

# **1998 PROJECT XL REPORT**

**to the**

**MINNESOTA LEGISLATURE**

January 9, 1998

Prepared by the



**Minnesota Pollution Control Agency**

**TABLE OF CONTENTS:**

<b>SECTION</b>	<b>PAGE</b>
I. EXECUTIVE SUMMARY —————	2
II. BACKGROUND OF MPCA REINVENTION ACTIVITIES ———	4
III. 3M HUTCHINSON XL PILOT — Why Did it Fail? —————	6
IV. ACTIVE MINNESOTA PROJECT XL PILOTS —————	10
A. Andersen Windows XL Pilot	
B. US Filter XL Pilot	
C. Steel County Community XL Pilot	
D. Other Proposed XL Pilots	
V. OTHER MPCA REINVENTION EFFORTS —————	13
A. Common Sense Initiative	
B. Environmental Regulatory Innovations Symposium	
C. EPA/ECOS Reinvention Framework Agreement	
D. Federal Legislation	
E. State Initiatives	
VI. CONCLUSION AND RECOMMENDATIONS —————	15
ATTACHMENTS: —————	16
Attachment 1 – Project XL: The Minnesota Experience	
Attachment 2 – Environmental Regulation for Sustainable Development	

## I. EXECUTIVE SUMMARY

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Minnesota Statutes section 114C.10(1996) required the Commissioner of the Minnesota Pollution Control Agency (MPCA) to report on the implementation of the MinnesotaXL project, the environmental results of the project, and recommendations for future legislation to further the policy of Minnesota Statute Chapter 114C.

The first Project XL pilot in Minnesota was with the 3M Hutchinson facility. This pilot was not successfully implemented as discussed in Section III of this report. The 3M Hutchinson pilot was to be an experiment on how the MPCA might regulate certain major point sources in a more productive and efficient manner, while encouraging performance oriented environmental protection, and testing mechanisms for unprecedented public accountability.

The MPCA believes the 3M Hutchinson pilot was done correctly and would have provided valuable information as to how the existing environmental protection system in our country might be improved. The MPCA remains committed to furthering the ability for states to conduct innovations experiments with the goal of developing performance based approaches to move us to the *next level* of environmental protection. Current command and control based regulations do not contain incentives needed to encourage facilities to go beyond the minimum of what regulations currently require. Some companies currently take voluntary actions to go beyond the minimum requirements to be good corporate citizens or because of public pressure resulting from Toxics Release Inventory reporting. But the fact remains, our current regulatory structure gives no incentives for companies to reduce pollution beyond the minimum requirements of the law.

The MPCA believes that to attain the next level of environmental performance, we need to tap into voluntary performance based approaches that result in reduced impacts to the environment. The MPCA has committed to find ways in which states can be used as laboratories for innovative reinvention experiments. As co-chair of an Environmental Council of States (ECOS) regulatory innovations committee, the MPCA Commissioner, led in negotiations of a document with the U.S. Environmental Protection Agency (EPA) which contains the key principals for states to follow when conducting innovations experiments. In addition, in November 1997, the MPCA was host to an ECOS sponsored symposium, where top environmental leaders from states, EPA, environmental interest groups, and the regulated community discussed the future of regulatory innovations in our country.

Our nation's environmental protection system has a proud history of great successes. Our media-specific laws, regulations and programs have served us well in dealing with major point sources of pollution—a primary concern during EPA's first decades of existence. EPA and the states have accomplished a great deal by working with the regulated community to bring major sources into compliance. Much of this success was achieved with a "command-and-control" approach. Today, most of these major sources have the resources and the commitment to work as partners in protecting the country's environment.

The primary environmental problems we need to address today are very different from those we faced in the early decades of EPA's existence. In many respects, they are not so glaringly

obvious because they involve many smaller, non-point sources of pollution. These thousands of small sources have a cumulative effect that, when added up, can present major environmental problems. There is no question that, in Minnesota, the greatest threats to the quality of our air, water and land today come not from a manageable number of large sources but rather from the cumulative impact of an overwhelming number of smaller sources. In Minnesota, common examples of these are automobile emissions, agricultural and urban runoff and faulty septic systems.

