

Co-Generator Agreement Between The United States Department of Energy And
{Insert Contract Awardee}
{Date}

WHEREAS, the United States Department of Energy (DOE) owns the Paducah Gaseous Diffusion Plant (PGDP), a facility formerly used to enrich uranium located approximately ten miles west of Paducah, Kentucky; and

WHEREAS, DOE's programs at the PGDP include deactivation, waste management, decontamination and decommissioning, and environmental remediation activities; and

WHEREAS, *{Insert Contract Awardee}*, including its subcontractors (hereafter "XXX"), is DOE's deactivation, waste management, decontamination and decommissioning, and environmental remediation contractor at PGDP, and as such, performs such activities at the PGDP, under Contract No. DE-DT0008746, and

WHEREAS, XXX has agreed to perform all of this work in accordance with applicable laws and regulations; and

WHEREAS, Resource Conservation and Recovery Act (RCRA) regulations (40 CFR 262 and corresponding state regulations) set forth requirements for generation of solid and hazardous waste; and

WHEREAS, RCRA generator requirements include, but are not limited to, hazardous waste determinations, manifesting, and pre-transport (e.g., packaging and labeling), recordkeeping, and reporting requirements (hereafter "generator requirements"), and

WHEREAS, DOE and XXX are co-generators of solid and hazardous waste at the PGDP; and

WHEREAS, DOE and XXX, as co-generators, are jointly and severally responsible for implementing RCRA's generator requirements for deactivation, waste management, decontamination and decommissioning, and environmental remediation activities at the PGDP, including, but not limited to, characterizing waste, manifesting waste to off-site facilities, packaging and labeling waste for transport to permitted RCRA storage areas on-site, and storing waste for less than 90 days; and

WHEREAS, it is United States Protection Agency (EPA) policy (Co-Generator Policy) to encourage co-generators to enter agreements designating which party will perform generator duties on behalf of all co-generators (45 Fed. Reg. 72024); and

WHEREAS, under the Co-Generator Policy, EPA has stated that for purposes of enforcement it will first look to the party designated to perform generator duties on behalf of the co-generators; and

WHEREAS, DOE and XXX desire to memorialize their existing roles and responsibilities at the PGDP for complying with RCRA generator requirements and for certifying their compliance with such requirements;

NOW, THEREFORE, DOE AND XXX agree as follows:

1. Except for general policy direction and funding (which are the responsibility of DOE), effective 12:01 a.m. on DATE, XXX is responsible for performing all RCRA generator activities on behalf of both XXX and DOE for all activities under the scope of XXX's Contract DE-DT0008746, including, but not limited to, characterizing waste, manifesting waste to off-site facilities, packaging and labeling waste for transport, and storing and managing waste, in accordance with RCRA requirements.
2. DOE is responsible for general policy direction and funding for XXX's performance of RCRA generator requirements.
3. XXX's responsibilities include day-to-day compliance activities such as providing, overseeing, and training workers to physically effect compliance measures; collecting, reviewing, and verifying the accuracy of information (e.g., sampling data, process knowledge); and identifying, interpreting, implementing and ensuring compliance with applicable requirements.
4. DOE and XXX will use the following preamble text to certification statements for reports and other documentation that are submitted to regulators and that pertain to performance of RCRA generator requirements;

Except for general policy direction and funding, which are the responsibility of DOE, effective 12:01 a.m. on DATE, XXX is responsible for performing RCRA generator requirements on behalf of both XXX and DOE for all activities under the scope of XXX Contract DE-DT0008746. For purposes of the certification described in 401 KAR38.070, Section 7 and 40 CFR 270.11, DOE and XXX representatives are certifying, to the best of their knowledge and belief, the truth, accuracy, and completeness of the (description of document) for their respective areas of responsibility consistent with the Co-generator Agreement dated XXX.

5. DOE and XXX agree, for purposes of this agreement, that the DOE Certification Flowchart, attached hereto and incorporated herein by reference as Exhibit A will be used by DOE in the context of certifying statements for report and other documentation submitted to regulators and that pertain to performance of RCRA generator requirements.
6. DOE and XXX agree to use their best effort to secure formal enforcement understanding with regulators recognizing the agreement set forth herein. It is further agreed that use of the preamble text in Section 4 above will not be used if the Kentucky Department for Environmental Protection Division of Waste Management raises a formal objection to its use.
7. The Agreement does not alter terms, conditions, or costs of XXX's existing Contract DE-DT0008746.

IN WITNESS HEREOF, the parties have entered into this Agreement on this [] day of
{MONTH} 201X.

On behalf of the Department of Energy:

Robert Edwards
Manager
Portsmouth/Paducah Project Office

On behalf of XXX:

NAME
Program Manager
Company

DRAFT

Exhibit A: DOE Certification Flowchart for Co-Generator Agreement

