Pennsylvania Department of Environmental Protection
Bureau of Laboratories-Radiation Measurements Laboratory
2575 Interstate Drive Harrisburg, PA 17110

The Pennsylvania DEP Bureau of Laboratories (BOL) Radiation Measurements Laboratory (RML) is **EPA certified for drinking water analysis** of radionuclides.

The RML participates in the quality assurance program provided by: **Environmental Resource Associates completing the RadChemtm QC RAD-060 Study**.

RML Analysis Equipment:

Quantity	Type	Manuf	Model #	Field	Alpha	Beta	Gamma X-ray	X-Ray	Neutron	Notes	Location
1	Liquid Scintillation	Packard Tri-Carb	2550CA			X					PA-DEP BOL-RML
3	Proportional Counter	Gamma Products	**5420 Auto Quad**		X	X					PA-DEP BOL-RML
1	Liquid Scintillation	Packard Tri-Carb	**2250CA**			X					PA-DEP BOL-RML
1	Gamma Spectroscopy	Canberra	9900				X				PA-DEP BOL-RML
1	Alpha Spectroscopy	Canberra	9900		X						PA-DEP BOL-RML
10	Intrinsic Ge Detectors	APT					X				PA-DEP BOL-RML

BOL-RML: Pennsylvania Department of Laboratories – Bureau of Laboratories- Radiation Measurements Laboratory

Staffing:

Name	Position	Education	Major Subject.
Trau Upadhyay	Section chief (Chem III)	M.S	Organic Chemistry.
Tom Matukaitis	Chemist II	B.S	Chemistry
Chris Robins	Chemist II	B.S	Chemistry
Rubeena Quazi	Chemist I	B.S	Chemistry
Jim Kucynski	Technician	B.S	Metallurgy

Radiation Measurements Laboratory Efficiencies

PA Dept. of Environmental Protection Radiation Measurements Lab.

Gamma Counting System: Two (2) – Canberra Spectroscopy Systems
Ten (10) – Intrinsic Germanium Detectors (5 with each system)

		Soil, Flora, Fauna, Sediment		Water, Milk, Precipitation	
		0.5 L Marinelli		3.5 L Marinelli	
	Energy	Count time: 1000 minutes		Count time: 1000 minutes	
Isotope	**(Kev)**	**% Efficiency**	**LLD 95%**	**% Efficiency**	**LLD 95%**
Mn-54	834.84	0.93857	4 pCi/kg	0.34375	2 pCi/L
Fe-59	1099.25	0.73092	10 pCi/kg	0.25185	4 pCi/L
Co-58	810.76	0.96549	5 pCi/kg	0.35395	2 pCi/L
Co-60	1332.49	0.616	5 pCi/kg	0.2108	3 pCi/L
Zn-65	1115.55	0.72205	10 pCi/kg	0.24765	4 pCi/L
Zr-95	756.72	1.03068	8 pCi/kg	0.37883	3 pCi/L
Nb-95	765.79	1.01814	6 pCi/kg	0.37407	2 pCi/L
I-131	364.48	2.02657	12 pCi/kg	0.72519	3 pCi/L
Cs-134	795.85	0.9824	5 pCi/kg	0.36043	2 pCi/L
Cs-137	661.66	1.16796	4 pCi/kg	0.4313	2 pCi/L
Ba-140	537.32	1.40772	26 pCi/kg	0.51419	7 pCi/L
La-40	1596.18	0.52756	----------	0.19261	8 pCi/L
Be-7	477.59	1.57141	38 pCi/kg	0.57049	13 pCi/L
K-40	1460.81	0.5698	52 pCi/kg	0.29147	14 pCi/L

		Filters		Cartridges	
	Energy	Count time: 1000 minutes		Count time: 60 minutes	
Isotope	**(Kev)**	**% Efficiency**	**LLD 95%**	**% Efficiency**	**LLD 95%**
Mn-54	834.84	2.3292	1 pCi/filter	2.29563	4 pCi/cartridge
Fe-59	1099.25	1.74375	3 pCi/filter	1.70155	8 pCi/cartridge
Co-58	810.76	2.44378	1 pCi/filter	2.3885	4 pCi/cartridge
Co-60	1332.49	1.45829	1 pCi/filter	1.43682	5 pCi/cartridge
Zn-65	1115.55	1.72398	3 pCi/filter	1.67802	9 pCi/cartridge
Zr-95	756.72	2.71861	3 pCi/filter	2.61372	5 pCi/cartridge
Nb-95	765.79	2.66493	2 pCi/filter	2.56999	5 pCi/cartridge
I-131	364.48	5.56635	7 pCi/filter	5.87934	4 pCi/cartridge
Cs-134	795.85	2.51488	2 pCi/filter	2.44666	4 pCi/cartridge
Cs-137	661.66	3.35161	1 pCi/filter	3.11151	4 pCi/cartridge
Ba-140	537.32	3.9719	14 pCi/filter	3.85646	10 pCi/cartridge
La-40	1596.18	1.22172	----------	1.20148	6 pCi/cartridge
Be-7	477.59	4.40559	12 pCi/filter	4.37147	20 pCi/cartridge
K-40	**1460.81**	**1.33405**	**8 pCi/filter**	**1.31311**	**120 pCi/cartridge**

Low Background Gas Flow Proportional Counters

Three (3) Gamma Products GP 5420 Auto Quad Gas Flow Proportional Counters

-Water Count Time: 500 Minutes

Air Filter Count Time: 100 Minutes

	% Efficiency	LLD 95%	LLD 95%
Alpha	19.9	1 pCi/L	0.3 pCi/filter
Beta	41.1	2 pCi/L	0.6 pCi/filter
(Count time 200 minutes)			
Y-90	51.6	----	
Sr-89	48.0	0.6 pCi/L	
Sr-90	31.3	0.4 – 0.5 pCi/L	

Liquid Scintillation Counters

One (1) Packard Tri-Carb Model 2250CA
One (1) Packard Tri-Carb Model 2550CA

Water Count Time: 100 Minutes

	% Efficiency	LLD 95%
Tritium	21.0%	170 pCi/L

ATTACHMENT 2: BRP EMERGENCY RESPONSE EQUIPMENT KIT INVENTORY FORM

REGION _____ KIT _____

Item Description	Qty	Units	Comments	Sat.(Y/N)	Item Description	Qty	Units	Comments	Sat.(Y/N)
Air sample cartridge, charcoal	2	each			Lighter plug adapter (4-way)	1	each		
Air sample cartridge, silver zeolite	7	each			Maps (plant specfic)	1	each		
Air sample filter	2	boxes			Map Light	1	each		
Bags, plastic (2 mils, small)	20	each			Marker	1	each	in portfolio	
Bags, plastic (6 mils, large)	20	each			Neck chain	3	each		
Battery, 'AA'	24	each			Pens, ball point	1	each	in portfolio	
Battery, 9 volt, alkaline	4	each			Planchettes (2" diameter)	7	each	in portfolio	
Battery, 'D' cell,alkaline	10	each			Poncho style rain gear	3	each		
BRP E-Plan	1	each			Portfolio	1	each		
Clipboard	1	each			Reflective vest	2	each		
Decontaminant hand cleaner	1	can			Revolving warning light (amber)	1	each	With bulb & auth.letter	
Decontaminant surface cleaner	1	can			Rubber shoe covers	3	pair		
Dust mask	1	box			Safety goggles	3	pair		
Flashlight (headlamp)	3	each			Sponge	1	each		
Glove liners (cotton)	1	pack			Tablet (8 1/2" X 11")	1	each		
Gloves (latex, large)	1	box			Tape, duct	1	roll		
Hard hat (with liner)	3	each			Tape, masking	1	roll		
KI tablets (with instructions)	3	bottles	In portfolio		Tape, radioactive material	1	roll		
Knife, Utility	1	each			Tape, reflective	1	roll		
Labels, sample	20	each			Towels, paper	1	Roll		

Seal # _____ (applied after inventory completed)

Full Inventory completed by:_____ Date: _____

Quarterly inventory, Seal intact, verified by _____ Date: _____

Quarterly inventory, Seal intact, verified by _____ Date: _____

Quarterly inventory, Seal intact, verified by _____ Date: _____

Equipment lists - Emergency Response and Central Office

75 Canberra ADM-300 Rad Instruments
(4 that also have NP-100 probes)
(55 that also have pancake probes)
20 Ludlum 2241-2 Rad Instruments
5 Ludlum 2241-3 Rad Instruments emergency Kits with 44-9, 44-2, and 133-6 detectors
55 MGP DMC-2000 Electronic Dosimeters
12 Radeco H-810 Air Samplers
12 Canberra Inspector 1000 NAI Gamma Spec instruments
4 Berkeley Nucleonics NAI Gamma Spec Instruments
4 ICS-400 Cad-Telluride Gamma Spec
1 Exploranium Gamma Spec
5 Eberline E-120
1 Eberline ESP-2
1 Ludlum Datalogger Model 2350
1 Ludlum Model 15 Neutron meter
6 Ludlum Model 19 Micro- R meters
1 Ludlum Model 77-3 Stretch Scope
8 Thermo Electron E-600 Multipurpose meters, with alpha/beta scintillation detectors 99), and NAI detectors (6), and Low Energy Gamma Scintillation detectors (3)
1 Thermo Electron FCM-4m, Floor Contamination instrument
3 Thermo HandECount Alpa/Beta Sample Counters
1 Ortec Detective-EX Engine/Battery Cooled HpGe

ENVIRONMENTAL SAMPLE KIT INVENTORY

		TOOL BOX	
Qty.	***Unit***	***Description***	***Sat / Unsat***
1	Each	Clip board	
1	Roll	Duct tape	
1	Each	Duffle bag	
1	Each	Flashlight	
2	Each	Flashlight batteries (Spares)	
1	Each	Folding shovel	
1	Each	Garden trowel	
1	Each	Grass clippers	
1	Each	Hammer	
1	Each	Lined tablet	
6	Each	Metal stakes (12" X 1/4")	
1	Each	Nylon rope	
1	Each	Nylon string	
1	Roll	Paper towels	
1	Each	***Portfolio bag***	
1	Pair	Scissors ***(inside portfolio bag)***	
3	Each	Sharpie markers ***(inside portfolio bag)***	
1	Pair	Tweezers ***(inside portfolio bag)***	
3	Each	Ball point pens ***(inside portfolio bag)***	
3	Each	Plastic bags (38" X 65")	
2	Packages	Pre moistened towelletts	
1	Roll	Radioactive material tape	
2	Pair	Slip on rubber boots (non skid)	
1	Each	Soil sample cutter (with scoop)	
1	Each	Spoon	
1	Box	Surgeons gloves	
1	Each	Tape measure	
1	Each	Tool kit (computer type)	
1	Package	Ty wraps	
2	Each	Tyvek suits	
2	Pair	Work gloves	
1	Each	Zip lock bag (with smears)	
		COOLER	
Qty.	***Unit***	***Description***	***Sat / Unsat***
2	Each	One pint poly bottles	
4	Each	One gallon cubitainers	
1	Each	Funnel	
10	Each	Plastic bags (4" X 4")	
10	Each	Plastic bags (6" X 6")	
10	Each	Plastic bags (8" X 8")	
10	Each	Plastic bags (14" X 18")	
1	Each	BRP-ER-8.02 Environmental Sampling Procedure	
1	Each	BRP-ER-8.05 Chain of Custody Procedure	
20	Each	BRP-ER-8.05 Chain of Custody Forms	
20	Each	BRP-ER-8.02 Attachments	
20	Each	BRP-ER-8.05 Environmental Sample Labels	
MISCELLANEOUS			
2 Gallon Sampling bucket (1 each)			

Regional Radiation Protection Program Health Physics Survey Equipment
(calibrated annually unless otherwise noted)

Quantity	Type	Alpha	Beta	Gamma X-ray	Neutron	Notes
2	GM meter w/ Pancake		x	x		
1	GM meter w/ 1"x1" NaI			x		
5	Low Range (uR) meter			x		
10	Mid Range (Int. GM)			x		
13	Ion Chamber			x		2 Broken - Keithley
2	Alpha Probe Detectors	x				
16	Self-Reading Dosimeters			x		Not calibrated
8	Dosimeter Charger					
4	Electronic Dosimeters			x		Not calibrated
0	Neutron Survey Meters					
0	Alarming Ratemeters			x		
3	Portable Gamma Spectrometer			x		
11	Scalers					Micro Rad not cal'd

Regional Radiation Protection Program Health Physics Survey Equipment
(calibrated annually unless otherwise noted)

Quantity	Type	Alpha	Beta	Gamma X-ray	Neutron	Notes
6	GM meter w/ Pancake	?	Y	Y	NA	
5	GM meter w/ 1"x1" NaI	NA	NA	Y	NA	
4	Low Range (uR) meter	NA	NA	Y	NA	
10	Mid Range (Int. GM)	NA	?	Y	NA	
10	Ion Chamber	?	Y	Y	NA	
4	Alpha Probe Detectors	Y	?	NA	NA	2 Not Calibrated
6	Self-Reading Dosimeters					Not Calibrated
3	Dosimeter Charger					
0	Electronic Dosimeters					
1	Neutron Survey Meters	NA	NA	NA	Y	
0	Alarming Ratemeters					
5	Portable Gamma Spectrometer	NA	NA	Y		
0	Scalers					

Regional Radiation Protection Program Health Physics Survey Equipment
(calibrated annually unless otherwise noted)

Quantity	Type	Alpha	Beta	Gamma X-ray	Neutron	Notes
6	GM meter w/ Pancake					
5	GM meter w/ 1"x1" NaI					
10	Low Range (uR) meter					
20	Mid Range (Int. GM)					
16	Ion Chamber					
4	Alpha Probe Detectors					
30	Self-Reading Dosimeters					
10	Dosimeter Charger					
4	Electronic Dosimeters					
1	Neutron Survey Meters					
4	Alarming Ratemeters					
2	Portable Gamma Spectrometer					
8	Scalers					

The Need for the Proposed Action

The proposed amendment is needed to allow the licensee to implement the programmatic controls of GL 89–01, to implement the revised 10 CFR Part 20, to make editorial changes to the Radioactive Effluent Release Report in accordance with 10 CFR 50.36a, and to allow an annual submittal for the Radioactive Effluent Release Report.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no adverse environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure; therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Indian Point Nuclear Generating Unit No. 3.

Agencies and Persons Consulted

In accordance with its stated policy, on November 1, 1999, the staff consulted with the New York State official, Jack Spath, of the New York State Energy Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 19, 1998, as supplemented by letter dated July 28, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, Maryland, this 29th day of December 1999.

For the Nuclear Regulatory Commission

George F. Wunder,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–343 Filed 1–6–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, and the U.S. Department of Energy, Office of Waste Management, Concerning the Management of Sealed Sources

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to advise the public of the issuance of a Memorandum of Understanding (MOU) between the Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE). The purpose of the MOU is to address the problem of unwanted and uncontrolled radioactive materials, often referred to as "orphan sources". The MOU defines the agreed-upon roles and responsibilities of the NRC and DOE in situations involving orphan sources where the NRC is responsible for leading the Federal response, where immediate health and safety hazards have been addressed, and where assistance with the transfer of the radioactive material is determined to be necessary for continued protection of public health and safety and the environment.

EFFECTIVE DATE: June 18, 1999.

ADDRESSES: Copies of all NRC documents are available for public inspection, and copying for a fee, in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. The NRC Public Document Room is open from 7:45 a.m. to 4:15 p.m., Monday through Friday (except Federal holidays). Telephone service is provided from 8:30 a.m. to 4:15 p.m. at 202–634–3273 or toll-free at 1–800–397–4209.

FOR FURTHER INFORMATION CONTACT: Douglas A. Broaddus, NMSS, Mail Stop T8–F5, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–5847; Fax: (301) 415–5369; e-mail: dab@nrc.gov.

Dated at Rockville, Maryland, this 23rd day of December 1999.

For the Nuclear Regulatory Commission.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards and the U.S. Department of Energy, Office of Waste Management, Concerning Management of Sealed Sources

I. Introduction

The Federal Radiological Emergency Response Plan (FRERP) provides guidance for the response of Federal agencies in peacetime radiological emergencies that have actual, potential, or perceived radiological consequences within the United States, its Territories, possessions, or territorial waters. Although the FRERP encompasses a broad range of radiological emergencies, it does not provide specific actions that each agency must take when a radiological emergency is identified. This Memorandum of Understanding (MOU) defines the roles and responsibilities between the U.S. Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE) in situations where the NRC is responsible for the Federal response to a radiological emergency, but that does not require an immediate response (i.e., activation of the NRC Incident Response Plan as described in NRC Management Directive 8.2), and where the transfer of licensed source, special nuclear, or byproduct radioactive material—as defined under the Atomic Energy Act of

1954, as amended (the Act)—primarily in the form of sealed sources and devices as described in section IV. B., to the DOE is determined to be necessary to protect the public health and safety and the environment.

II. Background

This MOU formally defines the activities carried out since 1992 under agreements reached via exchange of correspondence between NRC and DOE. The need for this agreement arose due to the fact that licensed radioactive material which exceeds the Class C limits defined in § 61.55, Title 10 Code of Federal Regulations (CFR) is not acceptable for disposal at commercial disposal sites. The Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99–240) made DOE responsible for the ultimate disposition of this material. Until such time as the DOE has in place a disposal or routine acceptance and storage capability for the various types of this material, this agreement is necessary to allow transfer of material which exceeds Class C limits from NRC and Agreement State licensees to the DOE in limited situations which pose an actual or potential threat to the public health and safety.

Under limited situations, described in more detail in Section IV. A. of this agreement, DOE will consider accepting material at the request of NRC which does not exceed Class C limits, but only under situations where there is an actual or potential threat to the public health and safety that cannot be mitigated by other reasonable means.

III. Purpose

This MOU applies to the recovery and disposition of byproduct, source, and special nuclear material in the possession of licensees and in the public domain by the DOE at the request of NRC. Although this MOU is intended to apply to these materials in the form of sealed sources, it is envisioned that under rare circumstances this MOU will apply to the recovery and disposition of radioactive materials in other forms, as described in section IV. B. In addition, this agreement applies only to material in the private sector, licensed by NRC or an Agreement State, which represents an actual or potential threat to the public health and safety.

The determination of an actual or potential threat to the public health and safety will be made by the NRC as described in this MOU, in consultation with and participation by DOE, and may be based on such factors as condition of the material, environmental conditions that may affect the containment of the material, or loss of adequate controls by the licensee because of financial, technical, or other reasons. This MOU represents the process by which NRC may request assistance of DOE to mitigate or eliminate an actual or potential threat to the public health and safety from sealed sources and devices, after all other reasonable alternatives have been unsuccessfully explored.

This MOU does not apply to situations where the DOE has in-place the required capabilities for routine acceptance, storage, and/or disposal of material which exceeds the limits of § 61.55, 10 CFR as specified in Pub. L. 99–240. Any agreements required under those situations will be entered into separately or as a specific modification of this MOU. In addition, this MOU does not apply to situations which require activation of the NRC Incident Response Plan, nor does it apply to safeguards or reactor incidents.

IV. Scope

A. Types of Radioactive Materials

This agreement is limited to only those radioactive materials which are defined under the Atomic Energy Act of 1954, as amended, as source, special nuclear, or byproduct materials. This agreement does not have the authority to require the NRC or DOE to respond to non-emergency situations, pursuant to this MOU, involving radioactive materials or to respond to emergency situations which do not involve materials regulated by the NRC.

This agreement is primarily intended to provide, under emergency situations as described in this MOU, for the proper recovery and disposition by the DOE of radioactive materials that are regulated by NRC that exceed Class C waste limits defined in § 61.55, 10 CFR. Radioactive materials which do not exceed Class C limits are also covered by this agreement in circumstances that represent an actual or potential threat to the public health and safety and for which there are no other reasonable alternatives to mitigate the threat. NRC and DOE will consider situations involving radioactive material which does not exceed Class C limits on a case-by-case basis as described in section IV. E., or other agreed upon procedures.

Routine acceptance of material that does not exceed Class C limits is not a part of this MOU and would fall under the authority of the States in accordance with the intent of Pub. L. 99–240. No activities contained in this MOU are intended to undermine the authorities and responsibilities of the States as defined in Pub. L. 99–240. Further, situations which would be considered an emergency solely due to the lack of access to a compact or regional disposal site are not part of this MOU. These situations are covered in the emergency access provisions of Pub. L. 99–240 and must be addressed in accordance with 10 CFR Part 62. The purpose of 10 CFR Part 62 is to mitigate any serious or immediate threat to the public health and safety due to denial of access to a low-level waste disposal facility.

B. Form of Radioactive Material

This agreement primarily addresses the radioactive materials defined in section IV. A. in the form of sealed sources or in devices containing sealed sources. In general, the material must also be a form that is readily transportable, does not require significant special handling or unique handling equipment or capabilities, and is confined to a single location. Material forms which are determined to be outside these conditions will be handled on a case-by-case basis in accordance with section IV. E., or other agreed upon procedures.

C. Quantity of Radioactive Material

It is envisioned that most cases covered under this MOU will involve only a small number of sealed sources or devices, usually less than ten, and only relatively small licensees. Quantities of radioactive material contained in individual sealed sources or devices should not exceed the maximum authorized on the sealed source or device vendor's license. Situations involving significantly greater numbers of sealed sources or devices or large scale licensees will be considered on a case-by-case basis by the NRC and DOE in accordance with section IV. E., or other agreed upon procedures. Radioactive materials shall not be combined or altered for the sole purpose of meeting the conditions of this MOU.

D. Nature of the Threat to the Public and Response Required

This agreement does not apply to emergency situations requiring an immediate response, to situations for which immediate health and safety concerns have not been mitigated or to situations for which the NRC would not be designated as the Lead Federal Agency (LFA) for the federal response to a radiological emergency. This MOU addresses situations which the NRC determines, in consultation with DOE, represent an actual or potential threat to the public health and safety. The level of response required under this MOU will be based on an assessment of the potential health and safety

consequences of the situation (e.g., amount of material involved, potential for radiation exposure or releases of radioactive material, and potential impact on the environment).

The authorities and responsibilities of certain Federal agencies (including NRC and DOE) for responding to radiological emergencies are specified in the FRERP. Activities under this MOU must be consistent with the FRERP for responses to radiological emergencies and must not interfere with or take precedence over FRERP activities. In addition, actions necessary to mitigate an emergency requiring an immediate response, or to mitigate an immediate health and safety threat (radiological or otherwise)—including temporary control over radioactive material—must be taken prior to any DOE recovery or disposition activities.

Assistance by DOE to recover and manage the material may only be requested by NRC after all other reasonable alternatives to alleviate the situation are addressed. In addition, NRC shall identify the response requested of DOE. DOE shall determine the appropriate response to ensure the present or potential threat is mitigated or eliminated in such situations where existing controls may not be adequate to ensure long-term assurance of the public health and safety.

E. Exceptions to the Primary Intent of This MOU

The purpose of section IV, Scope, is to define the bounds of this agreement in specific terms. Paragraphs A–C of this section indicate that exceptions to the conditions of this agreement may be necessary. The reason for these exceptions is that it is recognized that situations involving actual or potential health and safety threats requiring DOE assistance will not be limited to only small quantities of sealed sources which exceed the Class C limits as defined in 10 CFR Part 61.55.

In situations where the materials involved do not meet the specific conditions described in paragraphs A–C above, but DOE assistance is determined by NRC to be necessary, then the NRC shall document the reason why it is appropriate to respond to the particular situation under the terms of this MOU, document why DOE assistance is necessary for the particular situation, and provide this information to DOE. The DOE shall review this information and document the response it intends to take based upon the information provided, and provide this information to the NRC. So as to not delay a response to a request for assistance, this exchange of information may take place electronically, so long as hardcopy follow-up is provided.

F. Other Limitations

This agreement, and subsequent DOE recovery and disposition actions, are generally limited to packaging, transport, and/or receipt of radioactive materials, and the associated requirements to conduct those activities.

This agreement is not intended to require or imply that DOE will provide decontamination or clean-up activities, except as a direct result of a DOE recovery operation, nor will DOE be expected to perform recovery or disposition actions for materials other than those specifically identified in this document.

This MOU does not apply to requests for radiological assistance from DOE Radiological Assistance Program teams.

V. Authority and Regulatory Programs

A. NRC

NRC is responsible for licensing and regulating nuclear facilities and material and for conducting research in support of the licensing and regulatory process, as mandated by the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; in accordance with the National Environmental Policy Act of 1969, as amended; and other applicable statutes. NRC responsibilities include protecting public health and safety, protecting the environment, and safeguarding nuclear materials in the interest of national security.