In today's tough economic climate, smaller industries and businesses struggle to maintain their competitive edge and some semblance of a level playing field. When "one-size-fits-all" environmental regulations that have typically been applied to larger facilities are applied across the board without flexibility, it can be a significant deterrent to economic survival of some smaller businesses and industries. Likewise, many large businesses feel hamstrung by increasingly complex and inflexible, "one-size-fits-all" regulation.

The national environmental protection system, with its media-specific focus, is also becoming problematic because many in the regulated community have multi-media environmental needs. The current structure focused primarily on various media "silos" does not serve them efficiently or effectively. Although government managers and staff have managed to put together innovative multi-media solutions to problems, they have done so, not because of the structure of the environmental system, but in spite of it. This single media silo structure does not promote holistic approaches to environmental problems. Institutionally, it does not give rise to the flexibility and innovation federal and state staff need to respond quickly and effectively to emerging problems such as global warming, environmental mercury accumulation, endocrine disrupters and deformed frogs.

Today, most businesses and government agencies are leaner, based on the number of environmental programs that they are expected to manage, than they were a decade ago, yet they are expected to do more with less and to do it more efficiently. In terms of efficiency, cost-savings and customer service, government is being held to many of the same standards that American industry has successfully achieved. This point is key when considering our move from the current system focused on the problems of yesterday and the methods to manage these problems, to a system where we need to address the most pressing environmental problems of today.

**Implementation and recommendations.** Because of the failure to implement the 3M Hutchinson pilot under Project XL, the MPCA has no environmental results to report. For the same reason the MPCA does not have legislative recommendations to further the policy of Minnesota Statute Chapter 114C. However, the MPCA believes the opportunity for great innovation has been greatly diminished through EPA's new guidance and direction for the Project XL. The new guidance greatly limits the original intent of the program, which was to set the high jump bar at a level superior to existing regulation and then let the companies figure out how to best jump that high bar. The MPCA does however believe that in certain limited circumstances EPA's revised Project XL program presents an opportunity for innovative

experiments. Minnesota therefore continues to work to identify and develop Project XL pilots. Active Project XL pilots are briefly described in Section IV of this report.

To summarize, the MPCA believes reinvention activities, like Project XL and the ECOS/EPA agreement, are not an option for environmental leaders; they are an obligation. We must move from the current system designed to solve yesterday's environmental problems to a system better suited to address our problems today and tomorrow with the goal of moving to the next level environmental protection for the 21st century.

## **II. BACKGROUND OF MPCA REINVENTION ACTIVITIES**

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In the early 1990's the MPCA began experimentation with innovative air permit processes. This process culminated with a permit being issued to the 3M St. Paul tape plant dubbed a flexible air permit. This project was successful in saving resources normally consumed in air permit modification approvals, while at the same time acquiring commitments from 3M not required under law. This process was considered successful by the MPCA, 3M, and others involved with the pilot project.

In 1994 a multi-stakeholder group called the Pollution Prevention Dialogue (Dialogue) was formed through a grant from the Joyce Foundation. The groups primary purpose was to identify ways to overcome barriers to implementing pollution prevention. Both 3M and the MPCA were stakeholders on the Dialogue. The Dialogue identified the need to conduct pilot projects that would attempt to overcome pollution prevention barriers through increased flexibility. As a result the MPCA and 3M agreed to explore the possibility of developing an innovative multimedia pilot project that would focus on removing pollution prevention barriers and build on the past success of the 3M flexible air permit. At the same time a subgroup of the Dialogue was formed to oversee and provide input into the development of pilot projects at the MPCA. This group is called the Pilot Project Committee (PPC), and is still meeting and providing input to the MPCA to this day.

March 1995 — The MPCA sent a letter to EPA Region V requesting their involvement in the development of one or more multimedia pilot projects focused on removing pollution prevention barriers. In this same time frame the President announced an environmental reinvention framework, which included a program titled Project XL. Project XL was described as a program in which innovative multimedia projects would be piloted that traded regulatory flexibility for superior environmental performance.

