mildly contaminated wastewaters prior to discharge so that they meet pretreatment standards; payment of the capital and operating costs and discharge fees associated with the wastewater discharge (including permits, monitoring, and sewer access charges); transport and disposal of hazardous waste sludges, and taxes paid

to local authorities. A cost comparison will be conducted during project implementation to evaluate the cost savings (see Attachment A).

C. Stakeholder Involvement and Support

As of July, 2000, USFRS had conducted 9 stakeholder meetings at both public buildings and at the USFRS facility. Statements of Substantial Consensus from project supporters including the MPCA and the Minnesota Center for Environmental Advocacy, were attached to the proposal along with a thorough Stakeholder Involvement Plan. Stakeholder involvement will continue throughout project implementation according to the terms stated in USFRS's Stakeholder Involvement Plan. USFRS shall report on a quarterly basis efforts made to maintain stakeholder involvement and public access to information in accordance with the requirements in Attachment A of this Agreement and in the site-specific rule.

D. Innovative Approach and Multi-Media Pollution Prevention in the Project

The USFRS XL Project proposes to exercise pollution prevention by conserving water and reducing the disposal of hazardous waste through materials recycling.

E. Transferability of the Approach to Other Entities or Sectors

At this time, EPA is exploring whether excluding ion-exchange canisters from some or all hazardous waste requirements could promote improved electroplating sludge management, and if so, whether to conduct a rulemaking to exclude them from RCRA's F006 designation. This project could provide information that would be useful in making these regulatory decisions.

F. Feasibility of the Project

USFRS is currently recycling F006 resins and would be looking to increase the volume they are processing through the XL Project. To ease materials management, USFRS' customers and transporters would be given training in handling the canisters and filters. USFRS' customers would be subjected to reporting requirements that are less burdensome than those imposed by RCRA, but that would be equally as protective.

G. Monitoring, Reporting, Accountability, and Evaluation Methods to be Used to Evaluate Superior Environmental Performance

The USFRS XL Project would provide for tracking of waste shipments from generator facilities to USFRS' facility, and collection and maintenance of other data necessary to maintain accountability and evaluate the performance of the Project (as described in the Project Elements in Section II B of this Agreement). To track XL Project materials, USFRS plans to use a Transportation Tracking Document. All the parameters used to determine the success of this project, including information normally required on a biennial hazardous waste report, will be collected by USFRS. Such data will be maintained by USFRS and provided to EPA, MPCA and local authorities on a basis spelled out in Attachment A of this Agreement and in the site-specific rule.

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

The proposal appears to be consistent with Executive Order 12898 on Environmental Justice. It is protective of worker safety and ensures that no one is subjected to unjust or disproportionate impacts. The parties to this Agreement are not aware of any shifts of environmental or safety burdens within the community that would result from this proposal.

IV Description of the Requested Flexibility and Implementing Mechanisms

A. Requested Flexibility

Electroplaters, metal finishers and other industries use large volumes of water to wash and rinse materials during the manufacturing process. In many manufacturing processes this wash and rinse water is used once then directed to an on-site waste water treatment plant where it is treated to levels required by the Clean Water Act prior to discharge to a surface water body or a local publicly owned treatment works (POTW).

To minimize the use of potable water in the manufacturing process USFRS has developed a water treatment system that uses an ion exchange resin ("resin"). USFRS estimates that one gallon of its resin can treat anywhere from 500 to 2,000 gallons of process waste waters. The resins are contained in a canister. USFRS pays between $3000 and $4,000 per canister (for the larger ones) and they expect to use each canister for approximately 20 years. The process waste waters are directed to a pre-filter, then to the canisters and then to a post-filter prior to discharge of the waste waters. The resins within the canisters and possibly the filters collect the metals and other chemical contaminants that are otherwise contained in

the process waste waters. Exiting the post-filter is cleaned water.

USFRS anticipates that the cleaned water could be returned to the process thus avoiding or reducing the use and treatment of potable water in the manufacturing process. USFRS also anticipates that some of its customers would discharge the cleaned water directly to the POTW and would send their wastewater sludges to USFRS for metals recycling.

The collection of the chemical contaminants on the resins and filters results in the resins and filters being characterized as a listed hazardous waste - i.e., F006, waste water treatment sludges from electroplating operations. The resins and filters may also exhibit a characteristic of hazardous waste as a result of the operations of a particular manufacturer. The characterization of the resin and filters wastes as a listed hazardous waste operates as a disincentive to a potential customer to use the USFRS waste water treatment system since that customer must handle, store and transport the resins and filters according to the hazardous wastes requirements contained in 40 CFR parts 260-265, 268, 270, 273 and 279.