The Office of Nuclear Material Safety and Safeguards (NMSS) was established under Section 204 of the Energy Reorganization Act of 1974, as amended, and is charged with the responsibility of protecting the public health and safety through regulatory control of the safe use of byproduct, source, or special nuclear material, for medical, industrial, academic, and commercial uses. To accomplish this goal, NMSS uses licensing, inspection, enforcement, development and implementation of regulations, guidance and policy, safety reviews for products that use the material (including sealed sources and devices), and other means available according to 10 CFR.

B. Agreement States

Section 274 of the Atomic Energy Act of 1954, as amended, provides the NRC the authority to discontinue its regulatory authority over certain radioactive materials (including sealed sources and devises) within a State that has agreed to establish and maintain a regulatory program for the materials that is adequate to protect the public health and safety, and is compatible with NRC's program. States that have been found to meet these criteria and have entered into such agreements with NRC are called Agreement States. These Agreement States have independent authority to regulate the radioactive materials specified in the agreement within their boundaries, and are charged with protecting the public health and safety through the licensing, regulation, and enforcement of activities associated with the materials.

Under Pub. L. 99–240, each State is responsible for providing for the disposal of radioactive material which does not exceed a waste Classification of C that is generated within its boundaries. In addition, State and local governments have primary responsibility for determining and implementing appropriate measures to protect life, property, and the environment from radiological and other hazards.

C. DOE

DOE is responsible for conducting research and development, and other activities, to support the use of byproduct, source, and special nuclear materials for medical, biological, health, and other uses as mandated by the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Department of Energy Organization Act, as amended; and other applicable statutes.

DOE is responsible for the disposal of radioactive material which exceeds a waste Classification of C as defined in § 61.55, 10 CFR as mandated by Pub. L. 99–240. DOE is required to assure the public health and safety as mandated by Section 102(13) of the Department of Energy Organization Act, as amended, and is responsible jointly with NRC for the development of contingency plans to recall or recapture radioactive materials under Section 204(b)(2)(B) of the Energy Reorganization Act of 1974, as amended. In addition, DOE is granted the authority to take, requisition, condemn, or otherwise acquire any special nuclear, source, or byproduct material as authorized by Sections 55, 66, and 81, respectively, of the Atomic Energy Act of 1954, as amended.

VI. Agency Responsibilities and Agreements

NRC and DOE staffs will closely coordinate actions in both the planning and execution phases to: (1) ensure a timely response where DOE assistance is necessary; (2) provide adequate protection of the health and safety of the public and occupational workers

involved in responding to requests for assistance; and (3) ensure cost effective operations. Each agency will develop, in consultation with the other, appropriate procedures as necessary to implement this agreement. Each agency will designate the organization and key personnel responsible for the day-to-day coordination and management of activities covered by this MOU.

A. NRC Responsibilities

1. Upon discovery of a potential radioactive material incident concerning NRC or Agreement State licensed material in an uncontrolled condition that does not require activation of the NRC Incident Response Plan, the NRC regional and headquarters offices will follow the procedures contained in NRC Manual Chapter (MC) 1301, "Response to Radioactive Material Incidents that do not Require Activation of the NRC Incident Response Plan," or Policy and Guidance Directive (P&GD) 9–12, "Reviewing Efforts to Dispose of Licensed Material and Requesting DOE Assistance," as applicable.

a. Manual Chapter 1301 is applicable to this MOU in situations where licensed material is in an uncontrolled condition in an unrestricted area and a responsible party cannot be readily identified. Incidents applicable to MC 1301 may include locations which are unlicensed, as well as licensed locations where the licensee is not authorized to possess the radioactive material. When requesting assistance of DOE is considered for these type incidents, MC 1301 will be consulted for the procedures and guidance to follow for determining whether DOE assistance is appropriate and necessary. Once DOE assistance is determined to be appropriate and necessary, MC 1303, "Requesting Emergency Acceptance of Radioactive Material by DOE," will be consulted for the procedures for making the request.

b. P&GD 9–12 is applicable to this MOU in situations where an NRC or Agreement State licensee is unable to safely maintain control over its licensed material, or there is a high potential for the licensee to lose control of its licensed material. NRC and Agreement State license reviewers will use this document to determine if DOE assistance with the material is appropriate and necessary, and for making the request. This document contains, in part, guidance for determining the need for DOE assistance based on an evaluation of:

(1) whether viable options are available for recovery and disposition of the radioactive material, (2) the licensee's ability to adequately maintain control over the material and available options for achieving this, and (3) whether the material is causing or has a high potential to cause a significant health and safety risk to members of the public.

2. Upon determining that DOE assistance is likely, NRC staff shall consult with DOE staff to: (1) provide appropriate information available on the incident (e.g., information listed in Enclosure 1 to P&GD 9–12 or MC 1303); (2) determine if any additional information is needed; and (3) identify any special conditions or requirements concerning the incident.

3. Upon determining that DOE assistance is appropriate and necessary, NRC staff shall formally request DOE assistance in accordance with MC 1303 or P&GD 9–12, as applicable. These documents specify the procedure for making an official request for DOE assistance, information that is to be provided to DOE (e.g., sealed source identification and condition information, licensee name, point of contact, applicable historical information, etc.), the DOE addressee for the request, and follow-up actions after the request is made. Prior to issuance of the formal request, NRC will notify the applicable DOE staff (via phone or electronic media) that the request is being made.

4. Prior and subsequent to requesting DOE assistance, NRC will determine the extent of assistance that other parties involved are responsible for, or are able to, provide for the recovery of the material to minimize the cost to the government. Examples include providing for the packaging and/or transport of the material.

5. Agreement States seeking DOE assistance applicable to this MOU shall make all requests through NRC, following the guidance in MC 1301, MC 1303, or P&GD 9–12. NRC staff will evaluate the Agreement State's request and determine if all applicable information has been provided and if requesting DOE assistance is appropriate and necessary. NRC will not forward the request to DOE until the request contains complete information and provides sufficient justification for requesting DOE assistance, and will work with the Agreement State to obtain this information. NRC will make all requests for DOE assistance under this MOU on behalf of the Agreement States and shall serve as the single point-of-contact for evaluating the requests in accordance with this MOU.

6. NRC shall arrange for transfer of title of the recovered materials to DOE or to other parties who will take possession of the material, as designated by DOE.

7. Within its regulatory authority, NRC will ensure, and expedite where appropriate, license and/or certification reviews and amendments are performed as necessary to support safe and timely recovery of the materials and to minimize costs to the government incurred in recovery and shipment operations.

8. NRC shall coordinate the efforts of non-DOE involved parties in recovery operations, and participate, as appropriate and necessary, to ensure adequate protection of public/worker health and safety, and to ensure regulatory compliance, as applicable.

B. DOE Responsibilities

1. DOE staff will participate and consult with NRC in the determination process for requesting DOE assistance.

2. Upon receipt of a formal request for assistance, DOE will review the request against the requirements of this agreement, Departmental policies in effect at the time of the request, changes in legislative authority which may affect actions requested, and expected cost versus available funds to carry out the requested action. DOE will review each request to ensure all reasonable options for disposition have been exhausted prior to providing assistance. Upon completion of this review, DOE will notify NRC of the action it will take.

3. Upon acceptance of a request for assistance, DOE shall identify, package, transfer, receive, and/or store the radioactive material at a DOE or other appropriate facility; or contract with appropriately licensed firms for these services.

4. DOE will coordinate, through NRC, with the licensee and/or local authorities and other agencies, as appropriate, regarding the details of the recovery operations and provide information on progress and status.

5. DOE will take title of the radioactive material either at the material pickup location or at the designated receiving site, as determined on a case-by-case basis, or ensure title is transferred to appropriate parties contracted for services.

6. DOE may review procedures that NRC uses to determine: (1) that material is an imminent threat to the public health and safety; (2) that all available options for disposition of the material have been exhausted; and (3) that a request for DOE assistance with radioactive material is appropriate and in accordance with this MOU.

7. DOE will plan and budget, as appropriate, for its costs to provide for

reasonably expected requests under this agreement.

8. DOE shall utilize its field elements, contractors, laboratories, and facilities, and private industry, as required, in recovery and disposition operations, for the safe, timely, and efficient conduct of these operations. The use of these facilities is limited to those sites with appropriate capabilities and compliance with applicable regulations, as well as necessary funding. If such a site or necessary funds are not available, DOE will consult with NRC and/or other Federal and State agencies to determine if managing the material may be accomplished by other means.

C. Coordination Officers

Each agency shall designate an individual(s) who will serve as the respective coordination officer(s), or point(s) of contact (POC). The POCs will coordinate and facilitate actions required by their respective agencies. Additionally, they will establish and maintain a call list (names, phone, and fax numbers) of responsible persons for day-to-day contact on any matter related to this MOU, and shall provide this call list to each other, as requested and appropriate.

VII. Elements of Coordination

A. Information Exchange

Both agencies agree to exchange information with respect to relevant programs and lessons learned. The purpose of the exchanges is to provide expert technical assistance to both agencies and to assist either agency by reducing or eliminating duplication of effort. The sharing of information between DOE and NRC (and Agreement States as appropriate) will be exercised to the extent authorized by law (i.e. NRC and DOE directives, statutes, and regulations), and will be consistent with each agencies' missions.

Both agencies recognize the need to protect from public disclosure, data and information that are exchanged between them, which fall within the definition of trade secrets, and confidential commercial or financial information. Both agencies agree to exchange proprietary information in accordance with applicable regulations and their regulatory authority. If a request calls for a disclosure determination regarding proprietary information obtained from either agency, such as a Freedom of Information Act request or response to a Congressional inquiry—or either agency must comply with various regulatory or public information responsibilities—the agency responsible for the information will be promptly notified, by the other agency, of the need for disclosure of the information. The responsible agency will make any needed contact with the submitter of the protected information and will accept the responsibility for evaluating the submitter's comments, before rendering the disclosure determination.

B. Sharing Other Information

DOE and NRC will also offer each other the opportunity to comment on regulations, regulatory guides, or other communications that refer to activities, policies, or regulations of the other agency, that are relevant to this agreement. If practicable, the documents will be provided for comment prior to issuance.

Either agency may request additional information, when such is deemed necessary to complete its mission.

VIII. Meetings

A. Annual Inter-Agency Meeting

The following are the offices and officers responsible for this agreement:

1. For the U.S. Nuclear Regulatory Commission: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T8–A23, Washington, D.C. 20555; Telephone: (301) 415–7800.

2. For the U.S. Department of Energy: Deputy Assistant Secretary for Waste Management, Environmental Management, U.S. Department of Energy, Mail Stop 5B–040/FORS, Washington, D.C. 20585; Telephone: (202) 586–0307.

The DOE and NRC responsible officers, or their designated representatives, shall meet at least annually to evaluate the activities related to this MOU and make recommendations to agency heads on its effectiveness. DOE and NRC will host the meeting on alternating years.

B. Coordination Officers

Coordination officers, POCs, or their designated representatives, shall meet, on a semiannual basis, to discuss technical issues related to this MOU, review the status of actions underway or planned, discuss any problems or issues, and recommend necessary changes. DOE and NRC shall host the meeting on alternate dates.

IX. Other Laws and Matters

Nothing in this MOU shall be deemed to restrict, modify, or otherwise limit the application or enforcement of any laws of the United States with respect to matters specified herein, nor shall anything in the MOU be construed as modifying, restricting, or directing the existing authority of either agency.

Nothing in this MOU shall be deemed to establish any right nor provide a basis for any action, either legal or equitable, by any person or class or persons challenging a government action or a failure to act.

This MOU shall not be used to obligate or commit funds or as the basis for the transfer of funds.

X. Effective Date, Modification, and Termination of MOU

This MOU may be further implemented by supplementary agreements in which authorized representatives of DOE and NRC may further amplify or otherwise modify the policy or provisions in the memorandum or any of its supplements, provided that any material modifications of the provisions or any of its supplements shall be subject to the approval of the authorized signatories of this memorandum or their designated representatives.

This MOU will take effect when it has been signed and dated by the authorized representatives of DOE and NRC. It may be modified by mutual written consent, or terminated by either agency upon 60 days advance written notice. The agencies agree to reevaluate this MOU at lease every five years, at which time either agency has the option of renewing, modifying, or terminating this MOU.

Approved and accepted for the U.S. Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

Dated: June 18, 1999.

Approved and accepted for the U.S. Department of Energy.

Mark W. Frei,

Acting Deputy Assistant Secretary for Waste Management, Environmental Management.

Dated: December 18, 1998.

[FR Doc. 00–344 Filed 1–6–00; 8:45 am]

CJMMOH!DPEF!86: 1812ÐQ

SBJMSPBE!SFUJSFNFOU!CPBSE

Qspqptfe!Dpmmfdujpo!Dpn n fou Sfrvftu

SUMMARY; In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical

COMMONWEALTH OF PENNSYLVANIA
Department of Environmental Resources
October 6, 1994
(717) 787-3720

SUBJECT: Mammography Quality Assurance

TO: John Hair, Director
Bureau of Community Program Standards
Department of Health

FROM: Donald J. McDonald, Chief
Division of Radiation Control
Bureau of Radiation Protection
Department of Environmental Resources

The Mammography Quality Assurance Act, Act 93 of 1992, was enacted to ensure that all providers of screening mammography services, including those not certified by DHHS/FDA/HCFA under the federal medicare program, meet the quality standards in Section 4163 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, 104 Stat. 1388). Subsequent to Act 93 of 1992, the federal Mammography Quality Standards Act (MQSA) was passed.

MQSA requires that providers of screening and diagnostic mammography services be 1) accredited by an FDA - approved accrediting body, 2) certified by FDA and 3) inspected annually by FDA (or an FDA - certified state inspector) for compliance with MQSA quality standards (which are at least as stringent as those of P.L. 101-508, Section 4163). The Bureau of Radiation Protection has contracted with DHHS/FDA/CDRH to conduct the annual certification inspections under MQSA.

It is our opinion, that with the enactment of MQSA, there is no longer a need for Act 93 of 1992.

STD-501, 9-86

COMMONWEALTH OF PENNSYLVANIA

Department of Health
717-787-8015

DATE: February 24, 1995

SUBJECT: MOU Regarding Mammography Licensure Surveys

TO: William P. Dornsife, Director
Bureau of Radiation Protection
Department of Environmental Resources

FROM: Teresa M. Nichols
Budget Analyst
Bureau of Quality Assurance

This memo is to notify you that, effective immediately, we are cancelling the Memorandum of Understanding (MOU) between the Department of Health and Department of Environmental Resources (ME-93187) regarding the mammography licensure surveys.

If you have any questions please contact me at 7-8015.

TMN:KAB:kab
cc: S. Reed
T. Stoneroad
J. Hair
D. McDonald
D. Capasso
R. Lutz

Commonwealth of Pennsylvania
November 3, 1994

SUBJECT: ME 92108

TO: Mr. Samuel R. Reed
Division Chief
Contract Management Division
Comptroller for the Dept. of Health

FROM: Teresa M. Nichols
Budget Analyst
Bureau of Quality Assurance

Enclosed is the final invoice to be processed against ME-92108. This ME encumbers funds for the MOU between the Bureau of Quality Assurance in the Dept. of Health and the Bureau of Radiation Protection in the Dept. of Enviornmental Resources. Please liquidate the remaining balance on this document.

If you have any questions, call me at 7-8015.

/tmn
Enclosure
cc: D. McDonald
C. Hartung
C. Diodato
B. Bastian
T. Nichols
D. Capasso
R. Lutz

AC/MAMMOINV.WPF

DEPARTMENT OF ENVIRONMENTAL RESOURCES

BUREAU OF RADIATION PROTECTION

MAMMOGRAPHY CERTIFICATION SURVEYS

JULY 1, 1994 THROUGH SEPTEMBER 30, 1994

MOU 1992-17 INVOICE NO. 8

ME - 92108
VID # 232632825
"FINAL INVOICE"

The Department of Environmental Resources requests reimbursement from the Department of Health for expenditures incurred in performing mammography certification surveys at the facilities listed on the attachment to this invoice. Expenses were determined in accordance with MOU 1992-17, Section III, Item 1.

TYPE SURVEY	NO. OF SURVEYS	UNIT COST	NET COST
Initial and Re-certification	15	$259.00	$3,885.00
Follow-up	0	$165.00	$0.00

TOTAL COST $3,885.00

REVENUE CODE 001780-035674-101

ACCOUNT CODE 001-035-674-6-2910-29624

Donald J McDonald
Chief, Division of Radiation Control
Bureau of Radiation Protection

10/27/94
Date

001-007-763-93-7-8421-42763-825

Teresa M. Nichols
APPROVED FOR PAYMENT

1993-39

ME#93187

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF ENVIRONMENTAL RESOURCES MAMMOGRAPHY LICENSURE SURVEYS

This memorandum is made the first day of October 1993 by and between the Department of Environmental Resources (DER) and the Department of Health (DOH).

WHEREAS, the General Assembly of Pennsylvania has enacted and the Governor has signed into law, the Mammography Quality Assurance Act, Act 1992-93, 35 P.S. § 5651 et seq. (The Act); and

WHEREAS, Act 1992-93 establishes licensure standards for screening mammography services overall quality control program, for obtaining and preserving records, for the radiation technologist and interpreting physician and for the radiation machine itself; and

WHEREAS, Section 3 (b)(1) of Act 1992-93, 35 P.S. § 5653 (b)(1), mandates that a screening mammography facility's radiation machine must meet quality standards for the provision of screening mammography services as authorized by Section 4163 of P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990; and

WHEREAS, the statute requires the Department of Health to issue a license upon determining that the applicant has met the licensure standards/criteria through an annual inspection of a screening mammography facility and its radiation machine/mammography system; and

WHEREAS, the Department of Health maintains a program staff with expertise in the required survey process for overall quality assurance and standards of care for screening mammography service patients, but does not maintain a staff with technical expertise in the survey and inspection of mammography systems (the radiation machine, automatic exposure control devices, films, screens and cassettes, image processors, dark room and view boxes); and

WHEREAS, Section 301 of the Radiation Protection Act of 1984 (35 P.S. § 7110.301) empowers the Department of Environmental Resources to develop and conduct comprehensive programs for the regulation and inspection of radiation sources and radiation source users; and

WHEREAS, Act 1992-93, 35 P.S. § 5653 (b)(1), provides that the Department of Health may contract with the Department of Environmental Resources to determine whether a screening mammography facility's mammography system meets the required standards/criteria; and

WHEREAS, the Department of Health is desirous of entering into a contract with the Department of Environmental Resources for the purpose of inspecting the technical aspects of mammography systems and furnishing the results of such inspections to the Department of Health; and

DER OCC
LOG #: 423

WHEREAS, Sections 501 (71 P.S. § 181) and 502 (71 P.S. § 182) of the Administrative Code of 1929 require coordination among Commonwealth departments and agencies;

NOW, THEREFORE, the parties to this memorandum set forth the following as the terms and conditions of their understanding:

I. Responsibilities of the Department of Health

1. The DOH shall accept mammography system survey data as provided by DER surveys of mammography screening facilities in lieu of conducting its own surveys of mammography systems.

2. The DOH shall reimburse the DER for inspections conducted to check compliance with the technical aspects of mammography systems in accordance with Section III of this memorandum.

3. By the 15th day of the month, DOH will provide DER a schedule for the survey and inspection of up to 12 screening mammography facilities for the following month. To the extent possible such facilities will be evenly distributed geographically throughout Pennsylvania. Such schedule will be subject to change in the case of those "initial" and "complaint" surveys considered to take priority by the Health Care Financing Administration (HCFA)/DOH.

4. The DOH will maintain an ongoing liaison with the DER, regarding survey scheduling as well as survey training, regulation updates, and policies and procedures in part through the Department of Health and Human Services' (DHHS) HCFA State Operations Manual, interpretive guidelines, and other relevant HCFA transmittals. DOH is responsible to furnish such information to DER in a timely manner.

5. In all instances in which a mammography screening facility is found by DER to be out of compliance with the criteria established by Act 1992-93, the DOH will make the final determination that the facility is or is not in full compliance with the requirements of the Act.

II. Responsibilities of the Department of Environmental Resources

1. DER shall utilize survey procedures as published in the DHHS's, HCFA State Operations Manual for checking compliance with criteria established by regulations promulgated under Section 4163 of the Omnibus Budget Reconciliation Act of 1990, 42 C.F.R. Part 494, Subpart B, Sections 494.60, 494.62 and 494.64 (Act 1992-93 criteria).

2. DER shall use only qualified radiation health physicists or radiation protection specialists to inspect mammography systems. Inspectors shall have been trained (1) by HCFA/Food and Drug Administration (FDA) personnel at the July 1992 training session in Baltimore, MD, or any such subsequent training session, or (2) by DER personnel who have attended the July 1992 HCFA/FDA training session in Baltimore, MD, or any such subsequent training session, or who have demonstrated competence by having performed a minimum of 25 mammography system inspections to the satisfaction of the DOH.

3. DER shall provide personnel as per Section II, Item 2, of this memorandum, as required in order to accomplish up to a maximum of 375 initial and complaint screening mammography surveys and an estimated 25 follow-up surveys for licensure by DOH during the period of this memorandum.

4. Using the schedule from DOH, as per Section I, Item 3 of this memorandum, DER shall schedule the same screening mammography facilities for inspection by DER during the month immediately following the month in which DOH conducts its surveys.

5. When a screening mammography facility is found by DER to be in full compliance with Act 1992-93 criteria, DER shall furnish DOH with written documentation acceptable to DOH as soon as possible but no later than five (5) working days following DER's conduct of an inspection.

6. When a screening mammography facility is found by DER to be out of compliance with Act 1992-93 criteria/standards, DER shall verbally report such deficiencies immediately to the facility. Additionally, utilizing a survey form as developed by DER,

and satisfactory to DOH, DER shall notify the facility in writing in accordance with DOH procedures within five working days of the inspection that the facility has ten days from the date of the notification letter in which to provide DER with a Plan of Correction (POC). In the case of serious violations of Act 1992-93, DER shall first notify DOH verbally so that DOH and DER can coordinate facility notification in accordance with DOH procedures. Within five working days of the inspection, DER shall furnish DOH with a copy of the survey form, as well as a copy of the notification letter issued to the facility. If a POC is not received by DER from a facility within 10 days, DER shall notify DOH accordingly.

7. Upon receipt of a POC from a screening mammography facility, DER shall determine the acceptability of the corrective action and notify DOH within five days of receipt of the POC. If the serious violations involve dose and/or image quality, DER shall conduct a follow-up inspection to verify compliance. If the POC is found to be acceptable, DER shall notify DOH and provide written documentation accordingly; if the POC is unacceptable, DER shall notify the screening mammography facility, provide written documentation to DOH and request a second POC in the same manner as in Section II 6 of this memorandum.

8. Upon notification by the DOH of a specific complaint regarding a mammography system or the operation of same, DER shall conduct a complaint investigation, or, if the complaint is general in nature, DER shall conduct a regular inspection. Unless DOH requires otherwise because of the seriousness of the complaint, the investigation or inspection shall be integrated into the schedule for that month or early in the following month and the results shall be reported in accordance with Section II 5, 6, and 7 of this memorandum.

9. Should any provider of screening mammography services file an appeal from a determination involving an inspection by DER under this memorandum, DER shall cooperate with DOH and provide available testimony and records in regard to such appeal.

10. DER shall provide technical assistance as appropriate to new providers on licensure prerequisites pertaining to mammography systems.

11. The DER shall alert the Deputy Secretary for Quality Assurance and Health Planning, DOH, in writing, as soon as DER becomes aware of any major problems which may impact upon the continuation of this memorandum.

III. <u>The Department of Environmental Resources and the Department of Health concur in the following:</u>

1. The DOH shall reimburse DER for its expenses incurred as a result of survey activities which currently is established via estimated average cost at $259 per initial or complaint survey.

2. During the period of this memorandum, DER shall conduct up to 375 initial or complaint surveys at a maximum cost of $97,125 (Appendix A). Attached hereto and incorporated as Appendix B is an estimated workload and average cost estimate per survey which reflects how the parties determined the reimbursement amounts of $259 for the surveys appearing in item 1 of this Section.

3. In regard to each state fiscal year of this memorandum, DER with regard to expenditures for mammography screening facilities, shall submit invoices quarterly for actual expenditures, for the first three fiscal year quarters. Each invoice shall have attached a listing of the name, address, identifier and location of each radiographic mammography machine inspected. DER shall submit and DOH will accept and pay an estimated fourth quarter (April-June) invoice which will be adjusted to actual expenditures during the first quarter of the subsequent year. Actual costs will be determined in accordance with DER documentation following completion of the last quarter. DER shall include a proper revenue account code on all invoices.

IV. General Provisions

1. Subject to the availability of state funds, the terms of this Memorandum shall commence on October 1, 1993 and terminate on September 30, 1996.