June 1995 — The MPCA submitted proposal for state run XL project in Minnesota, asked for program to be delegated, to develop and implement 3 - 5 pilot projects in Minnesota. 3M Hutchinson project was identified in the proposal as the first pilot Minnesota planned to develop.

Nov. 1995 — EPA selects Minnesota proposal as only state proposal.

Nov. 1995 through March 1996 — Minnesota begins immediately working with local and statewide stakeholder groups develop 3M Hutchinson agreement. During this period Minnesota was also working with EPA Region V and EPA headquarters, but EPA was unable to engage fully due to federal employee furloughs.

Mar. 1996 — The Minnesota legislature passed enabling legislation to allow XL experiments to take place. The Minnesota legislation was titled “Environmental Regulatory Innovations Act” and required this report.

Mar. 96 through May 96 — MPCA drafts an XL permit for the 3M Hutchinson pilot with support of local and statewide stakeholders. A series of meetings with Region V and headquarters are held in Chicago to discuss EPA concerns and refine permit. May 23, 1996, Minnesota public notices 3M Hutchinson permit and final project agreement.

Jun. 10, 1996 — Local and statewide stakeholders, MPCA, 3M, and EPA representatives meet in Chicago to discuss public noticed permit and final project agreement. When asked directly if EPA had any significant issues, EPA states that no significant issues remain concerning the implementation of the 3M Hutchinson pilot.

Jul. 2, 1996 — One day after the close of the 30-day comment period, MPCA, 3M and stakeholders are shocked to receive EPA comments containing SIGNIFICANT ISSUES.

Jul. 30, 1996 — Meeting between EPA, MPCA, 3M and Minnesota stakeholders ending with the inability to overcome the significant issue of EPA’s new definition of Superior Environmental Performance.

Aug. 96 through Dec. 96 — A number of efforts attempting to jump-start the project fail. In December 1996, 3M notified the parties it was abandoning further efforts to implement the project and returns the facility to the normal regulatory process.

Oct. 96 — A number of concerned state leaders, including the MPCA Commissioner, meet with the EPA Administrator to discuss concerns about the failing Project XL program. The Administrator and state leaders agree to develop overarching guidance for conducting reinvention experiments in the states. This eventually leads to the agreement between EPA and ECOS concerning principals and process for conducting innovation experiments in the states.

Jan. 97 — The MPCA and other national stakeholders to the Project XL program participated in a meeting to provide input to EPA in developing new guidance for the program.

Mar. 97 — EPA issues new guidance on Project XL which solidifies the EPA definition of Superior Environmental Performance for a Project XL pilot. The MPCA begins talking with Minnesota companies who had expressed interest in Project XL. Andersen Windows, US Filter, and Steele County express an interest to explore development of a Project XL pilot under the new EPA guidelines.

Nov. 97 — The MPCA hosted a national symposium to discuss how to best approach implementation of regulatory innovation efforts.

### **III. 3M HUTCHINSON XL PILOT — Why Did it Fail?**

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The Minnesota Pollution Control Agency (MPCA) and 3M Company (3M) began working on the idea of superior environmental performance and operational flexibility through alternative compliance mechanisms in 1991. The result of this effort was a March 1993 flexible air permit for 3M's St. Paul Tape Plant. When President Clinton and Vice President Gore released the March 16, 1995, document entitled, "Reinventing Environmental Regulation," 3M and the MPCA were working on another experiment similar to Project XL.

The MPCA and 3M decided to submit a Project XL proposal after publication of the U.S. Environmental Protection Agency (EPA) notice soliciting Project XL proposals in the May 23, 1995, Federal Register. The MPCA submitted its XL proposal to EPA on June 15, 1995, asking EPA to delegate to the MPCA the ability to undertake one state project consisting of three to five Project XL pilots. When the proposal the MPCA submitted was selected in November 1995, the MPCA believed it meant the ability to conduct pilot projects was delegated in the same way the authority to issue permits is delegated. EPA, well after MPCA and 3M began developing their project, said that this would not be the case.

The MPCA committed to developing innovative, multimedia permits with a variety of regulated parties in order to test the Project XL concept on a statewide basis. The MPCA decided that its first XL pilot would be the 3M Hutchinson site. The MinnesotaXL permit would have addressed air emissions, storm water management, liquid storage facility requirements and hazardous waste generator requirements.