The purpose of the USFRS XL Project would be to determine whether substitute requirements imposed on USFRS and approved generators and transporters would remove this disincentive, as well as encourage increased use of the USFRS waste water treatment system, a decrease in the energy associated with use of potable water in the manufacturing process, a decrease in the amount of hazardous chemicals discharged to POTWs an increase in recycling of F006 sludges and a decrease in the landfilling of F006 wastes. The development and implementation of the USFRS XL Project would be piloted at USFRS and at approved generators and transporters of the USFRS resin process. The approved generators and transporters would handle, store and transport the resin wastes and filters in accordance with specific standards contained in proposed new part 266, subpart N of Title 40 of the Code of Federal Regulations (“subpart N”). These requirements would operate in lieu of the requirements imposed under parts 261-265, 268, 270, 273 and 279 of Title 40 of the Code of Federal Regulations. As a result, it is anticipated that the generators will reduce their discharge of process waste waters to local POTWs and have an increase in F006 sludge recycling. USFRS will handle the resin process wastes as hazardous waste and in accordance with subpart N and its hazardous waste permit once it reaches USFRS’ facility. The proposed rule would impose on USFRS additional reporting and handling requirements in exchange for the regulatory flexibility provided to the generators and transporters. All other hazardous wastes generated by these generators and USFRS would continue to be subject to current RCRA regulations.

The USFRS XL Project is intended to test the effectiveness of an integrated, flexible, performance-based approach for managing hazardous waste to determine whether this approach promotes a reduction in the amount of hazardous chemicals which are discharged to the local POTWs and landfilled and the amount of water used in the manufacturing process.

EPA is proposing to implement the USFRS XL Project by providing the generators and transporters with a "temporary deferral" from the requirements of 40 CFR parts 261-265, 268, 270, 273 and 279 for USFRS XL waste. The deferral is temporary in that it is only applicable for the period of time that the waste is at the generator or during its transport to USFRS. Additionally, the deferral is temporary in that the deferral is applicable only during the time that this XL Project is effective - 5 years from the time that MPCA amends USFRS' RCRA permit to incorporate the changes required by this Project.

The deferral consists of designating the resin process wastes by a waste code different from those identified in 40 CFR part 261 while the waste is at the approved generator and during its transport. To accomplish this the rule contains a new definition of "USFRS XL waste" and provides it with a unique EPA waste code, (XL001). USFRS XL wastes will be limited to used water treatment resin canisters and their contents, any associated USFRS pre- or post-resin filters and their containers and their contents from USFRS XL waste generators located in the state of Minnesota. These wastes include only those wastes generated from processes subject to the RCRA F006 hazardous waste listing[1]. USFRS and its generators or transporters will use the waste code XL001 when the wastes are at the generator or in transport.

The deferral would also require the approved generators and transporters and USFRS to comply with new part 266, subpart N in lieu of 40 CFR parts 261-265, 268, 270, 273 and 279 (see Table B). If the approved generator, transporter or USFRS fails to comply with the new requirements then it will

[1] A solid waste may be a hazardous waste if it is listed or demonstrates a characteristic as defined by 40 CFR part 261, subparts C and D. Certain solid wastes are considered listed hazardous wastes because they are generated as a result of specific manufacturing processes. Such solid wastes may also be considered characteristic hazardous waste depending on the chemical composition of the wastes. This XL Project is focused on the resin process wastes generated from process waste waters associated with the F006 hazardous waste listing. It is possible that for some manufacturers the resin process wastes may also be characterized as a characteristic hazardous waste. This is acceptable for participation in the USFRS XL project provided the waste waters were from processes associated with the F006 hazardous waste listing.

have violated RCRA and may be subject to enforcement action for such violations. Proposed new subpart N includes specific requirements for the management of the USFRS XL wastes in a manner which ensures protection of human health and the environment while providing some flexibility to encourage chemical reuse and waste minimization. They are enforceable in the same way as current RCRA standards are enforceable to ensure that handling of the USFRS XL wastes would be protective of human health and the environment.

Table B: A Summary Comparison of Existing Requirements with XL Project Requirements for USFRS under RCRA

EXISTING REQUIREMENTS	**XL PROJECT REQUIREMENTS**
Waste Identification and Characterization	**Waste Identification and Characterization**
Generator conducts waste characterization by testing or applying specific knowledge (40 CFR 262.11).	Generator submits application to USFRS identifying processes and chemicals used. USFRS conducts waste characterization in accordance with (state permitted) waste analysis plan. USFRS assures XL waste is "compatible with canister".
EPA Identification Numbers and Waste Codes	**USFRS Identification Numbers and XL Waste Code**
Generator and transporters receive EPA identification number by submitting notification form identifying EPA waste codes (40 CFR 262.12 and 263.11).	Generator submits application form to USFRS and, if approved by EPA, MPCA and appropriate County Agency, receives unique client number and waste profile number. Waste code is "XL001". Transporters limited to those with existing USDOT satisfactory safety rating.
Uniform Hazardous Waste Manifest	**Pre-Approved Transporter and Tracking Document**