2. This Memorandum may be amended at any time upon the mutual written agreement of both parties.

3. This Memorandum may be terminated by either party upon one hundred twenty (120) days advance written notice to the other party.

4. This Memorandum may not be assigned in whole or in part without the prior written approval of the Secretary of Health.

5. Any dispute arising hereunder shall be submitted to the Office of the General Counsel for final resolution.

6. This Memorandum is not intended to and does not create any contractual rights or obligations with respect to the signatory agencies or any other parties.

The parties hereby acknowledge the foregoing as the terms and conditions of their understanding.

Department of Health:

Secretary — Date 1/25/94

Chief Counsel — Date 1/11/94

Comptroller — Date 6/14/94

Department of Environmental Resources:

Secretary — Date

Chief Counsel — Date 2/10/94

Comptroller — Date 3/17/94

Office of General Counsel:

Deputy General Counsel — Date 3/7/94

APPENDIX A

MAMMOGRAPHY MEMORANDUM OF UNDERSTANDING FOR STATE LICENSURE

The Department of Health will bill the licensed facility as follows:

	Annual Surveys
Application Fee	$ 50
3 yr cost of DOH survey	$ 600
3 yr cost of DER survey	$ 777
Total cost of license for 3 years	$1,427
Estimated no. of facilities	x125
Total projected revenue	$178,375

The Department of Health will transfer funds for completed surveys to the Department of Environmental Resources up to a maximum of $97,125 quarterly on a state fiscal year basis.

The remaining estimated $81,250 will augment Appropriation 129. The facilities will be billed for the application and the three year period during the first year of licensure.

APPENDIX B

MAMMOGRAPHY STATE LICENSURE SYSTEMS BUDGET

Estimated workload and Average Cost Per Survey

Estimated number of facilities to be surveyed for "initial" and "complaint" purposes is 125 each state fiscal year.

Single Survey Average Annual Cost Estimate
Initial and Complaint Facility Survey

Activity	Hours		Cost		Totals
Pre-inspection	1.0				
Travel to Facility	2.0				
Inspection	2.0				
Travel from Facility	2.0				
Post Inspection	2.0				
Salary	9.0	x	$26.69/hour	=	$240.21
Mileage Average					13.65
Subsistence Average					2.20
Lodging Average					2.50
Approximate Cost Per Survey					$258.56
Total Cost Per Survey $259.00 x 125 =			$32,375.00		
			x 3 years		
TOTAL			$97,125.00		

ER-OSS-26A; Rev. 1/94

MEMORANDUM OF UNDERSTANDING ROUTING SLIP

This routing slip is to be used to document the routing of Memorandums of Understanding. It is to be included with the original of the fully executed MOU and becomes a permanent part of the MOU file. ***Any questions regarding the routing of this contract should be addressed to: DER BUREAU OF OFFICE SYSTEMS & SERVICES, DIVISION OF MATERIALS MANAGEMENT, PURCHASING SECTION, CONTRACTING UNIT AT 787-2471.***

MOU NAME: PA Dept. of Health, Bureau of Quality Assurance

PREPARER'S NAME, TELEPHONE NO. & ORGANIZATION: ME # 93187

Deb Capasso
DER Purchasing
783-5885

	DATE IN	DATE OUT	INITIAL	COMMENTS
ORIGINATING OFFICE - Completed MOU				
DER, BUREAU OF FISCAL MANAGEMENT - 15th FL MSSOB	2/4/94	2/4/94		Budget Analyst
DER, PURCHASING SECTION - CONTRACTING UNIT - 2nd FL MSSOB		2/8/94		Deb Capasso ☐ ME
DER, BUREAU OF LEGAL SERVICES - 9th FL MSSOB				William Calder
DEPT. OF Health, CHIEF COUNSEL		1/10/94		
DEPT. OF Health AGENCY HEAD/DEPUTY		1/25/94		
DER, PURCHASING SECTION - CONTRACTING UNIT - 2nd FL MSSOB				
DER AGENCY HEAD/DEPUTY		3/2/94		Deputy Secretary
DER, PURCHASING SECTION - CONTRACTING UNIT - 2nd FL MSSOB				
DER, BUREAU OF LEGAL SERVICES - 9th FL MSSOB				William Calder
OFFICE OF GENERAL COUNSEL	3.4.94		3/7/94	
DER, PURCHASING SECTION - CONTRACTING UNIT - 2nd FL MSSOB		3/8/94 3/9		Deb Capasso
DER, COMPTROLLER - Pitnick Bldg.		3/17		Deb Chernicoff
DEPT. OF Health, COMPTROLLER				
DER, PURCHASING SECTION - CONTRACTING UNIT - Executed Contract Log - 2nd FL MSSOB				Deb Capasso
ORIGINATING OFFICE				

BRIEF DESCRIPTION OF PROJECT:

Acct. Cd: 001·035·674·xx·6 2910·29624· 2/4/94 $ —
Rev. Code: 001780·035674·101 Account Code (BFM) Amount

Radiation Protection
Appropriation Title

1775-37

Don McD.

MISCELLANEOUS ENCUMBRANCE

VENDOR	AGENCY	ICS 310 / 320	ME NO.
PA Dept. of Environmental Resources B[illegible] of Radiation Protection 603 Executive House Harrisburg, PA 17120	PA Dept. of Health Bureau of Quality Assurance 907 Health & Welfare Bldg. Harrisburg, PA 17120		ME 93187

DATE PREPARED: 11/5/93

PERIOD COVERED — BEGINNING DATE: 10 / 1 / 93 — ENDING DATE: 9 / 30 / 96

FEDERAL SEC NO.: 23-2632825

APPROVED (COMPTROLLER): Michele Shaughnessy

DESCRIPTION (IDENTIFY LEASE, CONTRACT OR OTHER ENCUMBRANCE DOCUMENT CONCERNED.) — AMOUNT

Conduct surveys of Mammography Screening Facilities for State Licensure

ME

APPROVED / DISAPPROVED
JUN 16 1994
Division of Contracts

TOTAL

FUND	DEPT	APP	YR	LDG	ORG	COST FUNCTION	OBJ	AMOUNT OF ENCUMBRANCE	LIQUIDATION DOCUMENT NO.	LIQUIDATION AMOUNT	CODED
											PRE-AUDIT
											POSTED

RECORD OF LIQUIDATIONS

	ORG	COST FUNCTION	ORG	COST FUNCTION	ORG	COST FUNCTION	ORG	COST FUNCTION	ORG	COST FUNCTION
ACCOUNT CODES →	OBJ		OBJ		OBJ		OBJ		OBJ	
AMOUNT OF MISCELLANEOUS ENCUMBRANCE										
DATE / VOUCHER NO.										
BALANCE										
BALANCE										

Memorandums and Letters of Understanding
Bureau of Radiation Protection

Between: Pennsylvania Department of Environmental Protection, Bureau of Radiation Protection and Exelon Nuclear
Date entered: 10/16/2001
Details: For the deployment of field teams during actual emergencies, or drills and exercises at Limerick Generating Station, Peach Bottom Atomic Power Station, and Three Mile Island Station.
Hard Copy Available: yes (pdf w/ sig)

Between: Pennsylvania Department of Environmental Resources, Bureau of Radiation Protection and Pennsylvania Power and Light Company (PP&L)
Date entered: 8/11/1995
Details: For the deployment of field teams during actual emergencies, or drills and exercises at the Susquehanna Electric Station (SSES).
Hard Copy Available: yes (pdf w/ sig)

Between: Pennsylvania Department of Environmental Resources, Bureau of Radiation Protection and Duquesne Light Company (DLC)
Date entered: 1/14/1994
Details: For the deployment of field teams during actual emergencies, or drills and exercises at Beaver Valley Power Station.
Hard Copy Available: yes (pdf w/ sig)

Between: Pennsylvania Department of Environmental Resources Bureau of Radiation Protection (hereafter PA BRP) and the Ohio Department of Health Radiological Health Program (hereafter ORHP)
Date entered: 9/10/1987
Details: expresses the desire of both parties to cooperate in the exchange of information and in the development of protective action recommendations, in response to accidents at The Beaver Valley Power Station in Pennsylvania and Perry Nuclear Power Plant in Ohio.
Hard Copy Available: yes (pdf w/ sig) (doc w/o sig)

Between: Pennsylvania Bureau of Radiation Protection (PABRP) and West Virginia Department of Health/Industrial Hygiene Division (WVDOH/IHD). This agreement supplements the Memorandum of Understanding between the Pennsylvania Emergency Management Agency (PEMA) and the West Virginia Office of Emergency Services (WVOES).
Date entered: 9/22/1988
Details: The purpose of this agreement is to establish the parameters upon which the Pennsylvania Bureau of Radiation Protection (PABRP) will exchange information and make protective action decisions with the West Virginia Department of Health/Industrial Hygiene Division (WVDOH/IHD).
Hard Copy Available: yes (doc w/o sig)

Between: Pennsylvania Bureau of Radiation Protection (PABRP) and the Maryland Center for Radiological Health (MDE-CRH). This agreement supplements the Memorandum of Understanding between the Pennsylvania Emergency Management Agency (PEMA) and the Maryland Emergency Management and Civil Defense Agency (MEM & CDA).
Date entered: 12/5/1988
Details: This agreement establishes the intentions of the Pennsylvania Bureau of Radiation Protection (PABRP) and the Maryland Center for Radiological Health (MDE-CRH) to exchange information and to notify the other party of recommendations and decisions made during fixed nuclear facility (FNF) incidents to which both agencies are responding.
Hard Copy Available: yes (pdf w/ sig) (doc w/o sig)

Between: Pennsylvania Bureau of Radiation Protection (PABRP) and the New Jersey Bureau of Nuclear Engineering (NJBNE).
Date entered: 12/9/1988
Details: This agreement establishes which emergency response operations conducted by the two Bureaus related to the ingestion EPZ radiological evaluation are best served by a cooperative effort.
Hard Copy Available: yes (pdf w/ sig)

Between: US Department of Energy and PA Department of Environmental Resource
Date entered: 9/5/1980
Details: Remediation of uranium mill tailing from Cannonsburg site.
Hard Copy Available: yes (pdf w/ sig)

Between: U.S. Nuclear Regulatory Commission and The U.S. Army Corps of Engineers for Coordination of Cleanup & Decommissioning of the Formerly Utilized Sites Remedial Action Program (FUSRAP) Sites
Date entered: 7/5/2001
Details: Memorandum of Understanding between the U.S. Army Corps of Engineers (USACE) and the U.S. Nuclear Regulatory Commission (NRC). The purpose of the MOU is to avoid unnecessary duplication of regulatory requirements that may hinder USACE in its remediation of sites under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Under the MOU, NRC could exercise its discretion to suspend NRC-issued licenses, or portions thereof, at FUSRAP sites. The MOU addresses unrestricted releases under 10 CFR 20.1402, and the MOU will ensure that the criteria of the License Termination Rule or a more stringent requirement will be met. The MOU will enhance interagency dialogue and will make the agencies activities and decisions concerning site decommissioning and cleanup more effective and efficient. The MOU will assist the agencies to reduce unnecessary burden on stakeholders and avoid duplication of regulatory requirements and effort by setting out cooperative conditions, consistent with the protection of the public health and safety.

PA DEP gets involved because "USACE shall notify the NRC in writing if there are NRC-licensed facilities on FUSRAP sites that may require coordination with the NRC in addition to the four known sites: Maywood Site (Stepan), Maywood, NJ; CE-Windsor Site, Windsor, CT; St. Louis Downtown Site (Mallinkrodt), St. Louis, MO; and the Shallow Land Disposal Area, Parks Township, PA.
Hard Copy Available: yes (pdf w/o sig) also at:
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001_register&docid=01-17452-filed

Between: US Department of the Army (Army Corps of Engineers) DEP OARRP
Date entered: 11/13/2002

Details: Reimbursable services related to remediation of Formerly Utilized Sites Remedial Action Program (FUSRAP) sites.
Hard Copy Available: yes (pdf w/ sig)

Between: United States Department of the Army and PA DEP (extension of previous agreement)
Date entered: 10/14/03
Details: Reimbursable services related to remediation of Formerly Utilized Sites Remedial Action Program (FUSRAP) sites. Extension until 12/31/2004.
Hard Copy Available: yes (pdf w/ sig)

Between: US Department of the Army (Army Corps of Engineers) DEP OARRP (extended)
Date entered: 12/8/2004 (extension of 10/27/2003 agreement)
Details: Reimbursable services related to remediation of Formerly Utilized Sites Remedial Action Program (FUSRAP) sites. Extension until 12/31/2005.
Hard Copy Available: yes (pdf w/ sig)

Between: US Department of the Army (Army Corps of Engineers) DEP OARRP (extended)
Date entered: 01/09/2006 (extension of 10/27/2003 agreement)
Details: Reimbursable services related to remediation of Formerly Utilized Sites Remedial Action Program (FUSRAP) sites. Extension until 12/31/2006.
Hard Copy Available: yes (pdf w/ sig)

Between: U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, and the U.S. Department of Energy, Office of Waste Management (by letter from PA DEP BRP to NRC, summarizing May 21, 1999, teleconference)
Date entered: 6/18/1999
Details: Coordination of Decommissioning Activities with the Nuclear Regulatory Commission
Hard Copy Available: yes (pdf w/o sig)

Between: Conference of Radiation Control Program Directors, Inc. (CRCPD) and PA DEP
Date entered: 12/29/2003
Details: The overall purpose of this agreement is to financially assist, through the cooperation of state radiation control programs, persons that do not have sufficient funding or who should not be held liable to fund the safe disposition of orphan radioactive material.
Hard Copy Available: yes (pdf w/ sig) (online at http://www.crcpd.org/orphans.asp)

Between: Conference of Radiation Control Program Directors, Inc. (CRCPD) and PA DEP
Date entered: 01/03/2006
Details: The overall purpose of this agreement is to financially assist, through the cooperation of state radiation control programs, persons that do not have sufficient funding or who should not be held liable to fund the safe disposition of orphan radioactive material.
Hard Copy Available: yes (pdf w/ sig)

Between: U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Pennsylvania Department of Environmental Protection (PADEP)
Date entered: July 15, 1996
Details: The MOU provides the basis for cooperation between the agencies to facilitate the safe and timely remediation and decommissioning of Site Decommissioning Management Plan Sites (SDMP) and other decommissioning sites in Pennsylvania at which both agencies exercise regulatory authority.

The broad MOU expresses the desire of PADEP and the NRC to cooperate in areas subject to the jurisdiction of both parties. Under the MOU, PADEP and NRC will designate site coordinators for each SDMP site in Pennsylvania. Each agency will provide the other with reasonable notice of inspections, and meetings with other agencies or the public which concern a particular SDMP site. The MOU also provides the basis for the dissemination of information between the agencies and the review and comment of draft documents.
Hard Copy Available: yes (pdf w/o sig) also in:
[Federal Register: September 5, 1996 (Volume 61, Number 173)] [Page 46832-46834]

Between: U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Pennsylvania
Date entered: 11/19/1986
Details: Provides the basis for detailed subagreements in areas such as transportation regulation at a low-level disposal site, low-level packaging and shipping inspections, confirmatory environmental monitoring and emergency information exchange.
Hard Copy Available: yes (pdf w/o sig)

Between: Commonwealth of Pennsylvania (hereafter "Commonwealth") and the U.S. Nuclear Regulatory Commission (hereafter "NRC")
Date entered: 11/04/1986
Details: The Commonwealth and NRC agree to consult regularly and to cooperate in exploring and devising appropriate procedures to minimize duplication of effort to the extent permitted by Commonwealth and Federal law, to avoid delays in decision making, and to ensure the exchange of information that is needed to make the most effective use of the resources of the Commonwealth and the NRC in order to accomplish the purpose of both parties.
Hard Copy Available: yes (pdf w/o sig)
This is also part of BRP Compliance and Enforcement Technical Guidance.

Between: Commonwealth of Pennsylvania and the United States Nuclear Regulatory Commission
Date entered: 09/11/1987
Details: Subagreement to 11/04/1986 agreement, The Commonwealth of Pennsylvania, in fulfilling its obligations under the Low-Level Radioactive Waste Policy Amendments Act of 1985 contemplates that it will make periodic inspections of the areas of low-level radioactive waste packages and transport activities of generators located within its borders if shipments of such waste are destined for disposal at a low-level radioactive waste disposal facility.
Hard Copy Available: yes (pdf w/o sig)
This is also part of BRP Compliance and Enforcement Technical Guidance.

Between: PA Department of Health and PA Department of Environmental Resources
Date entered: 10/01/1993 (cancelled 02/24/1995)
Details: (ME-93187) DER reimbursement from DOH for Mammography Quality Assurance Act inspections.
Hard Copy Available: yes (pdf w/ sig) (Dissolution pdf w/ sig)

Between:
Date entered:
Details:
Hard Copy Available:

Currently in signature process

Between:

Date entered:

Details:

ATTACHMENT 6

PENNSYLVANIA-OHIO
RADIATION PROTECTION MEMORANDUM OF UNDERSTANDING

I. Purpose

This memorandum of understanding between the Pennsylvania Department of Environmental Resources Bureau of Radiation Protection (hereafter PA BRP) and the Ohio Department of Health Radiological Health Program (hereafter ORHP) expresses the desire of both parties to cooperate in the exchange of information and in the development of protective action recommendations, in response to accidents at The Beaver Valley Power Station in Pennsylvania and Perry Nuclear Power Plant in Ohio.

This memorandum of understanding supplements the memorandum of understanding between the Pennsylvania Emergency Management Agency (PEMA) and the Ohio Disaster Services Agency (OSDA) of June 19, 1987.

The geographic areas of interest include the 10 mile Plume Emergency Planning Zone and the 50 mile Ingestion Emergency Planning Zone surrounding Beaver Valley Power Station, portions of which are located in Ohio. The areas of interest also include the 50 mile Ingestion Emergency Planning Zone surrounding the Perry Nuclear Power Plant, a portion of which is located in Pennsylvania.

II. Agreement

A. Notification

1. PABRP will make confirmatory notification to ORHP upon occurrence of an Unusual Event, Alert, Site Emergency, or General Emergency at Beaver Valley Power Station.

2. ORHP will make a confirmatory notification to PABRP upon occurrence of an Alert, Site Emergency, or General Emergency at Perry Nuclear Power Plant.

3. For accidents at Beaver Valley Power Station with a classification of Site Emergency or higher, PABRP assessment staff will colocate with PEMA at he State EOC. A partial colocation may occur at Alert. (Telephone and Telefax numbers are provided on the attachment.)

4. For accidents at Beaver Valley Power Station or Perry Nuclear Power Plant with a classification of Site Emergency or higher, ORHP assessment staff will colocate with OSDA at the State EOC. A partial colocation may occur at Alert. (Telephone and Telefax numbers are provided on the attachment.)

5. The 24-hour emergency notification numbers are: PEMA 717-651-2001; and OSDA 614-889-7150.

B. Information

1. For accidents at Beaver Valley Power Station, PABRP will provide the following information to ORHP, as available: Meteorological data, status of reactor safety systems, effluent status, dose projections, significance to Ingestion EPZ; accident prognosis and protective action recommendations.

2. For accidents at Perry Nuclear Power Plant, ORHP will provide the following information to PABRP, as available: Meteorological data, status of reactor safety systems, effluent status, dose projections, significance to Ingestion EPZ; accident prognosis and protective action recommendations.

3. To the highest degree possible, PABRP and ORHP will discuss major protective action recommendations before the final decision to implement. It is fully recognized that unilateral protective action recommendations may be made by either party, with or without discussion or agreement.

4. The results of field monitoring measurements and accident related environmental sampling will be regularly exchanged by telephone, and/or telefax with confirmation in writing.

5. The results of all accident related measurements generated by PABRP and/or ORHP shall be reconciled within 30 days of the closeout of an accident involving measurements by either party.

C. Field Operations

1. Field monitoring teams may cross state lines as necessary in the exercise of their duties.

2. Both parties may send technical representation to the EOC of the other party. Timely notification to assure access is advised.

Date: 9/21/87 BY: /s/
Robert M. Quillin, Director
Radiological Health Program
Ohio Department of Health

Date: 9/10/87 BY: /s/
Thomas M. Gerusky, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources

246 N. High Street
Post Office Box 118
Columbus, Ohio 43266-0118

Telephone (614) 466-3543

RICHARD F. CELESTE
Governor

September 25, 1987

Margaret Reilly
Department of Environmental Resources
Bureau of Radiation Protection
P.O. Box 2063
Harrisburg, PA 17120

Dear Maggy:

Attached is one signed Memorandum Of Understanding between our agencies. Thank you for making the suggested change. Also enclosed a copy of the most current listing of our Radiological Health Program personnel. Feel free to contact any one of us at home should the need arise.

Sincerely,

Ben

Ben Wilmoth
Radiological Health Unit

PENNSYLVANIA-OHIO
RADIATION PROTECTION MEMORANDUM OF UNDERSTANDING

I. Purpose

This memorandum of understanding between the Pennsylvania Department of Environmental Resources Bureau of Radiation Protection (hereafter PA BRP) and the Ohio Department of Health Radiological Health Program (hereafter ORHP) expresses the desire of both parties to cooperate in the exchange of information and in the development of protective action recommendations, in response to accidents at The Beaver Valley Power Station in Pennsylvania and Perry Nuclear Power Plant in Ohio.

This memorandum of understanding supplements the memorandum of understanding between the Pennsylvania Emergency Management Agency (PEMA) and the Ohio Disaster Services Agency (OSDA) of June 19, 1987.

The geographic areas of interest include the 10 mile Plume Emergency Planning Zone and the 50 mile Ingestion Emergency Planning Zone surrounding Beaver Valley Power Station, portions of which are located in Ohio. The areas of interest also include the 50 mile Ingestion Emergency Planning Zone surrounding the Perry Nuclear Power Plant, a portion of which is located in Pennsylvania.

II. Agreement

A. Notification

1. PABRP will make confirmatory notification to ORHP upon occurrence of an Unusual Event, Alert, Site Emergency, or General Emergency at Beaver Valley Power Station.

2. ORHP will make a confirmatory notification to PABRP upon occurrence of an Alert, Site Emergency, or General Emergency at Perry Nuclear Power Plant.

3. For accidents at Beaver Valley Power Station with a classification of Site Emergency or higher, PABRP assessment staff will colocate with PEMA at the State EOC. A partial colocation may occur at Alert. (Telephone and Telefax numbers are provided on the attachment.)

4. For accidents at Beaver Valley Power Station or Perry Nuclear Power Plant with a classification of Site Emergency or higher, ORHP assessment staff will colocate with OSDA at

the State EOC. A partial colocation may occur at Alert. (Telephone and Telefax numbers are provided on the attachment.)

5. The 24-hour emergency notification numbers are: PEMA 717-783-8150; and OSDA 614-889-7150.

B. Information

1. For accidents at Beaver Valley Power Station, PABRP will provide the following information to ORHP, as available: Meteorological data, status of reactor safety systems, effluent status, dose projections, significance to Ingestion EPZ; accident prognosis and protective action recommendations.

2. For accidents at Perry Nuclear Power Plant, ORHP will provide the following information to PABRP, as available: Meteorological data, status of reactor safety systems, effluent status, dose projections, significance to Ingestion EPZ; accident prognosis and protective action recommendations.

3. To the highest degree possible, PABRP and ORHP will discuss major protective action recommendations before the final decision to implement. It is fully recognized that unilateral protective action recommendations may be made by either party, with or without discussion or agreement.

4. The results of field monitoring measurements and accident related environmental sampling will be regularly exchanged by telephone, and/or telefax with confirmation in writing.

5. The results of all accident related measurements generated by PABRP and/or ORHP shall be reconciled within 30 days of the closeout of an accident involving measurements by either party.

C. Field Operations

1. Field monitoring teams may cross state lines as necessary in the exercise of their duties.

2. Both parties may send technical representation to the EOC of the other party. Timely notification to assure access is advised.

Date: 9/21/87

BY: _____
Robert M. Quillin, Director
Radiological Health Program
Ohio Department of Health

Date: 9/10/87

BY: _____
Thomas M. Gerusky, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources

Attachment

Pennsylvania - Ohio Radiation Protection Memorandum of Understanding

Ohio

ORHP: 614-481-5800
ODSA: 614-889-7158
Emergencies - both: 614-889-7173
Telecopier - ODSA: 614-889-7183
614-764-2742

Pennsylvania

BRP: 717-787-2480; 3479
PEMA: 717-783-8150
BRP at PEMA: 717-783-2533
BRP Telecopier: 717-783-8965
PEMA telecopier: 717-783-7393

ATTACHMENT 7

Pennsylvania - West Virginia
Radiation Protection Agreement

I. Purpose

The purpose of this agreement is to establish the parameters upon which the Pennsylvania Bureau of Radiation Protection (PABRP) will exchange information and make protective action decisions with the West Virginia Department of Health/Industrial Hygiene Division (WVDOH/IHD).