Under the MinnesotaXL permit, 3M committed to cap its emissions of air pollutants. The caps for volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) were designed to result in environmental performance that met the "Superior Environmental Performance" definition announced by the President and EPA — performance that would be "superior to what would be achieved through compliance with regulations at that time and reasonably anticipated future regulations." 3M committed to report emissions of toxic chemicals in such a manner that the MPCA could assess its emissions to assure that they did not exceed health-based state guidelines and to take corrective action in the event guidelines were exceeded. 3M also committed to develop an acceptable acute chemical release procedure.

3M sought relief from some of the hazardous waste generator and management requirements in order to achieve additional reuse and recycling of hazardous wastes, and to manage its hazardous waste operations more cost effectively. 3M committed to develop and implement an environmental management system (EMS) to verify its compliance with the MinnesotaXL permit and to test whether an EMS provides better environmental or management results than current regulatory requirements. 3M committed to develop a simplified and understandable compliance

reporting system on the Internet so that the public as well as the regulatory agencies were aware of 3M's performance under the MinnesotaXL permit.

Under the 3M Hutchinson final project agreement, 3M committed to establish environmental improvement goals and measurement methods to determine actual performance in meeting the goals. The environmental improvement goals were to include goals for preventing or reducing pollution. 3M also committed to report annually an assessment of the success of the 3M Hutchinson XL pilot.

In order to implement this project, 3M requested regulatory flexibility from certain state and federal air quality permitting requirements, new source performance standards, air toxics standards under NESHAPs for source categories, hazardous waste generator standards, general conditions found in air and water regulations, emergency response planning requirements, and reporting and recordkeeping requirements.

Expectations:

At the time, the 3M Hutchinson permit would have been the first permit issued under the state and federal regulatory reform experiment known as "Project XL." There was no template for what Minnesota developed in the 3M Hutchinson pilot and very little guidance from the EPA. Under Project XL, the MPCA developed a simpler, less burdensome permit that was designed to achieve the following four broad goals:

- A. Achieve environmental performance that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations;
- B. Promote increased operational and administrative flexibility to reduce costs;
- C. Encourage greater pollution prevention and other innovation efforts; and
- D. Facilitate increased stakeholder support with multi-stakeholder involvement in the design and implementation of XL permits.

In addition to the permit, there was a Final Project Agreement, entered into between the permittee, the MPCA and the U.S. Environmental Protection Agency (EPA), which included pollution prevention goals and the measurements being made to determine the success of this Project XL experiment.

Going into this experiment, the MPCA believed it could come up with something that would be cleaner, cheaper, smarter, and faster. The MPCA believed that under Project XL as originally intended, the authority existed to test shifting away from the current "command and control" regulatory approach, and to develop a new performance-based approach that would lead to the next level of environmental protection. Knowing what we know today and given EPA permission, MPCA would issue the 3M Hutchinson XL permit.



## **The Key Barrier — Definition of Superior Environmental Performance**

The key barrier that eventually led to the failure of the 3M Hutchinson Project XL pilot was the issue of what would be required to meet EPA's definition of "Superior Environmental Performance."

### **MPCA Approach:**

Going into the development of this pilot project, the 3M Hutchinson facility had an excellent environmental track record. Based on our knowledge of 3M's corporate policies and performance at the Hutchinson plant, the MPCA assumed that 3M would continue making good environmental decisions. A simple emissions cap was structured above what 3M was emitting, but approximately 75% below what law required. Underneath this cap, 3M had a great amount of flexibility to grow, change, and test pollution prevention formulations. MPCA worked closely with local and statewide stakeholders to analyze potential risks of the cap and determined with the stakeholders that the risks associated with the approach were acceptable.

The flexible cap allowed an agreement that was: much easier for stakeholders to understand; less administratively burdensome; allowed the company to make the right environmental decisions; and held the company publicly accountable for its actions. The benefits of this approach were a streamlined multi-media permit that was much easier for those impacted (local public) to understand and less costs for regulators and the regulated party.