Generator completes hazardous waste manifest (40 CFR 262.20(a)), obtains transporter's signature (40 CFR 262.23(a)), identifies final destination (40 CFR 262.20(b)), describes waste and amount and retains copies (40 CFR 262.22), receives duplicate upon arrival or locates lost shipment after 35 days (40 CFR 262.42(a)(1), notifies State and provides copies within 45 days (40 CFR 262.42(a)(2), uses transporter with EPA id no. (40 CFR 262.12), and sends waste to designated facility with EPA id no. (40 CFR 262.12 and 262.20).	Generator agrees to comply with all requirements in new subpart N, must use USFRS XL waste approved transporter, and must send XL waste to USFRS with a Transportation Tracking Form completed by USFRS. USFRS will provide generators with the "tracking document" and MSDS at the time of transport. Generator will provide "tracking document" and MSDS to transporter. Transporter will carry "tracking document" and MSDS to USFRS. Within 10 days of receipt of waste shipment, USFRS will provide generator with a copy of the "tracking document" as confirmation of delivery. USFRS must receive waste shipment within 30 days of waste pick-up from generator. USFRS will locate lost shipment immediately and notify EPA, MPCA and County Agency after 5 days of scheduled arrival.
Pre-transport and Transportation Requirements	**Pre-transport and Transportation Requirements**

Generator must properly package (40 CFR 262.30), label (40 CFR.262.31), mark (40 CFR 262.32) and placard (40 CFR 262.33) hazardous waste. Transporter must have an EPA ID No. (40 CFR 263.11), accept and retain manifest with shipment (40 CFR 263.20), ship to designated facility (40 CFR 263.21), clean-up and report spills (40 CFR 263.30 and 31).	Generator labels ion exchange resin canisters with labels provided by USFRS and use MSDS for transport. Transporters limited to those with satisfactory USDOT safety rating. Transporters must use "tracking document" and MSDS. Transporters must clean-up and report spills (40 CFR 263.30 and 31).
Accumulation and Storage	**Accumulation and Storage**

Generator accumulation from 90 to 270 days (40 CFR 262.34), must meet storage safety requirements (40 CFR 262.34), including requirements for Use and Management (e.g., weekly inspections), Preparedness and Prevention (e.g., minimize releases and maintain safety equipment), Contingency Plan and Emergency Procedures (e.g., emergency response procedures), and Personnel Training (e.g., proper materials handling procedures).	Generator accumulation limited to 90 days. XL wastes contained in sealed canisters or containers and stored separately on impervious surface to be inspected and approved by USFRS prior to use. Generator inspects storage area weekly and maintains log. Spills (generally small amounts of treated water) will be immediately directed by generator to an on-site sewer, if allowed by POTW, or collected with absorbent material, labeled and transported to USFRS). External communication device required. Designated "contact person" required and notification to State Duty Officer and USFRS within 24 hours of spill. USFRS must conduct materials handling training (e.g., procedures for installing and replacing canisters and filters, emergency release and decontamination procedures) and obtain training certification from generator. USFRS to provide MSDS to local police, fire department and hospital.
Closure	**Closure**
Generators have no requirements for closure (40 CFR 262.34).	USFRS will collect canisters within 30 days of generator's discontinuance. Generator will clean storage area within 60 days and allow inspection by USFRS. Generators will maintain and implement the alternative treatment or disposal required prior to participation in XL.

Reporting and Record Keeping	Reporting and Record Keeping
Generator retains manifests for 3 years (40 CFR 262.40), completes and retains biennial reports (40 SFR 262.40(b) and 41) including types and amounts of wastes generated and transported.	Generator required to retain records of spills and certain other documents listed in subpart N. USFRS will retain copies of waste analysis, contract, application form, site engineering form, systems discontinuance form, storage inspections and bills of lading for 3 years. USFRS shall maintain a comprehensive customer and transporter list and submit quarterly and annual reports with detailed information about materials management, rinsewater recycled, wastes collected and reclaimed, environmental performance compared to baselines and targets, cost savings achieved and stakeholder involvement.

EPA has agreed to provide USFRS and approved generators and transporters with this regulatory flexibility to determine if the proposed regulatory approach would result in superior environmental performance and significant cost savings to USFRS or its customers.

The USFRS XL Project will enter the implementation phase after EPA promulgates the final federal rule, the state of Minnesota adopts the required state legal mechanisms and, as necessary, obtains federal authorization and the participants sign the FPA. EPA, MPCA, the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington in Minnesota, USFRS and the approved generators and transporters will sign the FPA. At the present time USFRS has only identified itself and Pioneer Tank Lines, Inc. located at 12501 Hudson Road South, Afton, MN 55011, EPA ID MND044176113, as a participating transporter for this XL Project. USFRS has not identified any generators as participants in this XL Project.