This agreement supplements the Memorandum of Understanding between the Pennsylvania Emergency Management Agency (PEMA) and the West Virginia Office of Emergency Services (WVOES).

II. Agreement

The following items are agreed to by the WVDOH/IHD and PABRP:

A. All major protective action recommendations will be discussed together before any final decisions are made to implement them. The possibility that the States may take unilateral action on such recommendations is recognized.

B. The WVDOH/IHD will accept PABRP's assessment during the duration of the incident. This will not preclude the WVDOH/IHD from making an independent assessment.

C. Monitoring team leaders from Pennsylvania and West Virginia will be located together in the Emergency Operations Facility (EOF).

D. The WVDOH/IHD may send a liaison to the PABRP Assessment Center.

E. PABRP will establish telephone contact with the WVDOH/IHD.

F. PABRP will give the following information to the WVDOH/IHD: weather data; status of reactor safety system; and/or water contamination; source term; dose estimate; 50 mile EPZ significance; reactor prognosis; and recommendations.

G. The WVDOH/IHD will supply the PABRP with its team monitoring and food contamination data. This will normally be accomplished via the EOF dedicated phone to the PABRP Assessment Center. PABRP will reciprocate.

H. The results of all accident related measurements generated by PABRP and/or WVDOH/IHD shall be reconciled within 30 days of the closeout of an accident involving measurements by either party.

I. Field monitoring teams may cross state lines if necessary.

III. Authority

Nothing in this mutual agreement is intended to bind, alter, restrict, or extend the constitutional or statutory authority of the West Virginia Department of Health or the Pennsylvania Department of Environmental Resources, or any other Agency of these states.

IV. Revision

This agreement supersedes the prior agreement signed January 16. 1981, by William H. Aaroe, signed January 20, 1981, by Thomas M. Gerusky.

Date: 10/3/88

By: /s/
Kazim Sheikh, M.D., Director
Industrial Hygiene Division
West Virginia Department of Health

Date: 9/22/88

By: /s/
Thomas M. Gerusky, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources

ATTACHMENT 6

Pennsylvania-Maryland Radiation Protection Agreement

I. Purpose

This agreement establishes the intentions of the Pennsylvania Bureau of Radiation Protection (PABRP) and the Maryland Center for Radiological Health (MDE-CRH) to exchange information and to notify the other party of recommendations and decisions made during fixed nuclear facility (FNF) incidents to which both agencies are responding.

This agreement supplements the Memorandum of Understanding between the Pennsylvania Emergency Management Agency (PEMA) and the Maryland Emergency Management and Civil Defense Agency (MEM & CDA).

II. Agreement

The following describes the areas of agreement between PABRP and MDE-CRH:

A. During Alert, Site Area, and General emergencies PABRP will establish contact with MDE-CRH using the most reliable system available (e.g.: dedicated telephone lines; commercial telephone; radio; etc.). This will be the primary means for exchange of information.

B. The MDE-CRH may send a liaison to the PABRP Assessment Center. The PABRP may send a liaison to the MDE-CRH Accident Assessment Center.

C. PABRP and MDE-CRH will independently assess the incident when possible. Each will notify the other agency of its assessment results.

D. Whenever practicable, all major protective action recommendations will be discussed together before final decisions are made to implement them. We recognize the possibility that either State may take unilateral action on a recommendation, or may initiate protective actions without discussions with the other state.

E. PABRP will give the following information to MDE-CRH: weather data; status of reactor safety systems; and/or water contamination; source terms; dose estimates; 50 mile EPZ significance; reactor prognosis; and recommendations. MDE-CRH will reciprocate to the extent possible when requested by PABRP.

F. The MDE-CRH will supply the PABRP with its field monitoring and sampling data. PABRP will reciprocate. The results of all accident related measurements generated by PABRP and/or MDE-CRH shall be reconciled within 30 days of the closeout of an accident involving measurements by either party.

G. Either PABRP or MDE-CRH may request the federal government to provide field monitoring assistance (through DOE or FRMAP). As soon as possible after any request is made, the other party will be advised of the request. The other party will also be updated on the status of Federal government implementation.

H. When feasible, monitoring team leaders will be located together for purposes of coordination. The Emergency Operations Facility (EOF) will be the preferred location. The desire to coordinate with the Federal monitoring teams will be considered in siting the monitoring team leaders.

I. Field monitoring and sampling teams may cross state lines if necessary.

III. Authority

Nothing in this mutual agreement is intended to bind, alter, restrict, or extend the constitutional or statutory authority of the Maryland Department of the Environment or the Pennsylvania Department of Environmental Resources or any other Agency of these states.

IV. Revision

This agreement supersedes the prior agreement signed March 16, 1982, by Thomas M. Gerusky and signed March 23, 1982, by Robert E. Corcoran.

Date: 12/15/88

By: /s/
Roland G. Fletcher, Administrator
Center for Radiological Health
Maryland Department of the Environment

Date: 12/5/88

By: /s/
Thomas M. Gerusky, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources

cc: EP Files

CH:cak

Charlie

State of Maryland

DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway, Baltimore, Maryland 21224

Area Code 301 • 631-

William Donald Schaefer
Governor

Martin W. Walsh, Jr.
Secretary

December 28, 1988

Thomas M. Gerusky, Director
Commonwealth of Pennsylvania
Department of Environmental Resources
P.O. Box 2063
Harrisburg, Pennsylvania 17120

Dear ~~Mr. Gerusky~~: Tom

Please find enclosed a signed copy of the revised radiation protection agreement between our two agencies. I too feel that the level of cooperation we have established benefits both our emergency response programs and I look forward to building on our established record.

Enjoy the holidays, and I look forward to seeing you soon.

Sincerely,

Roland G. Fletcher

Roland G. Fletcher, Administrator
Center for Radiological Health

RGF/dps

Enclosure

Pennsylvania - Maryland
Radiation Protection Agreement

I. Purpose

This agreement establishes the intentions of the Pennsylvania Bureau of Radiation Protection (PABRP) and the Maryland Center for Radiological Health (MDE-CRH) to exchange information and to notify the other party of recommendations and decisions made during fixed nuclear facility (FNF) incidents to which both agencies are responding.

This agreement supplements the Memorandum of Understanding between the Pennsylvania Emergency Management Agency (PEMA) and the Maryland Emergency Management and Civil Defense Agency (MEM & CDA).

II. Agreement

The following describes the areas of agreement between PABRP and MDE-CRH:

A. During Alert, Site Area, and General emergencies PABRP will establish contact with MDE-CRH using the most reliable system available (e.g.: dedicated telephone lines; commercial telephone; radio; etc.). This will be the primary means for exchange of information.

B. The MDE-CRH may send a liaison to the PABRP Assessment Center. The PABRP may send a liaison to the MDE-CRH Accident Assessment Center.

C. PABRP and MDE-CRH will independently assess the incident when possible. Each will notify the other agency of its assessment results.

D. Whenever practicable, all major protective action recommendations will be discussed together before final decisions are made to implement them. We recognize the possibility that either State may take unilateral action on a recommendation, or may initiate protective actions without discussions with the other state.

E. PABRP will give the following information to the MDE-CRH: weather data; status of reactor safety system; and/or water contamination; source terms; dose estimates; 50 mile EPZ significance; reactor prognosis; and recommendations. MDE-CRH will reciprocate to the extent possible when requested by PABRP.

F. The MDE-CRH will supply the PABRP with its field monitoring and sampling data. PABRP will reciprocate. The results of all accident related measurements generated by PABRP and/or MDE-CRH shall be reconciled within 30 days of the closeout of an accident involving measurements by either party.

G. Either PABRP or MDE-CRH may request the federal government to provide field monitoring assistance (through DOE or FRMAP). As soon as possible after any request is made, the other party will be advised of the request. The other party will also be updated on the status of Federal government implementation.

H. When feasible, monitoring team leaders will be located together for purposes of coordination. The Emergency Operations Facility (EOF) will be the preferred

location. The desire to coordinate with the Federal monitoring teams will be considered in siting the monitoring team leaders.

I. Field monitoring and sampling teams may cross state lines if necessary.

III. Authority

Nothing in this mutual agreement is intended to bind, alter, restrict, or extend the constitutional or statutory authority of the Maryland Department of the Environment or the Pennsylvania Department of Environmental Resources or any other Agency of these states.

IV. Revision

This agreement supercedes the prior agreement signed March 16, 1982, by Thomas M. Gerusky and signed March 23, 1982, by Robert E. Corcoran.

Date: 12/15/88

By: Roland G. Fletcher
Roland G. Fletcher, Administrator
Center for Radiological Health
Maryland Department of the Environment

Date: 12/15/88

By: T M Gerusky
Thomas M. Gerusky, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources

cc: EP Files

CH:cak

Cooperative Agreement

This AGREEMENT, entered into this 5th day of September, 1980, between the UNITED STATES OF AMERICA (hereinafter called the "Government") acting through the DEPARTMENT OF ENERGY (hereinafter called the "DOE"), and the COMMONWEALTH OF PENNSYLVANIA (hereinafter called the "State"), acting through its DEPARTMENT OF ENVIRONMENTAL RESOURCES,

WITNESSETH THAT:

WHEREAS, the Uranium Mill Tailings Radiation Control Act of 1978 (hereinafter called the "Act") approved November 8, 1978, authorizes the Secretary to enter into this Agreement with the State to perform remedial action at the inactive mill tailings site and vicinity property designated as a "processing site" in Canonsburg, Pennsylvania, and

WHEREAS, the purpose of this Agreement is to establish a program of assessment and remedial action at the processing site in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public, and

WHEREAS, the parties hereto are mutually desirous of entering into such an Agreement for the performance of such remedial action pursuant to the requirements of the Act under the terms set forth below.

NOW THEREFORE, the parties hereto mutually agree as follows:

I. DEFINITIONS

As used throughout this Agreement, the following terms shall have the meanings set forth below:

I-A A. The term "Secretary" means the Secretary of Energy or any duly authorized representative.

I-D B. The term "Commission" means the Nuclear Regulatory Commission or any duly authorized representative.

I-E C. The term "Administrator" means the Administrator of the Environmental Protection Agency or any duly authorized representative.

I-F D. The term "State" means the Commonwealth of Pennsylvania or any duly authorized representative.

I-H E. The term "person" means any individual, association, partnership, corporation, firm, joint venture, trust, government entity, and any other entity, except that such term does not include any Indian or Indian Tribe.

-I F. The term "processing site" means (1) any site including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971, under a contract with any Federal agency, unless such site was owned or controlled as of January 1, 1978, or is thereafter owned or controlled, by any Federal agency, or a license (issued by the Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under Section 274 of such Act) for the product derived from ores is in effect on January 1, 1978, or is issued or renewed after such date; ~~and~~ (2) any vicinity site; and (3) any residual radioactive material located at properties defined in (1) and (2).

-J G. The term "vicinity site" refers to any real property or improvement thereon which is (1) in the vicinity of that portion of the processing site defined in Section 101(6)(A) of the Act, and (2) is determined by the Secretary in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

~~H. The terms "administrative costs," "direct costs" and "allowable costs" insofar as they relate to the undertaking of the remedial action selected pursuant to Article II, below, will be defined in the Remedial Action Plan, which will be attached as appendicies to this Agreement, after having been approved by DOE and the State.~~

(H) The term "head of the agency" as used herein means the Secretary, or his duly authorized representative, and the term "his duly authorized representative" means any person or persons or board (other than the DOE Contracting Officer) authorized to act for the head of the agency or the Secretary.

-C (I) The term "DOE Contracting Officer" means the person executing this Agreement on behalf of the Government, and any other officer or civilian employee who is properly designated in writing to the State as a DOE Contracting Officer; and the term includes, except as otherwise provided in this Agreement, the authorized representative of a DOE Contracting Officer acting within the limits of his authority, when so designated in writing to the State.

-W (J) Except as otherwise provided in this Agreement, the term "subcontracts" includes purchase orders under this Agreement.

I-V (K) The term "subcontractor" means the contractor to the State and all tiers of subcontracting thereunder.

I-G (L) The term "State Contracting Officer" means the Director of Radiation Protection and Toxicology or any duly authorized representative of such official.

I-S (M) The term "Advance by Treasury check" means a payment made to the State by Treasury check, in accordance with the provisions of Treasury Circular No. 1075, upon request by the State before cash outlays are made for allowable costs incurred and anticipated to be incurred by the State.

I-T (N) The term "reimbursement by Treasury check" means a payment made to the State with a Treasury check upon request by the State or reimbursement for cash outlays made for allowable costs.

I-U (O) The term "program income" means the State's share of proceeds from: (1) any sale by the State of a processing site pursuant to Article V of this Agreement; and (2) any remilling of residual radioactive material done pursuant to Article II of this Agreement and Section 108(b) of the Act. Program income does not include any interest earned on advances of Government funds pursuant to this Agreement.

I-K (P) The term "residual radioactive materials" means: (1) waste at the processing site, which the Secretary determines to be radioactive, in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and (2) other waste, which the Secretary determines to be radioactive, at the processing site which relate to such processing, including any residual stock of unprocessed ores or low-grade materials.

(Q) The term "EPA Standards" means those standards, promulgated as standards by rule of the Administrator pursuant to Section 275 of the Atomic Energy Act of 1954 as amended, of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials located at processing sites and depository sites.

(R) The term "depository site" means any site, which may include the processing site, used for the permanent disposition, stabilization and control of residual radioactive materials in accordance with and pursuant to Title I of the Act and this Agreement.

(S) The term "remedial action" means the assessment and technical effort, including where appropriate the remilling of tailings to extract uranium and other mineral values where practicable, in order to stabilize and control the residual radioactive materials in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public.

II. DESCRIPTION OF REMEDIAL ACTION PROGRAM

A. The program covered by this Agreement is a cooperative effort between the DOE and the State for the purpose of assessment and remedial action at the inactive mill tailings site and vicinity property in Canonsburg, Pennsylvania, designated by the Secretary as a "processing site" in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public.

B. With the participation of the State and the concurrence of the Commission, the Secretary shall select and perform the remedial action at the designated processing site and the disposal site, if separate, in accordance with the general standards prescribed by the Administrator pursuant to Section 275a of the Atomic Energy Act of 1954, as amended. ~~Remedial action shall be carried out, to the greatest extent practicable, in accordance with the priorities established pursuant to Section 102 of the Act.~~

II-B C. The Secretary shall use technology in performing the remedial action as will insure compliance with the general standards promulgated by the Administrator as provided for in paragraph B, above, and will assure the safe and environmentally sound stabilization of residual radioactive materials consistent with existing law.

~~D. No remedial action will be undertaken before the promulgation by the Administrator of the general standards provided for in paragraph B, above. However, the term "remedial action" does not include acquisition of a site if such site is deemed appropriate by the Secretary with the concurrence of the Commission. Nevertheless, the final provisions in Articles III and IV of this Agreement do apply with regard to the actual costs of acquiring a processing site (and any interest therein) or any disposition site (and any interest therein).~~

II-B (D) No remedial action will be undertaken before the promulgation by the Administrator of the EPA standards ~~provided for in paragraph B above~~. However, the term "remedial action" does not include acquisition of a site. Nevertheless, the financial provisions in Articles III and IV of this Agreement do apply with regard to the actual costs of acquiring a processing site (and any interest therein) or any ~~dispository~~ disposal site (and any interest therein).

II-P E. The detailed description of the work to be performed will be contained in a written Remedial Action Plan which will be developed by the DOE and the State. The Plan shall become effective upon the written concurrence of the Commission, and it shall become a part of this Agreement upon such concurrence. Upon consultation with the Commission, nonsubstantive written modifications to this Plan (e.g., modifications that would not bear upon any requirements relating to stabilization of residual radioactive materials), may be made by mutual agreement of the parties without formal Commission concurrence. All substantive modifications to the Remedial Action Plan by the parties must also have the written concurrence of the Commission. However, no formal execution of an amendment to this Agreement is required for any modification to the Remedial Action Plan.

II-D-2 F. Before the remedial action outlined in the Remedial Action Plan can be finally decided upon and implemented by the parties, the DOE must comply with the requirements of the National Environmental Policy Act of 1969.

(G) Any remedial action taken pursuant to this Agreement shall be in accordance with the applicable provisions of the Act, including the provisions of Section 108(b) regarding the remilling of residual radioactive materials.

III. PAYMENTS

V-C/D

A. The Secretary shall pay 90 percent of the allowable costs under this Agreement and the State shall pay the remaining 10 percent of such costs from non-Federal funds.

Such costs shall be: (i) ~~verifiable from the State's records;~~ (ii) not included as contributions for any other Government assistance program; (iii) made for charges that are allowable costs; (iv) not paid by the Government under any other Government assistance program; and (v) otherwise conforming to the provisions of this Agreement and the Act.

B. ~~Unless otherwise agreed by the parties hereto, the Secretary or his authorized representative shall make all payments for allowable costs incurred for the performance of remedial action or other allowable costs incurred pursuant to the terms of this Agreement. Once each month (or at more frequent intervals by mutual agreement) the Secretary or his authorized representative may submit to the State, in such form and reasonable detail as necessary, an invoice supported by a statement of costs incurred in the performance of this contract and deemed to constitute allowable costs. Promptly after receipt of each invoice the State shall pay to the Secretary 10 percent of the amount thereof.~~

C. ~~The State shall make no payments pursuant to this Agreement other than to the Secretary or his designee without the prior written approval of the Secretary. In the event such payment is made, the State shall submit an invoice to the Secretary and the Secretary shall pay promptly to the State or its designee 90 percent of the amount thereof. Costs incurred shall be subject to audit at any time prior to settlement under this Agreement. Payments made are subject to adjustment based on audit findings.~~

I-C

(B) Unless otherwise agreed by the parties and except as provided pursuant to Article XV, Procurement and Subcontracting, DOE will procure all necessary materials and services needed to perform the remedial action and acquisition of property. Accordingly, DOE will make payment to all contractors performing remedial action work and acquisition of property.

IV-E

The DOE shall submit quarterly, or at more frequent intervals by mutual agreement between the State Site Representative and the DOE Contracting Officer, Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," a copy of which is attached as Appendix C, supported by a statement of allowable costs incurred by DOE. The DOE shall submit the form original, and two copies, to the State Contracting Officer. Prompt payment shall be made by the State for 10 percent of allowable costs.

[redacted]

IV-D

(C) The State shall submit quarterly, or at more frequent intervals by mutual agreement between the State Site Representative and the DOE Contracting Officer, OMB Standard Form 270, "Request for Advance or Reimbursement," a copy of which is attached as Appendix D to request payment for the DOE share of any project costs incurred by the State. The State shall submit the OMB Standard Form 270, original and two copies to the DOE Contracting Officer. The DOE shall promptly make advance by Treasury Check or reimbursement by Treasury check, or a combination thereof, as payment to the State for a maximum of ninety percent (90%) of allowable costs. In lieu of payment by advance or reimbursement by Treasury check, the State may submit the OMB Standard Form 270 showing allowable costs incurred by the State and requesting that the DOE Contracting Officer offset such costs against the State's share (10%) of the total allowable costs.

IV-E D. The authority under the Act to enter into contracts or other obligations requiring the Government to make outlays may be exercised only to the extent provided in advance in annual authorization and appropriation acts.

IV-D E. Expenditure of funds by the State in fulfillment of this Agreement is contingent upon an appropriation by the Pennsylvania General Assembly.

VIII-A (F) At any time or times prior to final payment under this Agreement, the DOE Contracting Officer may have the State invoices or vouchers and statements of cost audited.

The State shall maintain, and the DOE Contracting Officer shall have the right to examine books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. Such right of examination shall include inspection at all reasonable times at the State's offices, or such parts thereof, as may be engaged in the performance of this Agreement as to cost or pricing data submitted by the State.

III-C All documents, records and other materials described in this paragraph shall be made available at the office of the State Site Representative, at all reasonable times, for inspection, audit or reproduction, and shall be retained in accordance with the terms and conditions of Article XI of this Agreement. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the DOE Contracting Officer, on the basis of such audit, not to constitute allowable costs as defined in Article IV "Allowable Cost." Any payment may be reduced for overpayments, or increased for underpayments on preceding invoices or vouchers.

DOE will make available to the State copies of pertinent

(G) Interest earned by the State on advances of Government funds pursuant to this Agreement shall be remitted to the DOE Contracting Officer.

IV. ALLOWABLE COSTS

A. Payment for the allowable costs as hereinafter defined shall constitute full and complete compensation for the performance of work under this Agreement.

B. The allowable costs of performing the work under this Agreement shall be those costs which are directly required to complete the remedial action selected pursuant to Article II, above, including:

1. The actual cost of acquiring the processing site (and any interest therein) or any disposition site (and any interest therein) and any vicinity site acquired pursuant to Article V, paragraph D, of the agreement (and any interest therein); and

2. The costs incurred in the ultimate removal and/or stabilization of the "residual radioactive material" as provided in the Remedial Action Plan; and

3. Relocation costs of all persons relocated as a necessary part of the remedial action undertaken pursuant to this Agreement insofar as such relocation costs are costs which are directly required to carry out such remedial action (The Pennsylvania Eminent Domain Code (26 P.S. § 1-601A) shall apply to this Agreement, subject to any required amendment, or new state authorizing legislation. It is recognized, however, that reimbursement will be as indicated in Article III, paragraph A, of this Agreement.); and

4. The administrative costs associated with the acquisition of lands and interest therein by the State or the Secretary pursuant to the Act; provided, however, that the administrative costs incurred by the State and the DOE to develop, prepare, and carry out this Agreement shall not be considered allowable costs.

V-A (B) Allowable costs under this Agreement shall be:

(1) Those direct costs (as determined by the DOE Contracting Officer in accordance with Federal Management Circular (FMC) 74-4) incurred by the DOE and the State to:

a. Appraise and acquire property (and any interest therein) pursuant to Article V of the Agreement when required by the

Secretary with the concurrence of the Commission.

b. Design and perform the remedial action pursuant to and in accordance with the terms and conditions of this Agreement.

c. Pay relocation costs, pursuant to Article V of this Agreement, of all persons and materials relocated as a necessary part of the remedial action undertaken pursuant to this Agreement, or to alleviate potential health risk to occupants of designated sites as determined necessary by the Secretary.

E-A

(2) Those indirect costs (as required by this Agreement and as determined by the DOE Contracting Officer in accordance with Federal Management Circular (FMC) 74-4) associated with the acquisition of property by the State or the transfer or property to the Government by the State pursuant to Article V hereof, but shall not otherwise include any other indirect costs incurred by the DOE or the State to develop, prepare and carry out this Agreement.

V. ACQUISITION, DISPOSITION, AND USE OF PROPERTY

E-A

A. The State, when determined appropriate by the Secretary with the concurrence of the Commission, shall acquire the designated processing site, including where appropriate any interest therein. In the event that the Secretary's designation is amended to include any vicinity site and the State consents to acquisition of any such site (as more specifically provided in Article V, paragraph D, of this agreement), the State shall acquire such vicinity site including any interest therein.

B. If the Secretary, with the concurrence of the Commission, determines that removal of residual radioactive material from the processing site is appropriate, the State shall acquire land (including, where appropriate, any interest therein) to be used as a site for the permanent disposition and stabilization of such residual radioactive materials in a safe and environmentally sound manner.

C. Acquisition by the State shall not be required under this article if a site located on land controlled by the Secretary or made available by the Secretary of Interior pursuant to Section 106 of the Act is designated by the Secretary, with the concurrence of the Commission, for such disposition and stabilization.

D. The State shall not be required under paragraphs A and B, above, to acquire any real property or improvement outside the boundaries of (1) that portion of the processing site which is described in Section 101(6)(a) of the Act, and (2) the site used for disposition of the residual radioactive materials, provided that the State may consent by amendment to this Agreement to acquire any vicinity site subsequently included in the processing site designation by the Secretary. Upon such consent the State shall acquire the vicinity site, including where appropriate, any interest therein.