In addition, the permit would have set a new excellence standard to drive other companies to a similar level of environmental protection, the idea being that other companies would want similar flexibility and cost savings. The risk was that the company would not act in good faith, forcing the MPCA to take action to return the company to the traditional system.

### **EPA Approach:**

In contrast, after development of the 3M Hutchinson agreement, the EPA informed the MPCA that the project would be required to guarantee that environmental performance was superior to what 3M was currently achieving. In terms of emissions, this meant that 3M would have to guarantee that emissions would be lower under the agreement than they would have been outside of Project XL. This approach returned the "command and control" structure to the permit, greatly limiting the amount of flexibility, increasing regulatory burden costs, and eliminating much of the original innovation.

The advantages to EPA were little or no risk of a company having a greater impact on the environment, and no risk of compromising the precedents of current EPA programs. The disadvantages were that the required guarantees wiped out the reductions in administrative burden, arguably making compliance more complex and burdensome than the current process, and increased complexity which would have rendered the agreement nearly unintelligible to the local stakeholders.

The MPCA and stakeholders were taking a “big picture” approach to what this project’s environmental performance entailed as outlined by the following excerpt from a September 16, 1996, letter from Minnesota’s statewide stakeholder group to EPA:

*“In particular the 3M Hutchinson Project XL agreement includes the following notable features:*

- 1) a guarantee that ensures 3M’s performance is well beyond what current regulations require or are anticipated to require in the five year term of the permit;*
- 2) significant local and statewide stakeholder involvement in the permit development resulting in consensus to move to implementation;*
- 3) a guarantee of continued involvement through evaluation and feedback from stakeholders during the implementation phase;*
- 4) a greatly streamlined permit (20 permits @ ~300 pages into one, ten page multi-media permit) which Minnesota stakeholders believe to be much more understandable to those impacted by the facility - the general public;*
- 5) reporting of daily emissions in a user friendly graphical format on the Internet;*
- 6) using a health risk model to ensure protection of human health from the release of toxic emissions;*
- 7) a commitment to shift environmental resource savings under the streamlined Project XL permit approach to innovative pollution prevention or emission reduction projects and to report these results;*
- 8) testing of a detailed Environmental Management System for the facility that minimizes or eliminates overlap between records, reports or procedures required by regulations and those required in operating the facility, that makes it easier for plant management and staff to identify and understand the facility’s requirements for environmental performance set by both government regulations and corporate policy which includes ambitious goals for future environmental performance including pollution prevention; and*
- 9) unprecedented operational flexibility for increased global competitiveness and employment stability at the facility.*

*It is important to point out, that under the traditional permitting approach 3M Hutchinson is now returning to, most if not all of the nine items listed will not be achieved.”*

In the end, the MPCA and its stakeholders had ideas diametrically opposed to EPA ideas for what Superior Environmental Performance under Project XL should be. The MPCA and stakeholders took the approach that part of the meaning of experimenting in new approaches meant environmental performance, as long as the level was protective and beyond current law, would not be guaranteed up front. The EPA approach was to guarantee environmental performance upfront, thereby removing the experimental nature of Project XL, all risk associated with the project, and the incentives to “real” innovation. Minnesota’s Attorney General and Congressional delegation all expressed strong support for the draft 3M Hutchinson XL permit and opposed EPA’s concerns.

After months of trying to develop provisions in the agreement facilitate the concerns of EPA, 3M decided that they needed to move back into the existing regulatory structure. 3M officially

withdrew from the development of a Project XL status in December of 1996. A detailed discussion of the 3M Hutchinson pilot project is included in the two attachments to this document. Attachment 1 is a paper written by Andrew Ronchak the project manager for the MPCA on the 3M Hutchinson pilot. This paper describes in great detail all aspects of the pilot. Attachment 2 is a paper written by two of the statewide stakeholders to the pilot. The stakeholders were both from the University of Minnesota. The paper written by Professor Alfred Marcus and Associate Don Geffen describes the key aspects of the project for their stakeholder viewpoint.