The FPA may be modified at any time during this XL Project to add generators or transporters to this XL Project. The participants recognize that prior to the first generator being added to the project, this FPA will have to be reviewed and, as appropriate, amended to ensure that the FPA is consistent with the site-specific rule for generators and transporters. A generator or transporter who wants to participate in this XL Project in the future will be subject to specific requirements and an approval process described below prior to being accepted into this XL Project. Only generators and transporters who have met the approval process conditions

may participate in this XL Project. Consequently, implementation of this XL Project and the proposed rules will occur for a specific generator or transporter only after the appropriate state and federal legal mechanisms are in place and the generator or transporter has signed the FPA.

B. Legal Implementing Mechanism

EPA will implement this Agreement by issuing a federal site-specific rule. The MPCA will issue a regulatory relief mechanism (such as a variance or state XL permit) to USFRS and will issue a regulatory relief mechanism (such as a variance or state XL permit) to USFRS' customers (waste generators). The instrument selected for the State's implementation of this XL Project must be one that is clearly federally enforceable and may require federal approval as part of the Minnesota authorized hazardous waste program. The purpose of the federal site-specific rule will be to grant flexibility to USFRS' customers from certain RCRA requirements that are to be substituted with alternative requirements that are as protective of public health and the environment but that promote recycling and reuse of waste. The rule will also impose certain additional requirements on USFRS and establish alternate transportation requirements for transporters.

V. Discussion of Intentions and Commitments for Implementing the Project

A. USFRS' Intentions and Commitments

USFRS intends to implement the Project in good faith as per the guidelines and rules issued by the EPA, State of Minnesota, and appropriate counties. USFRS will also follow the schedules defined for the Project for initiation, withdrawal, termination, as well as post-Closure compliance.

B. EPA's and the MPCA's Intentions and Commitments

1. EPA has proposed a site-specific rule, amending 40 CFR Parts262-265, 268, 270, 273 and 279. EPA intends to issue a final rule similar to the proposed rule. The site-specific rule will also provide for withdrawal or termination and a post-Project compliance period consistent with Section XII of this Agreement, and will address the transfer procedures included in Section IX. The standards and reporting requirements set forth in Section II.B and Attachments of this Agreement will be implemented in the site-specific rule.

2. Pursuant to Minn. Stat. Ch. 114C, the MPCA intends to issue general permits to the generators and transporters under its XL statute. It also will

seek RCRA authorization from EPA for those general permits. EPA has agreed to expedite the review of that request for authorization. It is also acceptable to EPA if MPCA were either to either issue new RCRA regulations to implement this Project and submit those new regulations to EPA for authorization or issue variances to the generators and transporters under its already authorized RCRA program. In any event, MPCA also will have to amend USFRS' existing RCRA permit to incorporate the requirements of this XL Project before USFRS may operate in accordance with these new rules.

C. Project XL Performance Targets, Schedule and Milestones

USFRS intends to meet the targets provided in the Table A, Section III A of this FPA for Year 1 (one), Year 2 (two) and Year 3 (three) of project implementation for customers within the state of Minnesota. Expanded targets for Years 4 (four) and 5 (five) require additional states to adopt equivalent flexibility which is federally applicable and enforceable. There are no discussions presently taking place with other states regarding equivalent flexibility for out-of-state customers. However, at this time, EPA is exploring whether excluding ion-exchange canisters from some or all hazardous waste requirements on a national basis could promote improved electroplating sludge management, and if so, whether to conduct a national rulemaking to exclude them from RCRA's F006 designation. EPA will use the data collected from the USFRS XL Project to aid in that determination.

Data collected from Year 1 (one) will provide a preliminary basis to evaluate the ability of this project to meet its goals for Superior Environmental Performance. If, after Year 1 (one) of project implementation, this project is demonstrating success, USFRS will provide a schedule of tasks to be completed to expand this project to include customers in other states in order to meet the out-of-state expanded targets in Years 4 (four) and 5 (five). These tasks may include working with the Association of State and Territorial Solid Waste Management Officers (ASTSWMO) and trade groups to expand the stakeholder group in order to determine the interest in participation outside the state of Minnesota. USFRS will provide EPA with an update on its progress in its quarterly reports.

D. Project Tracking, Reporting and Evaluation

USFRS shall provide EPA with an annual report and quarterly reports detailing the information specified in Attachment A of this Agreement**.**

E. Periodic Review by the Parties to the Agreement

The parties to this Agreement will hold periodic performance review conferences to access 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, USFRS will provide a summary of the minutes of that conference to all Direct Stakeholders. Any additional comments of participating Stakeholders will be reported to EPA.