E. ~~Except where the State is required to acquire the processing site pursuant to paragraph A, above, the State shall obtain, in a form prescribed by the Secretary, written consent from any person holding any record interest in the designated processing site for the Secretary or any person designated by him and the State to perform remedial action at the site. Such written consent shall include a waiver by each such person on behalf of himself, his heirs, successors, and assigns (1) releasing the United States and the State of any liability or claim thereof by such person, his heirs, successors, and assigns concerning the remedial action, and (2) holding the United States and the State harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action.~~

(E) Except where the State is required to acquire the processing site pursuant to paragraph A of this Article, the State shall use its best efforts to obtain, in a form prescribed by the Secretary, written consent from any person holding any record interest in the designated processing site for the Secretary, or any person designated by the Secretary to perform remedial action at the site. Such written consent shall: (1) include a waiver by each such person on behalf of himself, his heirs, successors and assigns (i) releasing the Government and the State of any liability or claim thereof by such person, his heirs, successors and assigns concerning such remedial action, and (ii) holding the Government and the State harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action; (2) specify the remedial action to be performed; (3) provide that the remedial action shall be performed only by the DOE or such person as the [DOE Contracting Officer]

designated; and (4) provide that the State shall notify the owner of record, upon completion of the remedial action, of the nature and extent of the remedial action taken, pursuant to paragraph J of this Article. The State shall advise the DOE Contracting Officer, as soon as possible, whenever it is unable to obtain such written consent, whereupon the DOE Contracting Officer shall instruct or advise the State in writing: (1) that the State should acquire the subject processing site; (2) that no remedial action will be performed at the subject processing site; or (3) of such other determination made by the DOE in connection with the subject processing site.

F. The State shall assure that the Secretary, the Commission, and the Administrator and their duly authorized representatives shall have a permanent right of entry at any time to inspect the processing site and the site provided pursuant to paragraph B above, in furtherance of the provisions of Title I of the Act and to carry out this Agreement and enforce the provisions of the Act and any rules prescribed thereunder. This right of entry into an area described in section 101(6)(B) of the Act shall terminate on completion of the remedial action, as determined by the Secretary.

[- B-1-c

G. In the case of any lands or interests therein acquired by the State pursuant to paragraph A, above, the State with the concurrence of the Secretary and the Commission, may (1) sell such lands and interests, (2) permanently retain such land and interests in lands (or donate such lands and interests therein to another governmental entity within such State) for permanent use by State or entity solely for park, recreational, or other public purposes, or (3) transfer such lands and interests to the United States as provided in paragraph H, below. No site may be sold or retained under this paragraph G if such site is used for the disposition of residual radioactive materials. Before offering for sale any lands and interests therein which comprise the processing site, the State shall offer to sell such lands and interests at their fair market value to the person from whom the State acquired them.

H. ~~The State shall transfer to the Secretary, when the Secretary (with the concurrence of the Commission) determines that remedial action is completed in accordance with the requirements of Title I of the Act, title to (1) the residual radioactive materials subject to this Agreement, and (2) any lands and interests therein which have been acquired by the State, under paragraphs A and B, above, for the disposition of such materials. No payment shall be made in connection with the transfer of such property from funds appropriated for purposes of the Act other than payments for any administrative and legal costs incurred in carrying out such transfer. The Government shall thereafter bear all costs for maintenance of the materials and the site.~~

(H) If the Secretary (with the concurrence of the Commission) determines

II-B-1-F that remedial action is completed in accordance with the EPA standards, the State shall transfer to the Government title to: (1) the residual radioactive materials subject to this Agreement, and (2) any lands and interests therein that have been acquired by the State, under paragraphs (A) and (B) above, and used as a depository site. (No payment shall be made in connection with the transfer of such property from funds appropriated for purposes of the Act other than payments for any administrative and legal cost incurred in carrying out such transfer.) The DOE shall thereafter bear all costs for maintenance monitoring and control of the residual radioactive materials and the depository site.

I. The State shall promptly reimburse the Secretary from the proceeds of any sale made by the State pursuant to paragraph G(1), above. Such reimbursement shall be in an amount equal to the lesser of (1) that portion of the fair market value of the lands or interests therein which bears the same ratio to such fair market value as the Federal share of the costs of acquisition by the State to such lands or interest therein bear to the total cost of such acquisition, or (2) the total amount paid by the Secretary with respect to such acquisition. The fair market value of such lands or interest shall be determined by the Secretary as of the date of the sale by the State.

II-G

J. The State shall take such action as may be necessary, pursuant to regulations of the Secretary, to assure that any person who purchases a processing site owned by the State after the removal of radioactive materials from such site shall be notified prior to purchase of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place, and the condition of such site after such action. If the State is the owner of such site, the State shall so notify any prospective purchaser before entering into a contract, option, or other arrangement to sell or otherwise dispose of such site.

I-B-1-a

(K) The State shall acquire real property pursuant to applicable State law, and pursuant to the requirements of the Department of Justice for acquisition of real property by Government agencies as provided in paragraph M and N below.

I-B-1-a

(L) The Secretary shall instruct the State to acquire that portion of the processing site described in Section 101(6)(A) of the Act, property pursuant to this Article by written notice which informs the State of: (1) the acquisition required; (2) the legal description or location of the property to be acquired; (3) the estate or interest in the property to be acquired; and (4) the date by which such property is to be acquired.

I-B-1-a

(M) The State, when directed by the DOE Contracting Officer in writing, shall obtain an appraisal of that portion of the processing site described in Section 101(6)(A) of the Act, regardless of whether or not the DOE has determined that the State should acquire such portion of the processing site pursuant to this Article. Any appraisal required pursuant to this paragraph or paragraph O of this Article shall be obtained as soon as possible and shall:

1. Be prepared in compliance with the "Uniform Appraisal Standards for Federal Land Acquisitions" (hereinafter referred to as the "Appraisal Standards") issued by the Interagency Land Acquisition Conference (1973).

2. Be done, to the extent possible, by experts qualified to determine amounts, quality, extractability, accessibility, and commercial demand of the residual radioactive materials (uranium), and, if possible, qualified to determine and certify to the extent to which the presence of the residual radioactive materials actually diminishes or enhances the market value of the millsite. At the option of the DOE Contracting Officer and after discussion with the State Site Representative, this portion of the appraisal (regarding re idual radioactive materials) may be performed or obtained by the DOE rather than by the State. In that event, such portion shall be considered a supplement to the appraisal and the costs of preparing or obtaining such portion shall be an allowable cost under Article IV of this Agreement.

3. Be forwarded to the DOE Contracting Officer.

(N) Whenever the State is required to acquire a processing site, depository site, or agrees to acquire a vicinity site, or any interest therein, pursuant to this Article: by definition

1. The State shall make every reasonable effort to acquire expeditiously the site by negotiation.
2. The State shall obtain all necessary title evidence for use in negotiations for purchase and, if necessary, for use in condemnation proceedings in accordance with the "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States."
3. The State shall obtain an appraisal, before the initiation of negotiations if not already done pursuant to paragraph M of this Article. The appraisal shall be prepared in compliance with the Appraisal Standards and shall otherwise conform to the requirements of paragraph M of this Article. The owner or his designated representative shall be given an opportunity to accompany the

4. The State shall promptly furnish to the Contracting Officer a copy of the title evidence and the appraisal report.

5. The Secretary, before the initiation of negotiations by the State, shall establish an amount which the Secretary believes to be a just maximum compensation for the processing site and shall notify the State of such amount (hereinafter referred to as the "Maximum Amount").

6. The State shall then proceed, pursuant to State law, to negotiate a purchase price and agreement to purchase the site. The State shall not negotiate a price in excess of the Maximum Amount.

7. The State, if unsuccessful in negotiating a purchase price at or below the Maximum Amount, shall then consult with the DOE Contracting Officer for further direction. The DOE shall then

L-B-1-a

either establish a higher Maximum Amount for continued negotiations or authorize the institution of formal condemnation proceedings by the State pursuant to State Law.

8. No owner of a site shall be required to surrender possession before the State pays, to the extent allowed under State law, the agreed purchase price or deposits with the appropriate State court, for the benefit of the owner, such amounts as are required to authorize the State to take title pending outcome of a condemnation proceeding.

T-B-1-a

9. In no event shall the State either advance the time for condemnation or defer negotiations or condemnation and the deposit of funds in State court for the use of owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the site.

10. Upon a determination by DOE that any buildings, structures or improvements located upon the site must be decontaminated pursuant to the remedial action project or will be adversely effected by the remedial action project, the State shall acquire an interest in all such buildings, structures or improvements equal to the interest acquired in the site.

11. The State, as soon as practicable and to the extent allowed under State law, shall reimburse the owner of site for: (i) recording fees, transfer taxes, and similar expenses incidental to conveying title to the site and improvements thereon; (ii) penalty costs for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the site; and (iii) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date that title is vested on the State, or the effective date of lawful possession by the State, whichever is the earlier.

12. The State, upon acquisition of a site pursuant to this Article, shall forward to the DOE Contracting Officer: (i) copies of any accepted sales, donation, or exchange agreement; (ii) copies of title evidence; (iii) a map or plat of the land acquired; and (iv) copies of the deed to the State.

III-B-1-e

0. Whenever the State is required to transfer title to a depository site pursuant to this Article, the State, at the time of such transfer, shall forward to the DOE Contracting Officer a deed which conforms to applicable State law and with the Standards for the Preparation of title Evidence in Land Acquisitions by the United States, and which:

II-C

1. Is a special warranty deed. This requirement may be waived by the DOE Contracting Officer, upon a proper showing, as to conveyances by the State acting solely in a representative

2. Shows the name of the State as grantor in the body of the deed and in its acknowledgment.

3. Conveys the land to the "United States of America and its assigns."

4. Contains a proper description of the land.

5. Conveys by quitclaim all the right, title and interest of the State as grantor in and to any alleys, streets, ways, strips, or gores abutting or adjoining the land.

6. Contains no reservations or exceptions not approved by the DOE Contracting Officer; however, when land is to be conveyed subject to certain rights, such as easements or mineral rights thought to be outstanding in third parties, they must not be excepted from the conveyance, but the deed shall be framed to convey by quitclaim all the State's right, title, and interest subject to the outstanding rights.

7. Refers to the deed(s) to the State, or other source of the State's title, by book, page, and place of record, wherever customary or required by statute.

8. Contains a reference to the DOE as the Government agency for which the lands are being acquired. This statement should follow the description of the land and in no instance should it be included in the granting, habendum or warranty provisions of the deed.

9. Is signed, sealed, attested, and acknowledged by the State as grantor as required by applicable State law.

10. If executed by an attorney in fact, is signed in the name of the principal by the attorney, properly acknowledged by the attorney as the free act and deed of the principal, and be accompanied by the original or a certified copy of the power of attorney and satisfactory proof that the principal was living and the power in force at the time of its exercise.

11. Has affixed sufficient documentary revenue stamps, if required by State law.

II-B-1-b P. The State, when determined appropriate by the DOE and so instructed by the DOE Contracting Officer, shall pay relocation expenses to all persons relocated as a necessary part of the remedial action project. Such payment of relocation expenses shall be pursuant to applicable State law. Provided that should there be no applicable State law, any payment of relocation expenses by the State shall be consistent with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, Sections 201 through 204, inclusive, and the Federal Property Management Regulations, Section 101-18.3.

VI. PUBLIC PARTICIPATION

A. The State will cooperate with the Government in implementing a public participation plan which will be made a part of the Remedial Action Plan provided for in Article II, E, above.

B. The parties shall coordinate all public information in connection with the remedial action program.

VII. RULES

The Secretary shall prescribe such rules consistent with the purposes of the Act as he deems necessary to carry out the provisions of this Agreement pursuant to Title V of the Department of Energy Organization Act. All activities under this Agreement shall be carried out pursuant to any such applicable rules.

Except as otherwise provided in this Agreement, all activities under this Agreement shall be carried out pursuant to applicable Federal and State regulations, including but not limited to such rules and regulations promulgated or to be promulgated by the Secretary pursuant to Section 109 of the Act.

VIII. COVENANT AGAINST CONTINGENT FEES

XV The State warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the State for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

IX. OFFICIALS NOT TO BENEFIT

XVI No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

X. EQUAL OPPORTUNITY

(The following clause is applicable unless this Agreement is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).)

XVII During the performance of this Agreement, the State agrees as follows:

A. The State will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The State will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment

or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The State agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provisions of this Equal Opportunity clause.

B. The State will, in all solicitations or advertisements for employees placed by or on behalf of the State, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

C. The State will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the State's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The State will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

E. The State will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

F. In the event of the State's noncompliance with the Equal Opportunity clause of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended, in whole or in part, and the State may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

G. The State will include the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The State will take such action with respect to any subcontract or purchase order as the contracting agency may direct as

~~a means of enforcing such provisions, including sanctions of non-compliance. Provided, however, that in the event the State becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the State may request the United States to enter into such litigation to protect the interests of the United States.~~

XVII Recipients of DOE financial assistance awards which are provided under DOE Federal Assistance programs shall comply with Part 1040, Chapter X, Title 10 of the Code of Federal Regulations "Nondiscrimination in Federally Assisted Programs" (proposed rule) (10 CFR Part 1040) as published in the FR Vol. 43, No. 222, Thursday, November 16, 1978 (pages 53658 through 53676) and when published, as a final rule. 10 CFR Part 1040 provided that no person shall on the ground of race, color, national origin, sex, handicap, or age be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment where the main purpose of the program or activity is to provide employment or when the delivery of program services is affected by the recipient's employment practices in connection with any program or activity receiving Federal assistance from DOE.

XI. EXAMINATION OF RECORDS

~~A. This clause is applicable if the amount of this Agreement exceeds $10,000 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this Agreement was entered into by means of formal advertising.~~

A. ~~B.~~ The State agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this Agreement or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations, Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of the State involving transactions related to this Agreement.

B ~~c~~. The State further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under the subcontract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations, Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

C ~~B~~. The periods of access and examination described in B and C, above, for records which relate to (1) litigation or the settlement of claims arising out of the performance of this Agreement, or (2) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

D ~~E~~. The State shall report to the Secretary promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the State has knowledge.

E ~~D~~. In the event of any claim or suit against the Government, on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed hereunder, the State shall furnish to the Government, when requested by the Secretary, all evidence and information in possession of the State pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the State has agreed to indemnify the Government.

(F) The DOE may request, and the State shall, transfer to the custody of DOE copies of certain records maintained by the State pursuant to this Agreement when the DOE determines that the records possess longterm retention value. In order to avoid duplicate recordkeeping, the DOE may make arrangements with the State to retain any records that are continuously needed for joint use.

XII. TERM AND TERMINATION

XII

A. This agreement shall expire at such time as the DOE and the State mutually agree in writing that the objectives of the remedial action program have been met, or seven years from the date of promulgation of standards by the Administrator as provided for in this Agreement, whichever is earlier; provided, however, that the parties may extend this Agreement by mutual written consent.

B. The Secretary, upon written notice to the State, may terminate their Agreement in the event the State is in default because of a material breach which is not cured within 60 days after receipt of a written notice of default from the Secretary.

C. The State, upon written notice to the Secretary, may terminate this Agreement in the event the DOE is in default because of a material breach which is not cured within 60 days after receipt of a written notice of default from the State.

D. In the event of termination, all obligations of the terminating party under this Agreement, except those outstanding at the time

III - B

(B) Either DOE or the Commonwealth may terminate this Agreement in whole, or in part, when both parties agree that continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. Neither party shall incur new obligations for the terminated portion after the effective date. The parties shall cancel as many outstanding obligations as possible. Full credit shall be allowed by each party for noncancelable obligations properly incurred by the other party prior to the termination.

III - C

(C) DOE may terminate the Agreement in whole, or in part, at any time before the date of completion, whenever the DOE Contracting Officer determines that the Commonwealth has failed to comply with the conditions of the Agreement. The DOE Contracting Officer shall promptly notify the Commonwealth in writing of the determination and the reasons for the termination, together with the effective date of the termination if the Commonwealth does not resume compliance with the conditions

(D) After receipt of a Notice of Termination by either party, the DOE and the State shall close out this Agreement in accordance with the terms and conditions of Article XXIII of this Agreement; Provided, that the DOE may, in its discretion, continue unilateral performance of this Agreement, including performance of the State's responsibilities, until such time as the remedial action contemplated by this Agreement and the Remedial Action Plan is completed.

XIII-E

III-F

E. Neither the DOE nor the State shall be considered in default of this Agreement because of delay in performance for reasons beyond its control including, but not restricted to, acts of God or the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.

III-G

(F) In the event appropriated funds are not available to the State to carry out this Agreement:

1. DOE shall have the right to continue unilateral performance of this Agreement, including performance of the State's responsibilities, without cost to the State, until such time as the remedial action contemplated by this Agreement and the Remedial Action Plan is completed.

2. DOE and the State shall close out this Agreement pursuant to Article XXIII hereof.

III-H

(G) In the event appropriated funds are not available to the DOE to carry out the Act or this Agreement, the DOE and the State shall close out this Agreement pursuant to Article XXIII of this Agreement and such other procedures as mutually agreed to in writing by the parties.

XIII. DISPUTES

~~Any disputes between parties arising under this Agreement not disposed of by mutual concent may be presented by either party to the U.S. District Court for the Middle District of Pennsylvania. Each party hereby agrees to subject itself and this Agreement to the jurisdiction of said Court.~~

XX (A) Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the DOE Contracting Officer, who shall reduce his decision to writing and mail, or otherwise furnish a copy thereof to the Participant. The decision of the DOE Contracting Officer shall be final and conclusive unless within 60 days from date of receipt of such copy, the Participant mails, or delivers a written notice of appeal to the Department of Energy Financial Assistance Appeals Board in accordance with 10 CFR Part 1024 (See Rule 1). The decision of the Department of Energy Financial Assistance Appeals Board shall be final and conclusive unless determined by a court of competent jurisdiction to have been fradulent, or capricious, or arbitrary, or so grossly erroneous as necessary to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Participant shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Participant and the Government shall proceed diligently with the performance of the Agreement and in accordance with the DOE Contracting Officer's decision.

(B) This "Disputes Clause" does not preclude consideration of law questions in connection with decisions provided for in paragraph (A) above; provided, that nothing in this Agreement shall be construed as making final the decision of any administrative official, representative, or board, based on a question of law.

XIV. EFFECTIVE DATE

This Agreement shall become effective upon the date of concurrence by the Commission and shall remain effective until such time as terminated by the parties in accordance with Article XII, above.

XV. PROCUREMENT AND SUBCONTRACTING

I-C Unless otherwise agreed by the DOE and the State in writing, and except as provided in this Agreement, the DOE shall procure, in accordance with applicable DOE procurement policies and procedures and existing Federal law, all supplies, equipment, construction and services necessary for the performance of this Agreement and the Remedial Action Plan. The applicable standards and guidelines for any procurement by the State of supplies, equipment, construction and services pursuant to this Agreement shall be those provided in Attachment O to the Office of Management and Budget (OMB) Circular A-102, as that attachment was revised by OMB on August 1, 1979, and published in the Federal Register, Volume 44, No. 159, August 15, 1979, pp 47874-47878, except as provided in Article XXVI below, and provided that such standards shall not apply to the State's acquisition of property pursuant to Article V of this Agreement.

XVI. ESTIMATED COST

The total estimated cost of this project will be determined when the Remedial Action Plan (Appendix B) is approved by the parties following the Environmental Protection Agency's promulgation of standards, pursuant to Section 275 of the Atomic Energy Act of 1954, as amended.

If the Secretary determines that the State should acquire title to or a lesser interest in real property, adequate funds will be obligated to pay for the Federal share of such real property.

No Federal funds are obligated by the execution of this Cooperative Agreement; however, subject to the availability of appropriated funds, DOE agrees to pay ninety (90) percent, and the State agrees to pay 10 percent of allowable costs required by the Remedial Action Plan provided:

(1) the Plan has been approved by DOE, the State and the Commission;

(2) the costs of ~~such~~ remedial action do not exceed amounts to be mutually agreed upon in the Remedial Action Plan as amended from time to time; and

(3) the Pennsylvania General Assembly has appropriated, or the State has otherwise allocated sufficient funds to cover its annual share of the remedial action, ~~or~~ other expenses under this Agreement.

DOE further promises to pay ninety (90) percent of allowable costs associated with acquisition of real property and residual radioactive materials in accordance with Article V hereof, relocation payments in connection with acquisition or remedial action, and transfer, by the State to DOE, of title to real property and residual radioactive materials, provided:

(1) DOE has approved the agreement for the purchase of the property pursuant to Article XVIII of this Agreement, and

(2) The Pennsylvania General Assembly has appropriated or the State has otherwise allocated sufficient funds to cover its share of the

XVII. REPORTING REQUIREMENTS

(A) DOE shall inform the State of the status of activities under this Agreement as major milestones are reached but in no event less frequently than quarterly.

(B) The State shall submit to the DOE Contracting Officer, as directed, progress and financial reports of its activities in the acquisition of real property under this Agreement.

(C) The State shall submit annually, commencing one year from the effective date of this Agreement, to the DOE Contracting Officer, OMB Standard Form 269, a Financial Status Report, a copy of which is attached as Appendix E, paid to the State by DOE pursuant to this Agreement. DOE shall prescribe whether the reports shall be on a cash or accrual basis. If the DOE requires accrual information and the State's accounting records are not normally kept on the accrual basis, the State shall not be required to convert its accounting system but shall develop such accrual information through an analysis of the documentation on hand. The State shall submit a final Financial Status Report upon close out of this Agreement in accordance with Article XXIII hereof. The State shall submit the OMB Standard Form 269, original and two copies, to the DOE Contracting Officer no later than 90 days after the end of the specified reporting period for the annual and final reports. Reasonable extensions to reporting due dates may be granted by the DOE Contracting Officer upon written request of the State.

(D) The State shall supply to DOE such additional financial information as is requested in writing by DOE to comply with Congressional requirements.

XXVII

(E) All standard forms required to be submitted by the State pursuant to this Article shall be provided to the State by the DOE Contracting Officer upon request.

(F) The reports or other information to be submitted by the State to the DOE ~~Government~~ shall be submitted without restricted markings or other conditions relating to use or disclosure.

XVIII. PROJECT MANAGEMENT

(A) Real Property Acquisition Phase of the Project

II-D-6

Pending the promulgation of the EPA Standards and the development of the Remedial Action Plan, the State may be authorized by the Secretary to initiate action leading to the acquisition of real property pursuant to Article V of this Agreement. The State will not execute the acquisition Agreement or otherwise acquire title to any real property without written authorization of the DOE Contracting Officer.

(B) Remedial Action Plan Development Phase

D-3

DOE will develop a Remedial Action Plan following the promulgation by EPA of standards of general application pursuant to Section 275 of the Atomic Energy Act of 1954 as amended, and will submit it to the State and the Commission for review and comment. This plan will include a detailed cost estimate, which will be used to project the financial liabilities of the parties if they choose to proceed with the remedial actions. Prior to implementation of the Remedial Action Plan, DOE and the State will endeavor to insure sufficient authorization of funds from the Congress and Pennsylvania General Assembly so as to permit the completion of the work under the Plan.

Remedial actions will not begin until both parties and the Commission have accepted the Remedial Action Plan, and the State and DOE have obligated sufficient funds to complete the scope of work projected for not less than the first fiscal year of the implementation of the Remedial Action Plan.

(C) Remedial Action Phase

D-5

Unless otherwise agreed by the DOE and the State in writing, DOE

will perform all remedial actions under the direction of a DOE Site Representative pursuant to the Remedial Action Plan, keeping the State advised as to the status of major milestones and cost incurred.

XIX. LOCAL ADVISORY COMMITTEES

VI The DOE shall not be a member of any local advisory committees established in connection with the remedial action to be performed under this Agreement for the purpose of providing information to and receiving information from the citizens of the localities affected by such remedial action. The DOE shall however, make every reasonable effort to interface with any such committee to the extent requested by the State or the Committee. No costs associated with any advisory committee so established shall be allowable costs under this Agreement.

XX. OTHER REMEDIES

XXII Nothing in this Agreement shall prevent the Secretary from enforcing any provision of Title I of the Act, any regulation promulgated thereunder, or any provision of this Agreement, by injunction or other equitable remedy, or as otherwise provided by Section 110 of the Act.

XXI. ENTIRE AGREEMENT

This written Agreement constitutes the entire Agreement of the parties

XXIII hereto. No representations, promises, terms, conditions, or obligations whatsoever referring to the subject matter hereof, other than those expressly set forth herein, shall be of any binding legal force or effect whatsoever.

XXII. CONCURRENCES AND CONSULTATIONS

Wherever in this Agreement or in the Act a concurrence from or consultation with another Government agency is required, the DOE shall seek such concurrence and be responsible for undertaking such consultation.

XIX

XXIII. CLOSEOUT PROCEDURES

(A) As of the date of receipt of a Notice of Termination pursuant to Article XII of this Agreement, or on the date of expiration of the period of performance or failure of one party to appropriate funds as provided in Article XII of this Agreement:

XIV

1. The parties shall:

   a. Stop performance under this Agreement on the date and to the extent specified in the Notice of Termination or on the date when the period of performance expires;

   b. Place no further orders and make no further subcontracts or other Agreements, for materials, service or property except as may be necessary for completion of such portion of the work under this Agreement as is not terminated by any Notice of Termination;

   c. Terminate all orders, subcontracts, or other agreements entered into in performing this Agreement, to the extent that they relate to the performance of work terminated by by the Notice of Termination or terminated by the expiration of the period of performance of this Agreement;

   d. Settle all outstanding liabilities and all claims arising out of such termination of orders, subcontracts and agreements, the cost of which would be reimbursable, in whole or in part, as a project cost in accordance with the provisions of this Agreement;

   e. In the event of partial termination, complete performance of such part of the work which is not terminated by the Notice of Termination shall be completed;

   f. Take such action as may be necessary or as the DOE Contracting Officer may direct for the protection and preservation of the

property related to this Agreement which is in the possession of the State and in which the Government has or may acquire an interest.