#### **IV. ACTIVE MINNESOTA PROJECT XL PILOTS**

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##### **A. Andersen Windows Pilot Summary.**

###### **Focus:**

Product Stewardship - reducing dependence on raw timber purchases.

###### **Project Description:**

The Andersen project is intended to facilitate future widespread use of the FIBREX compound, a vinyl-wood composite that replaces traditional wood components that otherwise would be milled, preserved and coated. FIBREX offers environmental advantages over traditional window components in both reduced air emissions and because of the utilization of what otherwise would be waste sawdust and vinyl. At the same time, the project is intended to facilitate additional waterborne wood preservative processes to replace traditional solvent-borne preservative processes. Increased use of FIBREX material in the production of Andersen windows and doors will reduce dependence on lumber purchased. The Andersen facility is the largest window and door manufacturing company in the United States. As such, Andersen is currently one of the largest purchasers of western ponderosa pine. Therefore, increased FIBREX usage will reduce their demand for the raw material.

For superior environmental performance in the air area, Andersen is committing to a ratio limit for VOC's per unit of production. The per-unit limit ensures that as production increases, Andersen cannot turn back to old solvent - intensive methods. Rather, expanded production will have to utilize the waterborne technologies or be based on FIBREX technology. The net result being that as production increases, dependence on solvent based processes will decrease. Andersen is seeking relief from certain Federal New Source Review program requirements.

Lastly, as the use of FIBREX grows under the proposal, Andersen Windows will need to acquire waste wood materials generated outside of the facility. This pilot will design a streamlined regulatory approach, with relief from RCRA, to allow for the recovery of wood from window frames containing lead paint. Thus allowing the incorporation of the recovered wood back into FIBREX containing products.

A proposal has been developed and submitted to EPA for review and comment. In addition the company has held one organizational meeting with interested parties who will serve as stakeholders in the development of a Project XL agreement.

## **B. US Filter Pilot Summary.**

### **Focus:**

Hazardous Waste Recycling — capture and recycle hazardous waste materials currently handled in a less preferable manner.

### **Project Description:**

The US Filter facility is a hazardous waste recycling facility located in the Twin Cities metropolitan area. On a scale of hazardous waste management practices, US Filter is considered an excellent option. (This assumes the waste cannot be prevented from being generated in the first place.) US Filter has no competition for the type of activities they undertake in this area. The proposed US Filter XL pilot is intended to encourage hazardous wastes not currently recovered to flow to a “better management practice” by giving US Filter and generators of certain hazardous wastes regulatory flexibility.

The regulatory flexibility asked for in this pilot would create a new category of hazardous wastes with specially designed handling criteria. The end result would be to create a system where US Filter would have a “regulatory umbrella” over its customers (the hazardous waste generators). Under this system, US Filter would take responsibility for the handling/manifesting of certain hazardous wastes from the customer. Resulting in regulatory relief for the customer, thus creating an incentive to recover hazardous wastes currently being neutralized and discharged to sewers.

In this project an initial proposal has been developed and submitted to EPA for review and comment.

## **C. Steele County Community Summary.**

**Focus:** Phase 1 — Wastewater Effluent Reduction

### **Project Description:**

It is the intent of the Steele CountyXL Direct Participant Project Sponsors to formally apply for a full Community XL Final Agreement to EPA in a community wide project consisting of a Two Phase approach to attainment of Environmental Excellence and Leadership.

The first phase of the project will specifically address industrial regulated wastewater effluent reductions, while at the same time concentrate on significant water use reduction controls. The second phase of the Steele CountyXL Community Program will expand to a multi-media

approach to environmental permitting, based on overall community performance, rather than individual member performance in the areas of air emissions, solid waste reduction, hazardous waste reduction, chemical storage and community sustainability.

As a Direct Participant group, we are committed to go beyond existing compliance efforts in order to obtain operating flexibility which will produce results better than what is actually being achieved through current environmental regulatory requirements.

Steele CountyXL intends to develop a community based environmental control system that will set 21st Century Environmental Excellence and Leadership Standards for the rest of the nation to follow.

Steele CountyXL direct participants will follow established criteria through both Phase I and Phase II of this projects proposals in order to document goal progress.