F. Duration

This Agreement will remain in effect for five (5) years from the date that MPCA amends USFRS' RCRA permit to incorporate the changes required by this Project, unless the USFRS XL Project ends at an earlier date, as provided under Section IX (Transfer of Project Benefits and Responsibilities). The site-specific rule also addresses withdrawal or termination conditions and procedures (as described in Section XI). The USFRS XL Project will not extend past the agreed upon date, and USFRS will comply with all applicable requirements following this date (as described in Section XII), unless all parties agree to an amendment to the Project term (as provided in Section VIII).

VI Legal Basis for the Project

A. Authority to Enter Into the Agreement

By signing this Agreement, EPA, the State of Minnesota, and USFRS acknowledge and agree that they have the respective authorities, discretion, and resources to enter into this Agreement and to implement all applicable provisions of the USFRS XL Project, as described in this Agreement.

B. Legal Effect of the Agreement

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

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 and intentions of the parties without making the 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 parties intend to follow with respect to dispute resolution and termination (see Section IX and XI). However, while the parties fully intend to adhere to these procedures, they are not legally obligated to do so.

EPA intends to finalize the site-specific rule needed to implement this Project. Any rules, permit modifications or legal mechanisms that implement this Project will be effective and enforceable as provided under applicable law.

This Agreement is not a "final agency action" by 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 does not 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 mechanism for this Project, the parties do not intend that this Project will modify any other 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 USFRS', EPA's, the MPCA's, or any other signatory'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, local ordinances or permits to the facility.

VII Unavoidable Delay During Project Implementation

"Unavoidable delay" (for the purposes of this Agreement) means any event beyond the control of any Party delays or prevents the implementation of the Project described in this Agreement, despite the Parties' best efforts to put their intentions into effect. An unavoidable delay can be caused by, for example, a fire or acts of war.

When any event occurs that may delay or prevent the implementation of this

Project, whether or not it is avoidable, the Party to this Agreement who knows about it will immediately provide notice to the remaining Parties. Within ten (10) days after that initial notice, the Party should confirm the event in writing. The confirming notice should include: 1) the reason for the delay; 2) the anticipated duration; 3) all actions taken to prevent or minimize the delay; and 4) why the delay was considered unavoidable, accompanied by the appropriate documentation.

If the Parties agree that the delay is unavoidable, relevant parts of the Project schedule (see Section V) will be extended to cover the time period lost due to the delay. If they agree, they will also document their agreement in a written amendment to this Agreement. If the Parties don't agree, then they will follow the provisions for Dispute Resolution outlined below.

This section only applies to the provisions of this Agreement that are not implemented by legal implementing mechanisms. Legal mechanisms, such as permit provisions or rules, will be subject to modification or enforcement as provided under applicable law.

VIII Amendments or Modifications to the Agreement

The USFRS XL 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 the activities undertaken in this Project. Therefore, it may be appropriate to amend this Agreement at some point during its duration.

This Agreement may be amended by mutual agreement of all parties at any time during the duration of the USFRS XL 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. If the Agreement is amended, EPA, MPCA and USFRS expect to work together with other regulatory bodies and stakeholders to identify and pursue any necessary modifications or additions to the implementation mechanisms in accordance with applicable procedures. If the parties agree to make a substantial amendment to this Agreement, the general public will receive notice of the amendment and be given an opportunity to participate in the process, as appropriate.

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 thirty (30) 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.

IX Change In Ownership

A. In case of change in ownership for USFRS XL Project approved customers, waste approved transporters, transporters or generators, the site-specific rule specifies automatic termination for those participants in the project. XL waste generators will accomplish closure required by Part 266, subpart N within 60 days of the change in ownership and provide written notice to the agencies within 10 days of the change in ownership. Waste approved transporters and waste approved customers must notify the agencies in writing within 5 days of a change in ownership. Transporters must notify the Agencies within 10 days of the change in ownership and arrange for transport of the XL waste in its possession within 30 days of the change in ownership.

B. If after a change in ownership of a customer or generator the new entity wishes to participate in the USFRS XL Project, it will follow the procedures for adding persons as generators found in Part 266.301.

C. If after a change in ownership of a transporter the new entity wishes to participate in the USFRS XL Project, it will follow the procedures for adding new transporters found in Part 266.302.

D. In case of change in ownership of USFRS, the site-specific rule specifies how this XL Project may be continued by the new owner. USFRS will provide written notice to the agencies within 90 days of the change in ownership. If the new owner does not meet the requirements set forth in the site-specific rule to continue this Project within this 90 days, the Project will terminate and USFRS will arrange for the transition of all USFRS XL Project participants to compliance with the RCRA requirements within 120 days of the change in ownership. All USFRS XL waste Project participants will complete all closure requirements specified in Part 266, Subpart N.