2. The DOE shall, upon written request by the State, make prompt payment to the State pursuant to Article III of this Agreement, for any outstanding reimbursable allowable costs incurred by the State not yet paid by the DOE as required by this Agreement.
3. The State shall, upon written request by the DOE, make prompt payment to the DOE pursuant to Article IV of this Agreement, for its outstanding share of costs incurred by the DOE and the State in performance of this Agreement.
4. The State shall immediately refund to the DOE any balance of cash advanced to the State that is not authorized by the DOE Contracting Officer to be retained by the State.
5. The State shall provide to DOE, within 90 days after either the date of expiration of the period of performance, or the date of termination of performance, or at such time designated by the DOE Contracting Officer, all financial performance, and other reports required pursuant to this Agreement. The DOE Contracting Officer may grant reasonable extensions when requested by the State. An independent audit may be requested by either party.
6. In the event a final audit has not been performed prior to closeout of this Agreement, each party shall, until such final audit is performed, retain the right to recover any outstanding share of allowable costs from the other party.
7. As directed by the DOE Contracting Officer in writing, transfer to the Government of property acquired by the State pursuant to this Agreement.

Upon termination or at the expiration of the period of performance, the State shall proceed immediately with the performance of the above obligations not withstanding any delay in determining or adjusting the amount of the allowable project costs.

Out of order

XXIV. STATE FINANCIAL MANAGEMENT SYSTEM

The State shall assure that its financial management system provides for:

(A) Accurate, current and complete disclosure of the financial results of the State's participation in the remedial action program, carried out pursuant to this Agreement and the Remedial Action Plan. Should the DOE Contracting Officer require the State to report on an accrual basis, the State shall not be required to establish an accrual accounting system but shall develop such accrual data on required reports on the basis of an analysis of the documentation on hand.

VII

(B) Records that identify adequately the source and application of funds for activities supported pursuant to this Agreement. These records shall contain information pertaining to authorizations, obligations, unobligated balances, assets, liabilities, outlays, and program income.

(C) Effective control over and accountability for all funds, property, and other assets. The State shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(D) Comparison of actual outlays with budgeted or otherwise authorized amounts.

(E) Procedures to minimize the time elapsing between transfer of funds from the U.S. Treasury and the disbursement by the State, whenever funds are advanced by the Government.

(F) Procedures for identifying the reasonableness of costs.

(G) Accounting records that are supported by adequate and reasonable source documentation.

(H) Examinations in the form of audits which meet the requirements set

forth in Office of Management and Budget (OMB) Circular A-102, Attachment P, as that Attachment was revised by OMB effective October 22, 1979, and published in the Federal Register, Volume 45, No. 65, April 2, 1980, pp. 21875-21878, and which are in accordance with the "Guidelines for Financial and Compliance Audits of Federal Assisted Programs," issued by the United States General Accounting Office.

(I) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

XXV. CASH DEPOSITORIES

Any money advanced to the State under the Agreement must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and any balance exceeding the FDIC coverage must be collaterally secured in a manner approved by the Contracting Officer.

XXVI. ORDER OF PRECEDENCE

In the event of an inconsistency between provisions of this Agreement, the inconsistency shall be resolved by giving precedence as follows:

(a) Agreement Articles;

XXIV (b) Remedial Action Plan (when executed);

(c) Other provisions of the Agreement, whether incorporated by reference or otherwise.

Notwithstanding this order of precedence, any inconsistencies between the original Cooperative Agreement and this Appendix shall be resolved by giving effect to the provisions of this Appendix.

XXVII. ADDITIONAL GENERAL PROVISIONS

To the extent and only to the extent that the State is authorized by the DOE Contracting Officer and agrees to procure supplies, equipment, construction, or services under this Agreement each of the following clauses are applicable:

(A) Inspection

Appendix B -(1)

The DOE through any authorized representative, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the DOE on the premises of the State or a subcontractor~~s~~, the State shall provide and shall require ~~his~~ its subcontractor~~s~~ to provide all reasonable facilities and assistance for the safety and convenience of the DOE representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

(B) Assignment of Claims

deleted

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this Agreement provides for payments aggregating $1,000 or more, claims for money due or to become due the State from the DOE under this Agreement may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this Agreement and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this Agreement, payments

to an assignee of any monies due or to become due under this Agreement shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff.

(C) Convict-Labor

Appendix B -(2)

In connection with the performance of work under this Agreement, the State agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

(D) Audit

VIII

(a) Examination of Costs. The State shall maintain, and the DOE Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. Such right of examination shall include inspection at all reasonable times of the State's plants, or such parts thereof, as may be engaged in the performance of this Agreement as to cost or pricing data submitted by the State.

(b) Cost or pricing data. If the State submitted cost or pricing data in connection with the pricing of this Agreement or any other change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or process set by law or regulation, the DOE Contracting Officer or his representatives who are employees of the United States Government shall have the right to examine all books, records, documents, and other data of the State

related to the negotiation, pricing or performance of such Agreement, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost of pricing data submitted. Additionally, in the case of pricing any change or modification exceeding $1,000,000 to formally advertised agreements, the Comptroller General of the United States or his representatives who are employees of the United States Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projects used therein.

(c) Availability

The materials described in (a) and (b) above, shall be made available at the office of the State, at all reasonable times, for inspection, audit or reproduction, until the expiration of three years from the date of final payment under this Agreement or such lesser time specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) and for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (1) and (2) below:

(1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.

(2) Records which relate to appeals or disputes or litigation or the settlement of claims arising out of the performance of this Agreement, shall be made available until such appeals, litigation, or claims have been disposed of.

(d) The State shall insert a clause containing all the provisions of this clause, including this paragraph (d), in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the DOE Contracting Officer under the Cooperative Agreement.

(E) Clean Air and Water

The State agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et. seq., as amended by P.L. 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et. seg., as amended by P.L. 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this Agreement.

Exh. B (-3)

(2) That no portion of the work required by this Agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air standards and clean water standards at the facility in which the Agreement is being performed.

(4) To insert the substance of this clause into any nonexempt contract, including this paragraph (2) (4).

The terms used in this provision have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857, et. seg., as amended by P.L. 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S. 1251, et. seq., as amended by P.L. 92-500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857(c)-6(c) or (d)), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards during and after remedial action. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency on an air or water pollution control agency in accordance with the requirements of the Air Act or Water and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a participant or subcontractor, to be utilized in the performance of an agreement or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

f. Flood Insurance

App. B
A-(4)

State will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards and provisions prescribed by the Federal Insurance Administrator in

(G) Permits and Licenses

App. A A-(5)

Except as otherwise agreed to by the DOE Contracting Officer, the State shall procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State territory, and political subdivision and which the work under this Agreement is performed.

(H) Authorization and Consent

App. A A-(6)

The DOE hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this Agreement or any part hereof or any amendment hereto or any subcontract hereunder (including all lower-tier subcontracts).

(I) Utilization of Labor Surplus Area Concerns

Deleted.

(a) It is the policy of the DOE to award agreements to labor surplus area concerns that agree to perform substantially in labor surplus areas, where this can be done consistent with the efficient performance of the Agreement and at prices no higher than are obtainable elsewhere. The State agrees to use its best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause, the State in placing his subcontracts shall observe the following order of preference: (1) small business concerns that are labor surplus area concerns, (2) other small business concerns, and (3) other labor surplus area concerns.

(c) (1) The term "labor surplus area" means a geographical area identified by the Department of Labor as an area of concentrated unemployment or underemployment or an area of labor surplus.

(2) The term "labor surplus area concerns" means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas.

(3) The term "perform substantially in a labor surplus area" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50 percent of the contract price.

(J) Labor Surplus Area Subcontracting Program (applicable if the Agreement exceed $500,000)

(a) The State agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the State shall:

Deleted

(1) Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matters, (ii) supervise compliance with the Utilization of Concerns in Labor Surplus Area clause, and (iii) administer the State's "Labor Surplus Area Subcontracting Program";

(2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

(3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns;

(4) Maintain records showing the procedures which have been adopted to comply with the policies set forth in this clause and report subcontract awards (see 41 CFR 1-16.804-5 regarding use of Optional Form 61). Records maintained pursuant to this clause will be kept available for review by the DOE until the expiration of one year after the award of this Agreement, or for such longer period as may be required by any other clause of this Agreement or by applicable law or regulations; and

(5) Include the Utilization of Concerns in Labor Surplus Areas clause in subcontracts which offer substantially labor surplus area subcontracting opportunities.

(b) (1) The term "labor surplus area" means a geographical area identified by the Department of Labor as an area of concentrated unemployment or underemployment or an area of labor surplus.

(2) The term "concern located in a labor surplus area" means a labor surplus area concern.

(3) The term "labor surplus area concerns" means a concern that, together with its first tier subcontractors, will perform substantially in labor surplus areas.

(4) The term "perform substantially in labor surplus areas" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50 percent of the Agreement price.

(c) The State further agrees to insert, in any subcontract hereunder which may exceed $500,000 and which contains the Utilization of Concerns in Labor Surplus Areas clause, provisions which shall conform substantially to the language of this clause, including this paragraph (c), and to notify the DOE Contracting Officer

(K) Limitation of Funds (Cost-Sharing)

(a) It is estimated that the cost to the DOE for the performance of this Agreement will not exceed the estimated cost to the DOE set forth in Article XVI, Estimated Cost, and the State agrees to use its best efforts to perform the work specified in the Agreement and all obligations under this Agreement within such estimated cost to the DOE plus the share of the cost of performance agreed to be borne by the State, as set forth in the Agreement.

VI

(b) The amount presently available for payment by the DOE and allotted to this Agreement, the items covered thereby, the DOE's share of the cost thereof, and the period of performance which it is estimated the allotted amount will cover, are specified in Article XVI, Estimated Cost. It is contemplated that from time to time additional funds will be allotted to this Agreement up to the full estimated cost to the DOE set forth in Article XVI, Estimated Cost. The State agrees to perform or have performed work on this Agreement up to the point at which the total amount paid and payable by the DOE pursuant to the terms of this Agreement approximates but does not exceed the total amount actually allotted by the DOE to the contract.

(c) If at any time the State has reason to believe that the costs which it expects to incur in the performance of this Agreement in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the total of the amount then allotted to the Agreement by the DOE plus the State's corresponding share, the State shall notify the DOE Contracting Officer in writing to that effect. The notice shall state the estimated

amount of additional funds required to continue performance for the period set forth in the Agreement. Sixty days prior to the end of the period specified in the Agreement the State will advise the DOE Contracting Officer in writing as to the estimated amount of additional funds, if any, that will be required for the timely performance of the work under the Agreement or for such further period as may be specified in the Agreement or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Agreement or an agreed date substituted therefor, the DOE Contracting Officer will, upon written request by the State, terminate this Agreement pursuant to the provisions of Article XII, Term and Termination, on such date. If the State, in the exercise of its reasonable judgment, estimates that the funds available will allow the State to continue to discharge its obligations hereunder for a period extending beyond such date, the State shall specify the later date in its request and the DOE Contracting Officer, in his discretion, may terminate on that later date.

(d) Except as required by other provisions of this Agreement specifically citing and stated to be an exception from this clause, the DOE shall not be obligated to reimburse the State for costs incurred in excess of the amount from time to time allotted by the DOE to the Agreement, and the State shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the total of the amount then allotted to the Agreement by the DOE plus the State's corresponding share, unless and until the DOE Contracting Officer has notified the State in

writing that the amount allotted by the DOE has been increased and has specified in such notice an increased amount constituting the total amount then allotted by the DOE to the Agreement. To the extent the total of the amount allotted by the DOE plus the State's corresponding share exceeds the estimated cost set forth in Article XVI, Estimated Costs, such estimated cost shall be correspondently increased. Any increase in such estimated costs shall be allocated in accordance with the formula set forth in Article XVI, estimated costs, governing such increases. No notice, communication, or representation in any other form or from any person other than the DOE Contracting Officer shall affect the amount allotted by the DOE to this Agreement. In the absence of the specified notice, the DOE shall not be obligated to reimburse the State for any costs in excess of the total amount then allotted by the DOE to the Agreement, whether those excess costs were incurred during the course of the Agreement or as a result of termination. When and to the extent that the amount allotted by the DOE to the Agreement has been increased, any costs incurred by the State in excess of the total of the amount previously allotted by the DOE plus the State's corresponding share shall be allowable to the same extent and in the same percentage as if such costs had been incurred after such increase in the amount allotted; unless the DOE Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Nothing in this clause shall affect the right of the DOE to terminate this Agreement. In the event this Agreement is

terminated, the DOE and the State shall negotiate an equitable distribution of all property produced or purchased under the Agreement based upon the share of costs incurred by each.

(L) Safety and Health

App. B
A-(7)

(a) The State shall take all reasonable precautions in the performance of the work under this Agreement to protect the health and assure the safety of employees and the public. The State shall comply with all applicable Federal, State, and local health and safety regulations and requirements including but not limited to those established pursuant to the Occupational Safety and Health Act and with any additional safety and health standards and requirements (including reporting requirements) established by DOE which is to include compliance with DOE Order 5481.1, Safety Analysis and Review System.

(b) In the event that the State fails to comply with said regulations and requirements, the DOE Contracting Officer may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the discretion of the DOE Contracting Officer. The State shall make no claim for an extension of time or for an equitable adjustment, compensation or damages by reason of or in connection with such work stoppage.

XXVIII. PROVISIONS RELATED TO DOE PERFORMANCE

If DOE procures supplies, equipment, construction of services under this Agreement, each of the following clauses is applicable:

App. B

B-1

(A) Inspection

The State through any authorized representative, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder in which it is being performed. If any inspection, or evaluation is made by the State on the premises of the DOE, the DOE shall provide and shall require his contractors to provide all reasonable facilities and assistance for the safety and convenience of the State representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

App. B

B-2

(B) Clean Air and Water

The DOE agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et. seq., as amended by P.L. 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et. seg., as amended by P.L. 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this Agreement.

(2) That no portion of the work required by this Agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air standards and clean water standards at the facility in which the Agreement is being performed.

(4) To insert the substance of this clause into any nonexempt contract, including this paragraph (2) (4).

The terms used in this provision has the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857, et. seg., as amended by P.L. 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et. seq., as amended by P.L. 92-500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857(c)-6(c) or (d)), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards during and after remedial action. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency on an air or water pollution control agency in accordance with the requirements of the Air Act or Water and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a participant or subcontractor, to be utilized in the performance of an agreement or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

(C) Permits and Licenses

App. B
B-3

Except as otherwise agreed to by the State Contracting Officer, the DOE or its contractors shall procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State territory, and political subdivision and which the work under this Agreement is performed.

(D) Safety and Health

App B
3-4

The DOE shall take all reasonable precautions in the performance of the work under this Agreement to protect the health and assure the safety of employees and the public. The DOE shall comply with all applicable Federal, State, and local health and safety regulations

and requirements including but not limited to those established pursuant to the Occupational Safety and Health Act and with any additional safety and health standards and requirements (including reporting requirements) established by DOE which is to include compliance with DOE Order 5481.1, Safety Analysis and Review System.

IN WITNESS WHEREOF, the parties have executed this Appendix in several counterparts.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

ATTEST:

Lucy M. Cunko

CLIFFORD L. JONES, Secretary

DATE 8-21-80

THE UNITED STATES OF AMERICA
BY: DEPARTMENT OF ENERGY

BY:

TITLE: Contracting Officer

DATE:

CONCURRENCE:

NUCLEAR REGULATORY COMMISSION

BY:

TITLE:

DATE: May 15, 1980

APPROVED AS TO LEGALITY & FORM:

ASSISTANT ATTORNEY GENERAL

APPROVED:

SECRETARY OF BUDGET AND ADMINISTRATION

APPROVED AS TO LEGALITY & FORM:

DEPUTY ATTORNEY GENERAL

APPROVED:

GOVERNOR

DELETE per II-D-3-a

REMEDIAL ACTION PLAN

APPENDIX B

4 Treasury FRM 2000

SERVICES OTHER THAN PERSONAL

DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION	DATE VOUCHER PREPARED	SCHEDULE NO.
	CONTRACT NUMBER AND DATE	PAID BY
	REQUISITION NUMBER AND DATE	

PAYEE'S NAME AND ADDRESS

DATE INVOICE RECEIVED

DISCOUNT TERMS

PAYEE'S ACCOUNT NUMBER

SHIPPED FROM | TO | WEIGHT | GOVERNMENT B/L NUMBER

NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES (Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)	QUANTITY	UNIT PRICE COST	UNIT PRICE PER	AMOUNT ($)

(Continuation sheet(s) if necessary) (Payee must NOT use the space below) TOTAL

PAYMENT:	APPROVED FOR	EXCHANGE RATE	DIFFERENCES
COMPLETE	= $	= $1.00	
PARTIAL	BY [1]		
FINAL			
PROGRESS	TITLE		Amount verified; correct for
ADVANCE			(Signature or initials)

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

(Date) (Authorized Certifying Officer) [1] (Title)

ACCOUNTING CLASSIFICATION

CHECK NUMBER	ON TREASURER OF THE UNITED STATES	CHECK NUMBER	ON (Name of bank)
CASH	DATE	PAYEE [2]	

[1] If stated in foreign currency, insert name of currency.
[2] If duty to certify and authority to approve are combined in one person, one signature only is necessary; otherwise approving officer will sign in the space provided, over his official title.
When a voucher is receipted in the name of a company or corporation, the name of the person writing the company or corporate name, as well as the capacity in which he signs, must appear. For example: "John Doe Company, per John Doe, Secretary", or "Treasurer", as the case may be.

PER

TITLE

U.S. GPO: 1977-0-241-830/3164

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

1. TYPE OF PAYMENT REQUESTED	☐ Advance ☐ Reimbursement	2. BASIS OF REQUEST ☐ Cash ☐ Accrual
	☐ Final ☐ Partial	☐ Recurring

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHOM REPORT IS DUE

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

5. EMPLOYER IDENTIFICATION NUMBER

6. RECIPIENT ORGANIZATION (Name and complete address, including city, state and ZIP code)

7. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER

8. EMPLOYER IDENTIFICATION NUMBER

9. RECIPIENT ORGANIZATION

Name

Number and street

City, state and ZIP code

10. PAYEE (If other than item 9 to be sent a separate check)

Name

Number and street

City, state and ZIP code

11. COMPUTATION OF AMOUNT OF REIMBURSEMENT/ADVANCE REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	TOTAL
a. Total program outlays (Use of funds) to date	$	$	$	$
b. Less: Cumulative program income				
c. Net program outlays (Line a minus line b)				
d. Estimated net cash outlays for advance period				
e. Total (Sum of lines c & d)				
f. Non-Federal share of amount on line e				
g. Federal share of amount on line e				
h. Federal payments previously requested				
i. Federal share now requested (Line g minus line h)				
j. Advances required by month, when requested by Federal agency for use in making pro-rata advances — 1st month				
2nd month				
3rd month				

12. ESTIMATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	$
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (Line a minus line b)	$

13. CERTIFICATION

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.	SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
	TYPED OR PRINTED NAME AND TITLE	
	TELEPHONE (Area Code) (Number) (Extension)	

This space for agency use

STANDARD FORM 270 (Rev. 7-76)
Prescribed by Office of Management and Budget
Circulars No. A-102 and A-110

EXHIBIT 3

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; pecific instructions for other items are as follows:

Item	Entry
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
5	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.
	The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
11a	Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

FINANCIAL STATUS REPORT

(Follow instructions on the back)

OMB Approved No. 80-R0189

PAGE ___ OF ___ PAGES

1. Recipient Organization (Name and complete address, including ZIP Code)

2. Employer Identification Number

3. Recipient Account Number or Identifying Number

4. Final Report ☐ YES ☐ NO

5. Basis ☐ CASH ☐ ACCRUAL

6. Funding/Grant Period (See instructions)
From (Month, day, year) To (Month, day, year)

7. Period Covered by This Report
From (Month, day, year) To (Month, day, year)

8. Status of Funds

CATEGORIES/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	(d)	(e)	(f)	TOTAL (g)
a. Net outlays previously reported	$	$	$	$	$	$	$
b. Total outlays this report period							
c. Less: Program income credits							
d. Net outlays this report period (Line b minus line c)							
e. Net outlays to date (Line a plus line d)							
f. Less: Non-Federal share of outlays							
g. Total Federal share of outlays (Line e minus line f)							
h. Total unliquidated obligations							
i. Less: Non-Federal share of unliquidated obligations shown on line h							
j. Federal share of unliquidated obligations							
k. Total Federal share of outlays and unliquidated obligations							
l. Total cumulative amount of Federal funds authorized							
m. Unobligated balance of Federal funds							

9. Indirect Expense

a. Type of Rate (Place "X" in appropriate box) ☐ PROVISIONAL ☐ PREDETERMINED ☐ FIXED ☐ FINAL

b. Rate | c. Base | d. Total Amount | e. Federal Share

10. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.

11. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.

Signature of Authorized Certifying Official

Date Report Submitted

Typed or Printed Name and Title

Telephone (Area code, number and extension)

SF-269 EXHIBIT I

Circulars No. A-102 and A-110

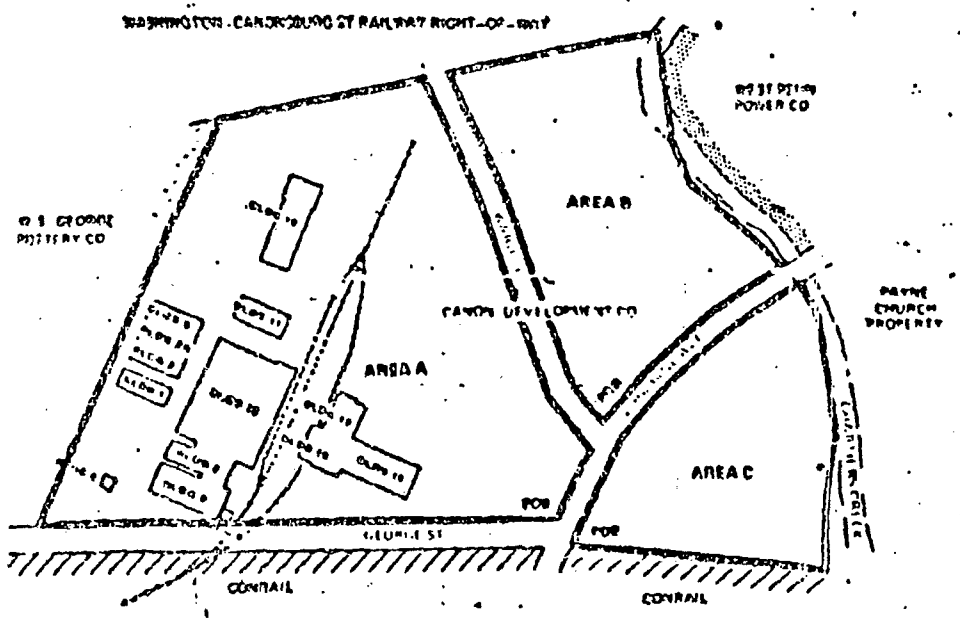
APPENDIX E

FEDERAL REGISTER, VOL. 42, NO. 87 — FRIDAY, MAY 6, 1977

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 3, 6, 7, 9, 10d, 10e, 10g, 10i, 10l, 11a, and 12 are self-explanatory, specific instructions for other items are as follows:

Item	Entry
4	Enter the employer identification number assigned by the U.S. Internal Revenue Service or FICE (Institution) code, if required by the Federal sponsoring agency.
5	This space is reserved for an account number or other identifying numbers that may be assigned by the recipient.
8	Enter the month, day, and year of the beginning and ending of this project period. For formula grants that are not awarded on a project basis, show the grant period.
10	The purpose of vertical columns (a) through (f) is to provide financial data for each program, function, and activity in the budget as approved by the Federal sponsoring agency. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the totals of all programs, functions or activities should be shown in column (e) of the first page. For agreements pertaining to several Catalog of Federal Domestic Assistance programs that do not require a further functional or activity classification breakdown, enter under columns (a) through (f) the title of the program. For grants or other assistance agreements containing multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in the separate columns. For grants or other assistance agreements containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal sponsoring agency.
10a	Enter the net outlay. This amount should be the same as the amount reported in Line 10e of the last report. If there has been an adjustment to the amount shown previously, please attach explanation. Show zero if this is the initial report.
10b	Enter the total gross program outlays (less rebates, refunds, and other discounts) for this report period, including disbursements of cash realized as program income. For reports that are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees.
10c	Enter the amount of all program income realized in this period that is required by the terms and conditions of the Federal award to be deducted from total project costs. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of income earned since the beginning of the reporting period. When the terms or conditions allow program income to be added to the total award, explain in remarks, the source, amount and disposition of the income.
10f	Enter amount pertaining to the non-Federal share of program outlays included in the amount on line e.
10h	Enter total amount of unliquidated obligations for this project or program, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations are: Cash basis—obligations incurred but not paid; Accrued expenditure basis—obligations incurred but for which an outlay has not been recorded. Do not include any amounts that have been included on lines a through g. On the final report, line h should have a zero balance.
10i	Enter the Federal share of unliquidated obligations shown on line h. The amount shown on this line should be the difference between the amounts on lines h and l.
10k	Enter the sum of the amounts shown on lines g and j. If the report is final the report should not contain any unliquidated obligations.
10m	Enter the unobligated balance of Federal funds. This amount should be the difference between lines k and l.
11b	Enter rate in effect during the reporting period.
11c	Enter amount of the base to which the rate was applied.
11d	Enter total amount of indirect cost charged during the report period.
11e	Enter amount of the Federal share charged during the report period. If more than one rate was applied during the project period, include a separate schedule showing bases against which the indirect cost rates were applied, the respective indirect rates the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.