#### **Steele County Direct Participants:**

Crown Cork & Seal	Josten's Inc.
Gandy Company	Uber Tanning
Mustang Mftg.	Viracon - Marcon
SPx Corp. OTC Division	Steele County
SPx Corp. Power Team Division	The King Company
Truth Paint Plant	Truth Hardware
Cybex	

In this project an initial proposal has been developed and submitted to EPA for review and comment.

**D. Other Proposed Projects.** One other project has surfaced as a potential Project XL pilot. This project has been proposed by the non-profit environmental interest group Citizens for a Better Environment. A short description of the initial proposal concepts are as follows:

**Hawthorne Community XL Proposal.** The Hawthorne Community is a heavily industrialized area of North Minneapolis roughly bordered by the Mississippi River on the East, Broadway Avenue on the South, and Interstate 94 on the West. Citizens for a Better Environment (CBE) is facilitating the development of this proposal. Initial stakeholder meetings between citizens, business, CBE and the Minnesota Pollution Control Agency were held to help identify community priorities for the area that could be addressed in an Community XL proposal. Should a project be developed it would address concerns identified in the Hawthorne Community public meetings.

## V. OTHER MPCA REINVENTION EFFORTS

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### A. Common Sense Initiative (CSI)

The MPCA has been an active participant in EPA's CSI Iron and Steel and Printing Industry sectors process. The Iron and Steel sector initiative has developed several items that will help to advance environmental efforts in this industry. They have developed a model multimedia permit that is based on pollution prevention. This permit offers insight into an approach that may help a smaller steel mill (mini mill) address environmental protection in a multimedia fashion, using pollution prevention as its base.

This industry sector is also working on developing a Code of Conduct that will incorporate many of these aspects of an environmental management system that can be used by the whole industry. This effort will also help identify the most significant compliance issues so that the industry can focus on these first and make sure they are addressing the most critical issues. A third element being developed is a monitoring program that will help identify environmental impacts of these facilities, and ways to measure the impacts of their efforts to improve the environment.

The MPCA has also been an active participant in the EPA's CSI Printing Sector. The Printing Sector has nearly completed developing a comprehensive process that is being called "PrintSTEP." This stands for "Simplified Total Environmental Partnership" with respect to the printing industry. The features include a comprehensive, multi-media permit/approval system for air, water and hazardous waste. This system is modular in design so that a printer can be appropriately regulated, depending on the degree of environmental impact for air, water and hazardous waste.

A new — perhaps even revolutionary — approach to public participation in the permitting/approvals process has been designed and is integral to PrintSTEP. As with all CSI projects, this process has the full support of representatives from all six CSI stakeholder groups: environmental groups, environmental justice groups, labor groups, printing industry, U.S. EPA and the states. Candidate states are being sought now to pilot PrintSTEP. Formal work products will be completed in March 1998. They will be used by states for implementation, by printers for understanding the process and by communities to see how they can and should participate in the permitting/approvals process.

### B. Environmental Regulatory Innovations Symposium

The MPCA hosted a symposium in November of 1997. The symposium was attended by national environmental leaders who have been at the forefront of exploring regulatory reinvention activities. The symposium was sponsored by ECOS and was focused on bringing state environmental leaders together for a dialogue on how to further reinvention efforts. At the symposium 13 innovations case studies were presented by state representatives. From the case studies and other innovation activity lessons the following issues were identified: barriers to success; characteristics of success; and key initiatives to move reinvention efforts forward. The

MPCA is currently facilitating the writing of a proceedings document which will be available in January 1998 on the MPCA website at the address listed in Section VII, below.

### **C. EPA/ECOS Reinvention Framework Agreement**

The Environmental Council of States (ECOS) Regulatory Innovations Workgroup was formed in September, 1996, at the ECOS annual meeting to address many states' concerns about the direction and pace of EPA innovation efforts. The Workgroup's first action last fall was to meet with EPA Administrator Carol Browner, Deputy Administrator Fred Hansen, and senior staff on October 31, 1996, to discuss the states' concerns. That meeting produced an agreement to form a joint ECOS/EPA workgroup to develop principles of regulatory innovation and a process to implement those principles.