X Process for Resolving Disputes

Any dispute which arises under or with respect to this Agreement[2] will be subject to informal negotiations between the parties to the Agreement. The period of informal negotiations will not exceed twenty (20) calendar days from the time the dispute is first documented, unless that period is extended by a written agreement of the parties to the dispute. The dispute will be considered documented when one party sends a written Notice of Dispute to the other parties.

If the parties cannot resolve a dispute through informal negotiations, the parties may invoke non-binding mediation by describing the dispute with a proposal for resolution in a letter to the Regional Administrator for EPA Region 5. The Regional Administrator will serve as the non-binding mediator and may request an informal mediation meeting to attempt to resolve the dispute. The Regional Administrator 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 XI below.

XI 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 the expected duration of the site-specific rule which is five years from the date MPCA modifies USFRS' RCRA permit incorporating the changes required by this Project, 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 the USFRS XL Project, or (b) to 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 USFRS XL Project to provide superior environmental performance consistent with the provisions of this Agreement.

[2]Of course, any issue related to enforcement of the site-specific rule or state authorizing mechanism will be governed by the laws and regulations of the federal or state governments, respectively.

4. Enactment or promulgation of any environmental, health or safety law or regulation after execution of the Agreement, which renders the USFRS XL Project legally, technically or economically impracticable.

5. Change in ownership as described in Section IX.

6. Environmental conditions which warrant termination.

In addition, EPA, the MPCA and the counties do not intend to withdraw from the Agreement if USFRS 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; or if USFRS is in significant noncompliance with applicable law; or if the activities undertaken pursuant to this Agreement and its implementing mechanisms endangers human health or the environment. The decision to withdraw will, of course, take the nature and duration of the failure or violation into account.

Except in instances of imminent and substantial endangerment to public health, USFRS will be given notice and a reasonable opportunity to remedy any "substantial failure" before EPA's withdrawal. If there is a disagreement between the parties over whether a "substantial failure" exists or that there is an "imminent and substantial endangerment," the parties will use the dispute resolution mechanism identified in Section X of this Agreement. EPA and the State of Minnesota retain their discretion to use existing enforcement authorities, including withdrawal or termination of this Project, as appropriate. USFRS retains any existing rights or abilities to defend itself against any enforcement actions, in accordance with applicable procedures.

B. Procedures

The parties agree that the following procedures will be used to withdraw from or terminate the USFRS XL Project before expiration of the Project term. They also agree that the implementing mechanism will provide for withdrawal or termination consistent with these procedures.

1. Any party that wants to terminate or withdraw from the Project is expected to 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.

   If EPA or MPCA any agency withdraws or terminates its participation in the Agreement, the remaining agencies will consult with USFRS to determine whether the Agreement should be continued in a modified form, consistent with applicable federal or State law, or whether it should be terminated.

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.

XII Compliance After the Project is Over

The parties intend that there be an orderly return to compliance upon completion, withdrawal from, or termination of the Project, as follows:

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, USFRS and the approved generators and transporter participants will return to compliance with all applicable requirements by the end of the Project term, unless the Project is amended or modified in accordance with Section VIII of this Agreement (Amendments or Modifications). USFRS and the approved generators and transporters are expected to anticipate and plan for all activities to return to compliance sufficiently in advance of the end of the Project term. USFRS will also take steps to assist its customers' return to compliance with all applicable requirements by the end of the project term. USFRS may request a meeting with EPA and the MPCA to discuss the timing and nature of any actions that USFRS will be required to take. The parties should meet within thirty days of receipt of USFRS's written request for such as 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 USFRS' Early Withdrawal or Termination

In the event that USFRS' withdrawal from or termination of this Project is not based on the end of the Project term and where USFRS has made efforts in good faith, the parties to the Agreement will either use the transition times and requirements contained in the final site-specific rule or if no such times exist, then parties will determine an interim compliance period to provide sufficient time for USFRS and its customers to return to compliance with any regulations deferred under the Project. The interim compliance period will extend from the date on which EPA and the MPCA or USFRS provides written notice of final withdrawal or termination of the Project, in accordance with Section XI of this Project Agreement. By the end of the interim compliance period, USFRS and its customers will comply with the applicable standards set forth in 40 CFR part 260-265, 266, 268, 270 and 279 and Minnesota hazardous waste rules, Minn. R. chs. 7001 and 7045. During the interim compliance period, EPA and/or the MPCA may issue and order, permit or other legally enforceable mechanism establishing a schedule for USFRS's customers to return to compliance with otherwise applicable regulations as soon as practicable. This schedule cannot extend beyond 120 days from the date of USFRS' withdrawal from or termination of this Project. USFRS intends to 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.

XIII Signatories

_____ _____

Frank Lyons, Regional Administrator Date
U.S. EPA Region 5

_____ _____

Brent Hillier, Vice President and General Manager Date
U.S. Filter Recovery Systems, Inc.