PARCEL "B"

BEGINNING AT A POINT AT THE INTERSECTION OF THE EAST LINE OF WARD STREET AND THE WEST LINE OF STRABANE AVENUE IN THE BOROUGH OF CANONSBURG, WASHINGTON COUNTY, PENNSYLVANIA, THENCE ALONG THE EAST LINE OF WARD STREET [illegible] FT. [illegible] FT. TO A MONUMENT ON THE SOUTH RAIL LINE OF THE WASHINGTON CANONSBURG STREET RAILWAY, THENCE ALONG SAID RAIL LINE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. TO THE WEST LINE OF STRABANE AVENUE, THENCE ALONG THE WEST LINE OF STRABANE AVENUE [illegible] FT. TO THE POINT OF BEGINNING.

CONTAINS [illegible] ACRES MORE OR LESS

PARCEL "C"

BEGINNING AT A POINT AT THE INTERSECTION OF THE EAST LINE OF WARD STREET AND THE WEST LINE OF STRABANE AVENUE IN THE BOROUGH OF CANONSBURG, WASHINGTON COUNTY, PENNSYLVANIA, THENCE ALONG THE EAST LINE OF WARD STREET [illegible] FT. [illegible] FT. TO A MONUMENT ON THE SOUTH RAIL LINE OF THE WASHINGTON CANONSBURG STREET RAILWAY, THENCE ALONG SAID RAIL LINE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. TO THE WEST LINE OF STRABANE AVENUE, THENCE ALONG STRABANE AVENUE [illegible] FT. TO THE POINT OF BEGINNING

CONTAINS [illegible] ACRES MORE OR LESS

PARCEL "D"

BEGINNING AT A POINT [illegible] IN THE INTERSECTION OF THE EAST LINE OF STRABANE AVENUE AND THE NORTH RAIL LINE OF CONRAIL, THENCE ALONG THE EAST LINE OF STRABANE AVENUE [illegible] FT. TO CHARTIERS CREEK; THENCE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. TO A POINT ON THE NORTH RAIL LINE OF CONRAIL; THENCE ALONG SAID RAIL LINE [illegible] FT. TO THE POINT OF BEGINNING.

CONTAINS [illegible] ACRES MORE OR LESS

Prepared For

United States Department of Energy

SITE DESCRIPTION & OWNERSHIPS

Inactive [illegible] Tailing Sites

CANONSBURG, PENNSYLVANIA

[illegible] 19 79

BILLING CODE 6450-01-C

MODIFICATION OF COOPERATIVE AGREEMENT

1. Modification No. M002

2. Effective Date:

3. Purchase Request No. 04-83AL19487.502

4. Cooperative Agreement No. DE-FC04-82AL19487

5. Issued By:
Department of Energy
Albuquerque Operations Office
Contracts and Procurement Division
P.O. Box 5400
Albuquerque, NM 87115

6. State:
Commonwealth of Pennsylvania
Department of Environmental Resources
P. O. Box 2063
Harrisburg, PA 17120

7. Accounting and Appropriation Data (If Required):

N/A

8. (___) The above numbered Cooperative Agreement is modified to reflect the administrative changes set forth in block 9.
(X) This agreement is entered into pursuant to authority of Uranium Mill Tailings Radiation Control Act of 1978, P.L. 95-604. It modifies the above numbered Cooperative Agreement as set forth in block 9.

9. Description of Modification:

(a) The parties have executed the Supplemental Agreement which is attached hereto.

Except as provided herein, all terms and conditions of the document referenced in block 4, as heretofore changed, remain unchanged and in full force and effect.

10. (___) State/Indian Tribe is not required to sign this document.
(X) State is required to sign this document and return 3 copies to issuing office.

11. Execution of and Concurrence with the Supplemental Agreement:

See page 33 of the Supplemental Agreement.

Modification No. A002
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

INDEX

ARTICLE	SUBJECT	PAGE
I.	Definitions	1
II.	Description of Remedial Action Program	5
III.	Acquisition, Disposition, and Use of Property	9
IV.	Payments and Allowable Costs	14
V.	Advance Payments	16
VI.	Cost Limitation and Obligation of Funds	18
VII.	State Financial Management System	20
VIII.	Audit	21
IX.	State Audit and Examination of DOE Records	22
X.	Reporting Requirements	23
XI.	Examination of Records	24
XII.	Contracting Officer's Representative	25
XIII.	Term and Termination	25
XIV.	Closeout Procedures	27
XV.	Public Participation and Information	29
XVI.	Local Advisory Committees	29
XVII.	Nondiscrimination in Federally Assisted Programs	29
XVIII.	Notice Address	29
XIX.	Concurrences and Consultations	30
XX.	Disputes	30
XXI.	Rules and Regulations	31
XXII.	Other Remedies	31

ARTICLE	SUBJECT	PAGE
XXIII.	Entire Agreement	31
XXIV.	Order of Precedence	31
XXV.	Covenant Against Contingent Fees	32
XXVI.	Officials Not to Benefit	32
XXVII.	Standards Forms	32
XXVIII.	Appendices	32

Appendix A — Site Descriptions & Ownerships

Appendix B — General Provisions

1. Inspection
2. Convict-Labor
3. Clean Air and Water
4. Flood Insurance
5. Permits and Licenses
6. Authorization and Consent
7. Safety and Health

Appendix C — Depository Sites

Modification No. A002
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

COOPERATIVE AGREEMENT

This SUPPLEMENTAL AGREEMENT, entered into between the UNITED STATES OF AMERICA (hereinafter called the "Government"), acting through the DEPARTMENT OF ENERGY (hereinafter called "DOE"), and the COMMONWEALTH OF PENNSYLVANIA (hereinafter called the "State"), acting through the DEPARTMENT OF ENVIRONMENTAL RESOURCES.

WITNESSETH THAT:

WHEREAS, the Uranium Mill Tailings Radiation Control Act of 1978, Public Law 95-604 (hereinafter called the "Act"), approved November 8, 1978, authorizes the Secretary of DOE to enter into agreements with affected States to cooperatively perform and share the costs of remedial action at those inactive uranium mill tailings sites and associated vicinity properties which have been or will be designated processing sites by the Secretary of DOE; and

WHEREAS, pursuant to the Act, the Secretary of DOE, on November 8, 1979, designated an inactive uranium mill tailings site in Canonsburg, Pennsylvania, as a processing site, thus making the site eligible for remedial action; and

WHEREAS, pursuant to the Act, the Secretary of DOE has assessed the potential health hazard to the public from the residual radioactive materials at the Canonsburg, Pennsylvania inactive uranium mill tailings site and has established the relative priorities for carrying out remedial action at such site; and

WHEREAS, DOE and the State entered into a cooperative agreement, effective September 5, 1980, for the purposes of establishing a plan of assessment and remedial action at the Canonsburg inactive uranium mill tailings site and any associated vicinity properties in order to stabilize and control such tailings in a safe and environmentally sound manner, to provide for acquisition of property by the State where determined appropriate by the Secretary, and to formally commit DOE and the State to the undertaking of their respective statutory responsibilities under the Act; and

WHEREAS, DOE and the State are mutually desirous of amending said cooperative agreement in certain respects and to incorporate the entire agreement of the parties into this Supplemental Agreement, including its appendices;

NOW THEREFORE, DOE and the State agree that the cooperative agreement is amended to make this Supplemental Agreement the entire agreement of the parties and provide as follows:

I. DEFINITIONS

As used throughout this Agreement, the following terms shall have the meanings set forth below:

A. The term "Secretary" means the Secretary of Energy or any duly authorized representative thereof.

B. The term "DOE" means the United States Department of Energy or any duly authorized representative thereof, including the Secretary and the Contracting Officer.

C. The term "Contracting Officer" means the person executing this Agreement on behalf of the Government, and any other officer or civilian employee who is properly designated as a Contracting Officer; and the term includes, except as otherwise provided in this Agreement, the authorized representative of a Contracting Officer acting within the limits of his authority.

D. The term "Commission" means the United States Nuclear Regulatory Commission or any duly authorized representative thereof.

E. The term "Administrator" means the Administrator of the United States Environmental Protection Agency or any duly authorized representative thereof.

F. The term "State" means the Commonwealth of Pennsylvania or any duly authorized representative thereof.

G. The term "State Site Representative" means the Director, Bureau of Radiation Protection and Toxicology, and, as authorized by the Director, any duly authorized representative thereof.

H. The term "person" means any individual, association, partnership, corporation, firm, joint venture, trust, government entity, and any other entity, except that such term does not include any Indian or Indian tribe.

I. The term "millsite" means any inactive uranium mill tailings site within the Commonwealth of Pennsylvania, including any residual radioactive materials thereon, which the Secretary has designated (44 F.R. 74891) pursuant to Section 102(a) of the Act to be a "processing site" and which is further described in Appendix A to this Agreement.

J. The term "vicinity property" means any real property or improvement thereon which: (1) is in the vicinity of a millsite; (2) is determined by the Secretary, in consultation with the State and the Commission, to be contaminated with residual radioactive materials derived from a millsite; and (3) the Secretary designates, during the term of this Agreement and

pursuant to Section 102(e) of the Act, to be a "processing site"; and includes any residual radioactive materials thereon.

K. The term "residual radioactive materials" means: (1) waste at a millsite or vicinity property, which DOE determines to be radioactive, in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and (2) other waste, which DOE determines to be radioactive, at a millsite or vicinity property which relates to such processing, including any residual stock of unprocessed ores or low-grade materials.

L. The term "tailings" means the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted.

M. The term "EPA Standards" means those standards, promulgated as standards by rule of the Administrator pursuant to Section 275 of the Atomic Energy Act, as amended, of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials located at mill sites, vicinity properties and depository sites.

N. The term "depository site" means any site, which may include the mill site or vicinity property, used for the permanent disposition, stabilization and control of residual radioactive materials in accordance with and pursuant to this Agreement and Title I of the Act.

O. The term "remedial action" means the assessment, design, construction, excavation, renovation, restoration, decommissioning and decontamination activities of DOE, or such person as it designates, which: (1) are directly related to the stabilization and control of residual radioactive materials at a millsite, vicinity property or depository site in a safe and environmentally sound manner in accordance with the EPA Standards and consistent with applicable Federal and State law; (2) with respect to millsites, are conducted after execution of a Remedial Action Plan; and (3) with respect to vicinity properties, are conducted in the development and preparation of a Radiological and Engineering Assessments or Remedial Action Plan, as appropriate; PROVIDED, that remedial action shall not include any maintenance or monitoring performed at a depository site after the State has transferred to the Government title to the residual radioactive materials and the depository site in accordance with the article hereof entitled "Acquisition, Disposition and Use of Property."

P. The term "Remedial Action Plan" means the document developed pursuant to the article hereof entitled, "Description of Remedial Action Program," in order to define the remedial action to be performed at a millsite pursuant to this Agreement, including, where appropriate, removal of residual radioactive materials to a depository site, and which also includes a discussion of the proposed means of accomplishing such remedial action, the estimated costs of design and performance of remedial action, project status and technical information reporting requirements, and a schedule of activities for such remedial action.

Q. The term "Radiological and Engineering Assessment" means the document developed pursuant to the article hereof entitled, "Description of Remedial Action Program," in order to define the remedial action to be performed at a vicinity property pursuant to this Agreement, and which includes a detailed radiological and engineering assessment of that vicinity property, and an estimated cost of design and performance of the remedial action.

R. The term "environmental document" means a written public document, such as an environmental assessment or environmental impact statement, which contains an appropriate environmental analyses of the preferred remedial action and all reasonable alternatives, and which is prepared in such format and in accordance with such procedures as prescribed by the Council on Environmental Quality National Environmental Policy Act Regulations, 40 CFR Parts 1500-1508, and the DOE National Environmental Policy Act Guidelines, published at 45 FR 20694-20701 on March 28, 1980.

S. The term "advance by Treasury check" means a payment made by DOE to the State by Treasury check, in accordance with the provisions of Treasury Circular No. 1075, upon request by the State before cash outlays are made for allowable costs incurred or anticipated to be incurred by the State.

T. The term "reimbursement by Treasury check" means a payment made by DOE to the State by Treasury check upon request by the State for reimbursement for cash outlays made for allowable costs.

U. The term "program income" means the State's share of proceeds from: (1) any sale by the State of a millsite or vicinity property pursuant to the article hereof entitled, "Acquisition, Disposition and Use of Property;" and (2) any remilling of residual radioactive materials done pursuant to Article II,

"Description of Remedial Action Program," and Section 108(b) of the Act. Program income does not include any interest earned on advances of Government funds pursuant to this Agreement.

V. The term "subcontractor" means any contractor to the State and all tiers of subcontractors thereunder.

W. Except as otherwise provided in this Agreement, the term "subcontracts" includes purchase orders under this Agreement.

II. DESCRIPTION OF REMEDIAL ACTION PROGRAM

A. The Secretary, pursuant to Section 102 of the Act, has designated a millsite located in Canonsburg, Pennsylvania, and has assigned a relative priority for carrying out remedial action as high.

This millsite is further described in Appendix A, Attachment 1, of this Agreement.

In addition, from time to time during the term of this Agreement, the Secretary shall, pursuant to Section 102 of the Act, designate vicinity properties and relative priorities for carrying out remedial actions at such sites. Upon such designation, DOE shall provide the State with a notice of such designation and a description of the vicinity property so designated.

B. DOE, or such person as the Contracting Officer may designate, shall select and perform remedial actions at the mill sites, vicinity properties and depository sites in accordance with the EPA Standards and other applicable federal and State law. As further described herein, it is contemplated that the State will fully participate in the selection and performance of such remedial action. Remedial action shall be: (1) carried out, to the greatest extent practicable, in accordance with the priorities established by DOE pursuant to Section 102 of the Act, and published at 44 F.R. 74891, 74892 (1979); (2) performed using technology that will assure compliance with the EPA Standards and will assure the safe and environmentally sound stablization of residual radioactive materials consistent with existing applicable law; and (3) performed in accordance with the applicable provisions of the Act, including the provisions of Section 108(b) regarding the remilling of residual radioactive materials.

C. Unless otherwise agreed by DOE and the State in writing, and except as provided in this Agreement, DOE shall procure, in accordance with applicable DOE procurement policies and procedures and existing Federal law, all supplies, equipment, construction and services necessary for the performance of this Agreement. The applicable standards and guidelines for any authorized procurement by the State of supplies, equipment, construction, and services pursuant to this Agreement shall, except as provided in Appendix B, be those provided in Attachment O to Office of Management and Budget (OMB) Circular A-102, as that Attachment was revised by OMB on August 1, 1979, and published in the Federal Register, Volume 44, No. 159, August 15, 1979, pp. 47874-47878; Provided, That such standards shall not apply to the State's acquisition of property pursuant to the article hereof entitled Acquisition, Disposition and Use of Property.

D. Except as specifically provided elsewhere in this Agreement, it is contemplated that the general sequence of major activities by DOE and the State under this Agreement will be as set forth below. The activities that are cost-shared in accordance with the article hereof entitled Payments and Allowable Costs are specifically identified; otherwise, the costs incurred by either DOE or the State in connection with such activities will be borne by the party incurring the cost.

1. Remedial Action Concept. DOE prepared and submitted to the State and the Commission a draft Remedial Action Concept Paper (RACP) for the millsite. The draft RACP was utilized to coordinate initial planning of remedial action with the State and the Commission. The draft RACP included a brief evaluation of all reasonable remedial action options and a proposed remedial action option, a schedule for completion of remedial actions, a brief discussion of environmental, health and safety concerns, and a cost estimate. The State and the Commission reviewed the draft RACP and concurred in the draft RACP prior to its finalization by DOE.

2. Environmental Document. DOE prepared and submitted to the State and the Commission an environmental impact statement (EIS) document for the millsite, environmental assessment (EA) for the vicinity properties and otherwise complied with the requirements of the National Environmental Policy Act (NEPA). The Commission was a "cooperating agency," as that term is defined in 40 CFR Section 1508.5, in connection with the preparation of the EIS, and coordinated with DOE in the development of

environmental assessments. The State assisted DOE, to the extent agreed upon by DOE and the State, in scoping, scoping meetings, draft environmental impact statement hearings, and in connection with other NEPA process matters. In addition, the State reviewed and commented to DOE on any such environmental document prior to its finalization.

3. Design.

a. Remedial Action Plans. For the millsite, DOE prepared a draft Remedial Action Plan for State concurrence. Upon concurrence by the State, DOE obtained Commission concurrence. The Remedial Action Plan shall be executed by DOE and the State and shall be incorporated into and made a part of this Agreement by this reference. Either DOE or the State may at any time request in writing that such Remedial Action Plan be revised and both DOE and the State agree to negotiate in good faith concerning any requested revision. Significant revisions to the Remedial Action Plan, as determined by DOE and the Commission, shall be concurred with by the Commission. Upon necessary concurrence with the Remedial Action Plan, DOE shall prepare a preliminary and final design of the remedial actions. (The preliminary and final design effort is cost-shared.)

b. Radiological and Engineering Assessments (Cost-Shared). For each vicinity property:

(1) DOE shall prepare and submit to the State a draft Radiological and Engineering Assessment.

(2) The State shall review the draft Radiological and Engineering Assessment and shall concur with the proposed remedial action prior to DOE finalization of the Radiological and Engineering Assessment. Such State concurrence shall not be unreasonably withheld. DOE and the State agree to negotiate in good faith concerning any revisions of the Radiological and Engineering Assessment.

(3) The Commission shall concur with the Radiological and Engineering Assessment only in

those instances of an unusually significant vicinity property which may warrant, in the opinion of DOE and the Commission, an individual Remedial Action Plan or environmental document, or both, because of size, location, cost, remedial action feasibility, or schedule considerations. In the event a Remedial Action Plan is warranted, DOE shall prepare a Draft Remedial Action Plan for State review and concurrence prior to finalization of such Plan. Such State concurrence shall not be unreasonably withheld. Either DOE or the State may at any time request in writing that such Plan be revised and both DOE and the State agree to negotiate in good faith concerning any requested revision. Significant revisions to this Plan, as determined by DOE and the Commission, shall be concurred with by the Commission.

4. Obligation of Funds. Pursuant to the article hereof entitled Cost Limitation and Obligation of Funds, DOE and the State shall obligate funds from time to time for remedial actions based upon preliminary cost estimates by DOE and the State. In the case of millsites, such estimates shall be based upon the Remedial Action Plans. For vicinity properties, such estimates shall be by mutual agreement of the parties.

5. Remedial Actions (Cost-Shared). After preparation of the final design in the case of a millsite or a Radiological and Engineering Assessment in the case of a vicinity property, DOE shall carry out the decontamination, excavation, demolition, decommissioning, renovation, restoration, construction, stabilization and other remedial action activities as necessary to ensure compliance with the EPA Standards and other applicable federal and State law. DOE, with the concurrence of NRC, shall certify that the remedial actions are completed at each millsite, vicinity property and depository site.

6. Acquisition of Property (Cost-Shared). Remedial action shall not be implemented until any necessary acquisition of the affected millsite, vicinity property or depository site, or any interest therein, has been made pursuant to the article hereof entitled "Acquisition, Disposition and Use of Property."

7. Interim Maintenance and Surveillance. After completion of remedial actions, DOE shall perform monitoring and maintenance activities at the depository sites pending issuance of a license to DOE (or other federal agency) by the Commission setting forth the long-term monitoring and maintenance of the depository sites.

8. Federal Custody of Depository Site. Custody of depository sites, and other property title to which the State transfers to the Government under this Agreement, shall be assumed by DOE or such other federal agency as the President may designate. Upon completion of remedial actions, such depository sites and other property shall be maintained by DOE or such other federal agency pursuant to a license issued by the Commission in such manner as will protect the public health, safety, and the environment. The Commission may, pursuant to such license or by rule or order, require DOE or such other federal agency to undertake monitoring, maintenance and emergency measures necessary to protect public health, safety, and the environment.

III. ACQUISITION, DISPOSITION, AND USE OF PROPERTY

A. DOE and the State have agreed to acquire two depository sites in connection with remedial actions under this Agreement. One depository site is located in Canonsburg, Pennsylvania and one is located in Burrell Township, Pennsylvania. The two depository sites are described in Appendix E - Depository Sites.

B. In connection with the depository sites, the acquisition responsibilities of DOE and the State are as follows:

1. The State shall:

a. Acquire fee simple title to the millsite, including any residual radioactive materials located thereon. The State, upon direction from DOE, has initiated a condemnation action for title to the millsite and has partially settled that action. The State shall pursue such condemnation action in accordance with the State eminent domain code, other applicable law, and such other requirements agreed upon by DOE and the State; Provided, that every appeal or settlement in connection with such action shall be with the advice and consent of the Contracting Officer.

b. Provide relocation assistance to all persons relocated in connection with acquisition of property by the State pursuant to this Agreement. Such relocation assistance shall be pursuant to applicable State law of eminent domain; Provided, that such State law conforms substantially with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, Sections 201 through 204, inclusive.

c. Assure that DOE, the Commission, the Administrator, and the State shall have a right of entry to perform remedial actions and to inspect the millsite at any time from the time the State acquired the millsite until the time the State transfers title to the millsite to the Government, in furtherance of the provisions of Title I of the Act and to carry out this Agreement and to enforce the provisions of the Act and any rules prescribed thereunder.

d. Forward to the Contracting Officer: (i) two copies of any deed or easement, right of entry, license or other temporary interest conveyance to the State; (ii) two copies of any declaration of taking or judgment; and (iii) a copy of all pleadings, motions or other papers filed in connection with any condemnation proceeding.

e. Provide periodic, but no less than quarterly, reports to the Contracting Officer regarding the status of the State's acquisition activities under this Agreement, including a schedule of future activities, a narrative summary of past activities, an estimate of costs to be incurred, an itemization of costs incurred, and any comments or recommendations for DOE consideration.

f. Transfer to the Government, when the Secretary (with the concurrence of the Commission) determines that remedial action is completed in accordance with the EPA Standards and other requirements of Title I of the Act, title to the millsite and any residual radioactive materials located thereon.

2. DOE shall:

a. Acquire, pursuant to federal law, regulations and procedures, fee simple title to the portion of the Canonsburg depository site shaded in red in Appendix E and fee simple title to the Burrell Township depository site.

b. Provide relocation assistance to all persons relocated in connection with acquisition of property by DOE pursuant to this Agreement. Such relocation assistance shall be pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646.

c. Administer any abandonment and relocation of utilities and streets of record in connection with the Canonsburg depository site.

d. Provide periodic, but no less than quarterly, reports to the State Site Representative regarding the status of the DOE's acquisition activities under this Agreement, including a schedule of future activities, a narrative summary of past activities, an estimate of costs to be incurred, an itemization of costs incurred, any any comments or recommendations for State consideration.

e. In connection with its acquisition responsibilities under this Agreement, the parties acknowledge that DOE will utilize the real estate services of the United States Army Corps of Engineers, Huntington District.