The joint workgroup met bimonthly from mid-November, 1996 through February, 1997. The most active state participants were: Minnesota, Arkansas, Illinois, Indiana, Louisiana, Michigan, New Jersey, North Carolina, Wisconsin, and Texas. From EPA, active participants represented Deputy Administrator Fred Hansen's Office: Office of Enforcement and Compliance Assistance, Office of General Counsel, Office of Water, Office of Air and Radiation, Office of Regional Operations and State/Local Relations and Office of Policy, Planning and Evaluation; and the Deputy Administrators from EPA Regions IV and V.

In May 1997, state representatives met with EPA staff to discuss how to move forward. Three threshold issues were identified and presented to EPA for discussion before the states began discussing the draft agreement again. The issues dealt with 1) efficiency as a stand alone goal of innovation; 2) regulatory flexibility proportionate with increased environmental protection; and 3) implementation of all types of innovations under the Agreement.

Based on a favorable response from EPA, the ECOS Environmental Regulatory Innovation Workgroup agreed to resume negotiations. EPA and state officials met with EPA staff in July and August to finalize draft agreement language to be presented for initial reactions from environmental groups and other stakeholders prior to presenting the Agreement at the ECOS fall meeting in September.

In September 1997, ECOS members approved the draft agreement for publication in the Federal Register. Publication took place on October 29, 1997. Following a stakeholders' meeting in late November, EPA and ECOS will meet to discuss any comments received and attempt to respond jointly to the comments.

In November 1997, the EPA published the draft agreement in the Federal Register. On November 20, 1997, a public meeting was held to receive comments on the draft agreement. The MPCA anticipates the agreement will become effective in the first part of 1998, after public comments are addressed.

## D. Federal Legislation

The MPCA believes that one way states could be given authority to conduct regulatory innovations experiments in through a Congressional action to authorize pilot projects. One such bill was recently introduced by Senator Lieberman. The MPCA intends to actively engage in dialogue as to whether federal legislation is warranted and if so what the key components federal legislation should be.

## E. State Initiatives

Minnesota has always been a leader in addressing priority environmental issues even when not required to by the federal government. The MPCA continues to evaluate new state initiatives surfacing as environmental issues but outside of the current regulatory box. Examples of these type of initiative are: deformed frogs; mercury; and point/nonpoint trading. The MPCA will continue to identify and address any emerging high priority environmental problems. Furthermore, the MPCA believes that flexibility's offered through reinvention efforts could help the MPCA shift resources from lower priority resource draining activities to higher priority problems with minimal or no current resource allocation.

## VI. CONCLUSION AND RECOMMENDATIONS

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As stated in the executive summary the MPCA believes reinvention activities, like Project XL and the ECOS/EPA agreement, are not an option for environmental leaders; they are an obligation. Regulators must move from the current system designed to solve yesterday's environmental problems, to a system better suited to address our problems of today and tomorrow. The main goal of redesigning our regulatory system is to move environmental protection to the next level of performance in the 21st century.

The failure to implement a very visible reinvention project at the 3M Hutchinson facility, does in no way imply that the MPCA will give up its efforts to obtain the authority states need to experiment with viable pilots that test the ability to improve environmental performance while gaining the flexibility to refocus efforts on the environmental problems of the future. The MPCA will through efforts described in this report and others as they are identified attempt to continue moving the reinvention efforts of this state and this country forward.

**Implementation and recommendations.** Because of the failure to implement the 3M Hutchinson pilot under Project XL, the MPCA has no environmental results to report. For the same reason the MPCA does not have legislative recommendations to further the policy of Minnesota Statute Chapter 114C.



## **FURTHER INFORMATION**

For further information concerning the pilot projects or information described in this report, refer to the Minnesota Pollution Control Agency Website at:

<http://www.pca.state.mn.us/hot/envinnovations.html>; or contact:

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## **ATTACHMENTS:**

Attachment 1 – Project XL: The Minnesota Experience  
Attachment 2 – Environmental Regulation for Sustainable Development

Attachments available upon request from the Minnesota Pollution Control Agency by contacting Andrew Ronchak at (612) 296-3107.