_____ _____

Gordon Wegwart, Assistant Commissioner Date
Minnesota Pollution Control Agency

_____ _____

Mark Sternad, Industrial Waste Specialist Date
Pioneer Tank Lines, Inc.

_____ _____

Spencer Pierce, Manager of Environmental Services Date
Community and Environmental Health
Services Department
Anoka County

_____ _____

Joe Enfield, Assistant Director of Environmental Services Date
Carver County

_____ _____

Laura Villa, Acting Supervisor Date
Hazardous Waste Regulation
Dakota County Environmental Management Department
Dakota County

_____ _____

Phil Eckhert, Director Date
Hennepin County Department of Environmental Services
Hennepin County

_____ _____

Zach Hanson, Manager Date
Environmental Health Section, St. Paul-Ramsey
County Department of Public Health
Ramsey County

_____ _____

Peter Schmitt, Environmental Health Supervisor Date
Scott County Environmental Health
Scott County

_____ _____

Jeff Travis, Program Manager Date
Solid and Hazardous Waste Program
Washington County

XIV Glossary of Terms

County Environmental Agencies or County Agencies means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington in Minnesota.

USFRS means U. S. Filter Recovery Services, Inc. whose principal place of

business for the purposes of these rules is 2430 Rose Place, Roseville, Minnesota.

USFRS XL Waste means one or more USFRS used water treatment resin canisters and their contents, any associated USFRS pre- or post-resin filters and their containers and contents from a USFRS XL waste generator located within the State of Minnesota. USFRS XL waste includes the ion exchange resins, the wastes contained on or within the ion exchange resins, any other wastes contained within the water treatment resin canisters and any associated USFRS pre- or post-resin filters and their containers and contents. USFRS XL waste also includes spills of XL waste which are handled in accordance with the requirements in the new subpart N. USFRS XL waste is limited to wastes which are derived from processes subject to the EPA F006 waste code designation (i.e. waste water treatment sludges from specified electroplating operations). These wastes may also exhibit a characteristic of hazardous waste as a result of the operations of a particular company. This definition does not include wastes that were generated prior to the date a generator is added to this USFRS XL Project. USFRS XL waste shall be identified by the waste code XL001.

USFRS XL Waste Application Form means the form approved by EPA and Minnesota Pollution Control Agency (MPCA) as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA and used for characterization of the chemical constituents of a person's USFRS XL waste. The USFRS XL Waste Application Form shall include all attachments by USFRS or the applicant, including but not limited to, the USFRS Site Engineering Form, Systems Engineering Form and any waste analysis.

USFRS XL Waste Approved Customer means only those persons located in Minnesota who have properly identified their wastes and processes on the USFRS XL waste application form; have not been excluded by EPA, MPCA or the County Agencies from participation in the USFRS XL waste project; have signed the USFRS XL waste Final Project Agreement (FPA); have certified that they have read and understand the USFRS XL waste training module; and have *not* generated USFRS XL wastes.

USFRS XL waste approved transporter means a transporter located within the State of Minnesota who has a satisfactory safety rating from the United States Department of Transportation (USDOT) in the last year; has not been excluded by EPA, MPCA or the County Agencies from participation in the USFRS XL waste project; has signed the USFRS XL waste FPA; and has signed a certification that it has been trained by USFRS on the proper handling of USFRS XL wastes and understands its responsibilities under subpart.

USFRS XL Waste Transportation Tracking Document means the Transportation Tracking Document developed by USFRS which was approved by EPA and the

MPCA as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA; and used when USFRS XL waste is transported off-site from a generator.

USFRS XL Waste Facility or USFRS Facility means the U.S.Filter Recovery Service, Inc. operations located at 2430 Rose Place, Roseville, Minnesota.

USFRS XL Waste Final Project Agreement (FPA) means the agreement signed by USFRS, EPA, MPCA, the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington in Minnesota, Pioneer Tank Lines, Inc. and USFRS XL waste customers, generators and transporters on September 21, 2000. The FPA may be modified to add or delete participants, subject to the approval of EPA and MPCA.

USFRS XL Waste Generator means a USFRS XL waste approved customer who generates or generated USFRS XL waste.

USFRS XL waste training module means the recorded training program approved by EPA and MPCA as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA and developed by USFRS for the purpose of informing USFRS XL waste approved customers, generators and transporters of the special requirements imposed on them by this part and the proper method of handling USFRS XL wastes.

USFRS XL Waste Project, USFRS XL Project or XL Project means the program identified in the Final Project Agreement and this part for the generation, transportation and subsequent treatment, storage and disposal of USFRS XL waste.

USFRS XL Waste Transporter means USFRS or a USFRS XL waste approved transporter who transports USFRS XL waste.

Attachment A

USFRS XL Project for Ion Exchange Resins

Project Tracking, Reporting and Evaluation

Quarterly Reporting Requirements

I Data Collection Needs

A. **Customer Facilities**. On a quarterly basis, USFRS shall provide to EPA and MPCA the most current list of approved customers, identifying those newly added to the program, the customer's process waste streams approved for participation in the USFRS XL Project, the unique identification number USFRS has assigned to the customer and its waste stream, the date of USFRS notice to EPA and MPCA and the date on which USFRS notified the customer that it is a USFRS XL Waste Approved Customer. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes from the customer and the date USFRS conducted its visual evaluation of the condition of the USFRS XL waste storage areas. USFRS shall collect and report to EPA and MPCA on a quarterly basis the following data for each customer facility participating in the XL project:

1. Quantity of rinsewater recycled and quantity discharged
2. Quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected from each facility
3. Frequency of canister and filter replacement in terms of process volume
4. Constituents in the material (ion exchange resins, filter, other wastewater treatment sludge, residues) collected at each facility (e.g., recoverable metals, contaminants/non-recoverable materials)
5. Constituents in the material (ion exchange resins, filters, other wastewater treatment sludge, residues) disposed by each facility (e.g., contaminants/non-recoverable material)

B. **USFRS**. USFRS shall collect and report to EPA and MPCA on a quarterly basis the following data for its own facility:

1. Quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) to be processed
2. Quantity of the metals recovered

3. Constituents of the recovered material (ion exchange resins, filters, other wastewater treatment sludge, residues)
4. Quantity and constituents of the non-recoverable material (ion exchange resins, filters, other wastewater treatment sludge, residues)

C. **Reclamation Facility.** USFRS shall collect and report to EPA and MPCA on a quarterly basis the following data from the Reclamation Facility:

1. Quantity of each metal recovered

II Measuring Superior Environmental Performance

A. **Baseline Performance.** USFRS shall collect baseline performance information for each customer facility participating in the XL project and provide an estimate of the total baseline quantities of rinsewater discharged, metal sludges disposed, pretreatment chemicals used and energy used without the benefit of the XL project.

B. **SEP.** USFRS shall report to EPA and MPCA on a quarterly basis the actual performance compared to performance targets set forth in Section IIIA of the Agreement and compare performance under XL with that of the baseline determinations.

C. **Meeting Out-of-State Targets.** USFRS shall provide a description of any efforts to expand this project to include customers outside the state of Minnesota.

III Materials Management

A. **Transporters.** USFRS shall maintain and report to EPA and MPCA on a quarterly basis the list of USFRS XL Waste Approved Transporters, including the transporter's name, if applicable, its EPA identification number and its Mn/DOT hazardous waste license number, the date of notice to EPA and MPCA and the date on which USFRS notified the transporter that it is a USFRS XL Waste Approved Transporter. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes from the transporter.

B. **Spills**. USFRS shall collect from each generator and transporter and report to EPA and MPCA on a quarterly basis any incidents where damage or spills occurred and how management of spills was conducted.

C. **Process changes.** USFRS shall collect from each customer and report to

EPA and MPCA on a quarterly basis any process changes that may affect constituents in the canisters and sludge or that may affect the treatment/disposition of the sludge and/or efficiency of metals recovery (e.g., waste stream segregation).

IV Costs and Cost Savings

A. **Baseline Costs**. USFRS shall calculate the baseline costs using 2 scenarios: 1) typical charges (prior to the USFRS XL Project) for pretreating and disposing effluent wastewater under the CWA requirements and for manifesting, transporting and disposing F006 sludges, and 2) typical charges that would be incurred if waste were recycled in compliance with RCRA and requirements for manifesting and transportation of hazardous waste had been imposed (including tax obligations under both scenarios).

B. **XL Project Costs**. USFRS shall compare the baseline costs to XL Project costs. To conduct this comparison, USFRS shall collect the following cost information from each customer:

1. The current costs to the customer for completing the Transportation Tracking Document
2. The current transportation costs for XL wastes
3. Cost to supply ion exchange resin process

USFRS shall report to EPA and MPCA on a quarterly basis the following cost information for its own facility:

4. The cost of metals reclamation off-site (including costs associated with transportation and disposal).

C. **Cost Comparison.** USFRS shall report to EPA and MPCA on a quarterly basis whether the project is resulting in cost savings for its customer facilities and what aspects of the XL project produce any savings.

V Stakeholder Involvement

A. USFRS shall report to EPA and MPCA on a quarterly basis the following information on the extent to which communication with public stakeholders has been maintained throughout project implementation:

1. The methods used to allow public access to information
2. The mechanisms used to communicate with direct participants and the general public including receiving, documenting and responding

to written communications from public stakeholders (e.g., public meetings, newsletters)