C. When the State transfers title to the Government to the millsite pursuant to this Article, the State shall forward to the Contracting Officer a deed which conforms to applicable State law and the "Standards for the Preparation of Title Evidence in Land Aquisitions by the United States" (hereinafter referred to as the "Federal Title Standards") issued by the Department of Justice, and which:

1. Shows the name of the State as grantor in the body of the deed and its acknowledgment.

2. Conveys the land to the "United States of America and its assigns."

3. Contains a proper description of the land.

4. Conveys all the right, title and interest of the State as grantor in and to any alleys, streets, ways, strips, or gores abutting or adjoining the land.

5. Contains no reservations or exceptions not approved by the Contracting Officer; however, when land is to be conveyed subject to certain rights, such as easements or mineral rights thought to be outstanding in third parties, they must not be excepted from the conveyance, but the deed shall be framed to convey all the State's right, title, and interest subject to the outstanding rights.

6. Refers to the deed(s) to the State, or other source of the State's title, by book, page, and place of record, wherever customary or required by statute.

7. Contains a reference to DOE as the Government agency for which the lands are being acquired. This statement should follow the description of the land and in no instance should it be included in the granting, habendum or warranty provisions of the deed.

8. Is signed, sealed, attested, and acknowledged by the State as grantor as required by applicable State law.

9. If executed by an attorney in fact, is signed in the name of the principal by the attorney, properly acknowledged by the attorney as the free act and deed of the principal, and is accompanied by the original or a certified copy of the power of attorney and satisfactory proof that the principal was living and the power in force at the time of its exercise.

Upon the request of the Contracting Officer, the State shall provide such additional documentation or information that will assist DOE in preparing title evidence and otherwise complying with the Federal Title Standards.

D. After transfer of title to the millsite by the State to DOE, DOE or such other agency designated by the President of the United States, shall be responsible for maintenance, monitoring and control of such property.

E. In connection with the acquisition of real estate under this Agreement, it may be necessary for DOE or the State to acquire

and dispose of items of personal property such as machinery and equipment. Acquisition of such personal property shall be in accordance with the regulations and procedures of the party making the acquisition. Disposal of such personal property shall be in accordance with procedures and requirements agreed upon by the Contracting Officer and the State Site Representative as reflected in an exchange or exchanges of correspondence as appropriate. In any case, no such personal property shall be disposed of until such time as the Contracting Officer's Representative advises the Contracting Officer and the State Site Representative that it would not be hazardous to the public health, safety and environment to do so.

F. The State and DOE shall, prior to any remedial action at a vicinity property pursuant to this Agreement, obtain from any person holding any record interest in the vicinity property, execution of a Vicinity Property Remedial Action Agreement, in a form prescribed by the Contracting Officer, which provides for the State and DOE to perform remedial action at the vicinity property. Such agreement shall: (1) include a waiver by each such person on behalf of himself, his heirs, successors and assigns (i) releasing the Government and State of any liability or claim thereof by such person, his heirs, successors and assigns concerning such remedial action, and (ii) holding the Government and State harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action; (2) specify the remedial action to be performed; (3) provide that the remedial action shall be performed only by the DOE or such person as the Contracting Officer designates; (4) include a consent to the remedial action by such person; (5) include as parties the State, DOE, and each such person holding any record interest in the millsite or vicinity property; (6) provide for a right of entry to DOE, the Commission, the Administrator and the State for the purpose of inspecting the vicinity property at any time during the term of the Agreement for the purpose of carrying out the Act; and (7) provide for transfer of title to the residual radioactive materials thereon to the Government. Whenever the State and DOE are unable to obtain a Vicinity Property Remedial Action Agreement, DOE and the State shall determine how to proceed in connection with the site, which may include, but is not limited to, a determination ~~that the State is to acquire the subject site in accordance with the terms of this article or that~~ no remedial action shall be performed at the subject site.

G. The State shall take such action as may be necessary, pursuant to regulations of the Secretary and with the consent of the

person who owns the property at the time remedial action is performed, to assure that any person who purchases a vicinity property after the removal of radioactive materials from such site shall be notified prior to purchase of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place, and the condition of such site after such action. If the State is the owner of such site, the State shall so notify any prospective purchaser before entering into a contract, option, or other arrangement to sell or otherwise dispose of such site.

H. From time to time DOE and the State may agree that in order to effectuate the most practicable remedial action at a vicinity property, the vicinity property should be acquired. In such cases, DOE shall acquire the vicinity property and any residual radioactive materials located thereon.

IV. PAYMENTS AND ALLOWABLE COSTS

A. Allowable costs incurred by the State shall be those direct costs, as determined by the Contracting Officer in accordance with Office of Management and Budget Circular No. A-87, incurred to:

1. perform any State responsibility under the article hereof entitled, "Acquisition, Disposition and Use of Property";

2. conduct remedial action pursuant to and in accordance with the terms and conditions of this Agreement; and

3. reimburse, in accordance with the terms and conditions of Section 103(f) of the Act, property owners for remedial action performed at vicinity properties prior to passage of the Act.

Allowable costs incurred by the State shall also include such other costs in connection with performance of the remedial action as may be approved by the Contracting Officer in writing or as otherwise mutually agreed to in writing by DOE and the State. Allowable costs shall not include the administrative costs incurred by the State to develop, prepare, and carry out this Agreement, but shall include the administrative costs associated with the performance by the State of its responsibilities under the articles hereof entitled, "Acquisition, Disposition, and Use of Property," and "State Financial

Management System," including costs of "compensation for personal services," "legal expenses," "travel," and "communications," as those categories are described in OMB Circular No. A-87.

B. Allowable costs incurred by DOE shall be those direct costs, as determined by the Contracting Officer in accordance with the general principles set forth in OMB Circular No. A-87, incurred to:

1. conduct remedial action pursuant to and in accordance with the terms and conditions of this Agreement;

2. reimburse, in accordance with the terms and conditions of Section 103(f) of the Act, property owners for remedial action performed at vicinity sites; and

3. perform any DOE responsibility under the article hereof entitled "Acquisition, Disposition and Use of Property."

C. DOE shall make payment for ninety percent (90%) of all allowable costs by advance or reimbursement by Treasury check, and the State shall make payment for ten percent (10%) of all allowable costs by cash contribution. The term "cash contribution" means the State's cash payment from non-Government funds for its share of allowable costs. Such cash payments: (i) shall not be included as contributions for any other Government assistance program; (ii) shall not be made from funds paid by the Government under any other Government assistance program; and (iii) shall otherwise conform to the provisions of this Agreement and the Act.

D. The State shall submit quarterly, or at more frequent intervals by mutual agreement between the State Site Representative and the Contracting Officer, OMB Standard Form 270, "Request for Advance or Reimbursement," to request payment for the DOE share of allowable costs incurred by the State. The State shall submit the OMB Standard Form 270, original and two copies, to the Contracting Officer. DOE shall promptly make advance by Treasury check pursuant to the article hereof entitled "Advance Payments," or reimbursement by Treasury check, or a combination thereof, as payment to the State for a maximum of ninety percent (90%) of allowable costs. In lieu of payment by advance or reimbursement by Treasury check, the State may submit an OMB Standard Form 270 showing allowable costs incurred by the State and requesting that the Contracting Officer offset such costs against the State's share (10%) of the total allowable costs.

E. DOE shall submit quarterly, or at more frequent intervals by mutual agreement between the State Site Representative and the Contracting Officer, Standard Form 1114, "Bill for Collection," supported by a statement of allowable costs incurred by DOE. DOE shall submit the Standard Form 1114, original and two copies, to the State Site Representative. Prompt payment shall be made by the State for ten percent (10%) of allowable costs.

F. Program income earned during the term of this Agreement may, at the State's option, be retained by the State, or used to finance the State's share of the allowable costs.

V. ADVANCE PAYMENTS

A. At the request of the State, in accordance with the article hereof entitled, "Payments and Allowable Costs," and subject to the conditions hereinafter set forth, DOE shall make an advance payment, or advance payments from time to time, by Treasury check, to the State. No advance payment shall be made: (1) without the approval of the Contracting Officer as to the financial necessity therefor; and (2) without the submission by the State of OMB Standard Form 270 and properly certified invoice or invoices.

B. Funds advanced to the State by DOE under this Agreement may be used by the State solely for the purposes of making payments for items of allowable cost as defined in the article hereof entitled, "Payments and Allowable Costs," or to reimburse the State for such items of allowable costs, and for such other purposes as the Contracting Officer may approve in writing. Any interpretation required as to the proper use of such funds shall be made in writing by the Contracting Officer.

C. The State may at any time repay all or part of the funds advanced hereunder. Whenever so requested in writing by the Contracting Officer, the State shall repay to the Government such part of the unliquidated balance of advance payments as shall, in the opinion of the Contracting officer, be in excess of current requirements.

D. If upon completion or termination of this Agreement all advance payments have not been fully liquidated, the balance thereof shall be deducted from any sums otherwise due or which may become due to the State from the Government, and any deficiency shall be paid by the State to the Government upon demand.

E. Any interest earned by the State on advances of Government funds shall be remitted to the Contracting Officer when earned.

F. Funds advanced hereunder must be deposited in a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the act creating the Federal Deposit Insurance Corporation (Act of August 23, 1935, 49 Stat. 684, as amended; 12 U.S.C. 264).

G. Any and all advance payments made under this Agreement shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon any millsite, vicinity property, depository site, residual radioactive materials, and on all material and other property acquired for or allocated to the performance of this Agreement, except to the extent that the Government, by virtue of any other provision of this Agreement, or otherwise, shall have valid title to such property as against other creditors of the State. The State shall identify, by marking or segregation, all property which is subject to a lien in favor of the Government by virtue of any provision of this Agreement in such way to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this Agreement; PROVIDED, That in the case of real property. or residual radioactive materials purchased by the State under this Agreement, the State shall not convey or encumber, or suffer to be encumbered, such property except in favor of the Government or to the extent otherwise allowed under this Agreement. The State shall maintain adequate accounting control over such property on its books and records. If the State is authorized to sell or retain property acquired for or allocated to this Agreement, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such property is sold or retained, and to the extent that the proceeds of the sale are applied in reduction of advance payments then outstanding hereunder.

H. Upon a finding by the Contracting Officer that the State has failed to observe any of the covenants, conditions or warranties of this article, the Government, without limiting any rights which it may otherwise have, may, in its discretion and upon written notice to the State, withhold further payments on this Agreement. Upon the continuance of any such failure for a period of thirty (30) days after such written notice to the State, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional actions as it may deem appropriate in the circumstances:

1. Demand immediate repayment of the unliquidated balance of advance payments hereunder; or

2. Take possession of and, with or without advertisement, sell at public or private sale, at which the Government may be the purchaser, all or any part of the property on which the Government has a lien under this Agreement, and, after deducting any expenses incident to such sale, apply the net proceeds of such sale in reduction of any other claims of the Government against the State.

I. Notwithstanding any other provision of this Agreement, the State shall not transfer, pledge, or otherwise assign this contract, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

J. The terms of this Agreement shall be considered adequate security for advance payments hereunder, except that if at any time the Contracting Officer deems the security furnished by the State to be inadequate, DOE and the State, after negotiating in good faith, shall agree upon additional security to be provided for advance payment.

VI. COST LIMITATION AND OBLIGATION OF FUNDS

A. The total estimated allowable costs which will be incurred from September 5, 1980 through September 30, 1983 (such period hereinafter referred to the Cost Estimate Period) are as follows:

1. State - $_____;

2. DOE - $_____; and

3. State and DOE - $ _____ (hereinafter referred to as the Total Cost Limitation).

At such time as either party has reason to believe that the allowable costs it will incur in performing its responsibilities under this Agreement will be greater than the estimated allowable costs shown above, then such party shall notify the other in writing to that effect, giving its revised estimate of allowable costs, and DOE shall issue a unilateral modification to this Agreement appropriately revising the estimated allowable costs shown above; Provided, that, prior to being included as part of the Total Cost Limitation, the estimated allowable costs associated with remedial action shall be

established and revised by execution and modification of Remedial Action Plans and Radiological Engineering Assessments, as appropriate, pursuant to the article of this Agreement entitled "Description of Remedial Action Program."

B. The State, for the Cost Estimate Period, has obligated funds in the amount of $_____, for payment of its share of allowable costs under this Agreement. The State shall not be liable in an amount in excess of the funds it has obligated herein; however, DOE shall not be required to continue performance of this Agreement beyond such time as the Total Cost Limitation exceeds an amount 10 times the amount of the funds obligated by the State. Prior to each Government fiscal year or from time to time during the performance of this Agreement, as necessary, the State shall increase the amount of funds obligated by written notice to the Contracting Officer specifying the amount of such increase. Upon such written notice DOE may issue a unilateral modification to this Agreement which reflects the increased obligation of funds by the State. In the event the State fails to obligate funds at a level necessary to ensure payment of its share of the Total Cost Limitation, DOE may elect to treat such failure as a termination by the State pursuant to the article of this Agreement entitled "Term and Termination."

C. DOE, for the Cost Estimate Period: (1) has obligated funds in the amount of $_____, for payment to the State for DOE's share of allowable costs which the State incurs under this Agreement; and (2) will obligate funds in an amount sufficient to pay to DOE contractors and subcontractors DOE's share of those allowable costs which DOE incurs under this Agreement. DOE shall not be liable to the State in an amount in excess of the funds it has obligated herein for payment to the State; however, the State shall not be required to continue performance of this Agreement beyond such time as such amount obligated by DOE is less than 90% of the amount shown in paragraph A.1. of this article. Prior to each Government fiscal year or from time to time under this Agreement, as necessary, DOE shall increase the amount of funds obligated by unilateral modification to this Agreement which reflects the increased obligation of funds by DOE. In the event DOE fails to obligate funds at a level necessary to ensure payment of its share of the total allowable costs to be incurred by the State, the State may elect to treat such failure as a termination by the State pursuant to the article of this Agreement entitled "Term and Termination."

D. The State shall not be required to pay for allowable costs incurred in excess of 10% of the Total Cost Limitation as it may be amended from time to time by modification to this Agreement. DOE shall use its best efforts to perform its responsibilities under this Agreement within the estimated allowable costs set forth in paragraph A.2. of this article. However, the Government and DOE do not guarantee the correctness of any such estimate of allowable costs and there shall be no liability on the part of the Government or DOE by reason of errors in the computation of estimates or differences between such estimates and the actual allowable costs.

E. DOE shall not be required to pay for allowable costs incurred in excess of 90% of the Total Cost Limitation as it may be amended from time to time by modification to this Agreement. The State shall use its best efforts to perform its responsibilities under the Agreement within the estimated allowable costs set forth in paragraph A.1. of this article. However, the State does not guarantee the correctness of any such estimate of allowable costs and there shall be no liability on the part of the State by reason of errors in the computation of estimates or differences between such estimates and the actual allowable costs.

VII. STATE FINANCIAL MANAGEMENT SYSTEM

The State shall assure that its financial management system provides for:

A. Accurate, current and complete disclosure of the financial results of the State's participation in the remedial action program, carried out pursuant to this Agreement and the Remedial Action Plan.

B. Records that identify adequately the source and application of funds for activities supported pursuant to this Agreement. These records shall contain information pertaining to authorizations, obligations, unobligated balances, assets, liabilities, outlays, and program income. ~~For each millsite listed in Appendix A, the State shall maintain separate accounting records for allowable costs associated with such millsite~~ and ~~its associated vicinity properties and depository sites.~~

C. Effective control over and accountability for all funds, property, and other assets. The State shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

D. Comparison of actual outlays with budgeted or otherwise authorized amounts.

E. Procedures to minimize the time elapsing between transfer of funds from the U.S. Treasury and the disbursement by the State, whenever funds are advanced by the Government.

F. Procedures for identifying the reasonableness of costs.

G. Accounting records that are supported by adequate and reasonable source documentation.

H. Examinations in the form of audits which meet the requirements set forth in Office of Management and Budget (OMB) Circular A-102, Attachment P, as that Attachment was revised by OMB effective October 22, 1979, and published in the Federal Register, Volume 45, No. 65, April 2, 1980, pp. 21875-21878, and which are in accordance with the "Guidelines for Financial and Compliance Audits of Federal Assisted Programs," issued by the United States General Accounting office.

I. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

VIII. AUDIT

A. The State shall maintain, and the Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all allowable costs claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. Such right of examination shall include inspection at all reasonable times of the State's plants, or such parts thereof, as may be engaged in the performance of this Agreement as to cost or pricing data submitted by the State.

B. If the State submitted or submits cost or pricing data in connection with the pricing of this Agreement or any other change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or process set by law or regulation, the Contracting Officer or his representatives who are employees of the United States Government shall have the right to examine all books, records, documents, and other data of the State related to the negotiation, pricing or performance of such Agreement, change or modification, for the purpose of

evaluating the accuracy, completeness and currency of the cost or pricing data submitted. Additionally, in the case of pricing any change or modification exceeding $1,000,000 to formally advertised agreements, the Comptroller General of the United States or his representatives who are employees of the United States Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projects used therein.

C. The materials described in paragraphs A. and B. above shall be made available at the offices of the State, at all reasonable times, for inspection, audit or reproduction, until the expiration of three years from the date of final payment under this Agreement or such lesser time specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) and for such longer period, if any, as is required by applicable statute, or by other articles or clauses of this contract, or by 1. and 2. below:

1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.

2. Records which relate to appeals or disputes or litigation or the settlement of claims arising out of the performance of this Agreement, shall be made available until such appeals, litigation, or claims have been disposed of.

D. The State shall insert a clause containing all the provisions of this article, including this paragraph D., in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the Contracting Officer under this Agreement.

IX. STATE AUDIT AND EXAMINATION OF DOE RECORDS

A. DOE shall maintain, in accordance with Government policy and practice, and the State Site Representative or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all allowable costs claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. Such right of examination shall include inspection at all reasonable times of DOE's facilities, or such parts thereof, as may be engaged in the

performance of this Agreement as to cost or pricing data submitted by the DOE.

B. The materials described in paragraph A. above shall be made available at the offices of the Contracting Officer, at all reasonable times, for inspection, audit or reproduction, until the expiration of three years from the date of final payment under this Agreement and for such longer period, if any, as is required by applicable statute, or by other articles or clauses of this contract, or by 1. and 2. below:

1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.

2. Records which relate to appeals or disputes or litigation or the settlement of claims arising out of the performance of this Agreement, shall be made available until such appeals, litigation, or claims have been disposed of.

X. REPORTING REQUIREMENTS

A. DOE shall inform the State Site Representative of the status of activities under this Agreement as major milestones are reached but in no event less frequently than quarterly.

B. Upon the request of the Contracting Officer, the State shall submit to the Contracting Officer progress and financial reports of its activities in the ~~acquisition of real property~~ performance of ~~under~~ this Agreement.

C. The State shall submit annually, commencing one year from the effective date of this Agreement, to the Contracting Officer, OMB Standard Form 269, "Financial Status Report," to report the status of funds paid to the State by DOE pursuant to this Agreement. DOE shall request that the reports be either on a cash or accrual basis. If DOE requests accrual information and the State's accounting records are not normally kept on the accrual basis, the State shall not be required to convert its accounting system but shall develop such accrual information through an analysis of the documentation on hand. The State shall submit a final Financial Status Report upon closeout of this Agreement in accordance with the article hereof entitled, "Closeout Procedures." The State shall submit the OMB Standard Form 269, original and two copies, to the Contracting Officer no later than 90 days after the end of the

specified reporting period for the annual and final reports. Reasonable extensions to reporting due dates may be granted by the Contracting Officer upon written request of the State.

D. The State shall supply to DOE such additional financial information as is requested in writing by DOE to comply with Congressional requirements.

XI. EXAMINATION OF RECORDS

A. The State agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this Agreement or such lesser time specified in the Federal Procurement Regulations, Part 1-20, have access to and the right to examine any directly pertinent books, documents, papers, and records of the State involving transactions related to this Agreement.

B. The State further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under the subcontract or such lesser time specified in the Federal Procurement Regulations, Part 1-20, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

C. The periods of access and examination described in A and B, above, for records which relate to (1) litigation or the settlement of claims arising out of the performance of this Agreement, or (2) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

D. The State shall report to the Secretary promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the State has knowledge.

E. In the event of any claim or suit against the Government, on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed hereunder, the State shall furnish to the Government, when requested by the Secretary, all evidence and information in possession of the State pertaining to such suit or claim.

F. DOE may request, and the State shall, transfer to the custody of DOE copies of certain records maintained by the State pursuant to this Agreement when DOE determines that the records possess long-term retention value. In order to avoid duplicate recordkeeping, DOE may make arrangements with the State to retain any records that are continuously needed for joint use.

XII. CONTRACTING OFFICER'S REPRESENTATIVE

The work to be performed by DOE under this Agreement will be managed for DOE by the Manager, Uranium Mill Tailings Remedial Actions (UMTRA) Project. The work to be performed by the State under this Agreement is subject to the monitoring of the Manager, Uranium Mill Tailings Remedial Actions (UMTRA) Project Office, who has been designated by the Contracting Officer as "Contracting Officer's Representative" (COR). A copy of such designation shall be furnished to the State. Said designation shall set forth the COR's responsibilities regarding this Agreement. The COR shall not make any commitments or authorize any changes which affect the Agreement scope, price, terms or conditions; any request for such changes shall be referred to the Contracting Officer for action.

XIII. TERM AND TERMINATION

A. The period of performance of this Agreement shall expire at the earliest effective date that: (1) DOE and the State mutually agree in writing, with the concurrence of the Commission, that the objectives of the remedial action program have been met and that all work to be performed under this Agreement, or any modification or amendment hereto, has been completed; or (2) the date seven years from the date of promulgation of the EPA Standards or such other date as Congress shall establish, after the date of enactment of the Act, as the date of termination of the Secretary's authority to perform remedial action under the Act.

B. DOE and the State may terminate this Agreement in whole, or in part, when both parties agree that continuation of the project would not produce beneficial results commensurate with the

further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. Neither party shall incure new obligations for the terminated portion after the effective date. The parties shall cancel as many outstanding obligations as possible.

C. DOE, upon written Notice of Termination to the State, may terminate this Agreement, in whole, or from time to time, in part, whenever the Contracting Officer determines that the State has failed to comply with the conditions of this Agreement and such non-compliance continues for 60 days after receipt of a written Notice of Default from DOE. For purposes of this Article, the failure by the Pennsylvania Legislature to appropriate funds shall not constitute failure by the State to comply with the conditions of this Agreement.

D. The State, upon written Notice of Termination to DOE, may terminate this Agreement whenever the State Site Representative determines that DOE has failed to comply with the conditions of this Agreement and such non-compliance continues for 60 days after receipt of a written Notice of Default from the State. For purposes of this Article, failure by the United States Congress to appropriate funds shall not constitute failure by DOE to comply with the conditions of this Agreement.

E. After receipt of a Notice of Termination by either party, DOE and the State shall close out this Agreement in accordance with the terms and conditions of the article hereof entitled, "Closeout Procedures"; Provided, that DOE may, in its discretion, continue unilateral performance of this Agreement, including performance of the State's responsibilities, until such time as the remedial action contemplated by this Agreement is completed.

F. Neither DOE nor the State shall be considered in default of this Agreement because of delay in performance for reasons beyond its control including, but not restricted to, acts of God or the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.

G. In the event appropriated funds are not available to the State to carry out this Agreement:

1. DOE shall have the right to continue unilateral performance of the remedial action contemplated by this

Agreement, including performance of the State's responsibilities, without cost to the State, until such time as the remedial action contemplated by this Agreement is completed.

2. DOE and the State shall close out this Agreement pursuant to the article hereof entitled, "Closeout Procedures," and such other procedures as mutually agreed to in writing.

H. In the event appropriated funds are not available to DOE to carry out the Act or this Agreement, DOE and the State shall close out this Agreement pursuant to Article XV, "Closeout Procedures," and such other procedures as mutually agreed to in writing by the parties.

XIV. CLOSEOUT PROCEDURES

As of the date of receipt of a Notice of Termination pursuant to the article hereof entitled, "Term and Termination," or on the date of expiration of the period of performance or failure of the State or the Government to appropriate funds as provided in the article hereof entitled, "Term and Termination," and except as otherwise directed by the Contracting Officer:

1. The parties shall:

a. Stop performance under this Agreement on the date and to the extent specified in the Notice of Termination or on the date when the period of performance expires;

b. Place no further orders and make no further subcontracts or other agreements, for materials, services, or property except as may be necessary for completion of such portion of the work under this Agreement as is not terminated by any Notice of Termination;

c. Terminate all orders, subcontracts or other agreements entered into in performing this Agreement, to the extent that they relate to the performance of work terminated by the Notice of Termination or terminated by the expiration of the period of performance of this agreement.

d. Settle all outstanding liabilities and all claims arising out of such termination of orders, subcontracts and agreements, the cost of which would be reimbursable, in whole or in part, as an allowable cost in accordance with the provisions of this Agreement;

e. In the event of termination of performance in part, complete performance of such part of the work as shall not have been terminated by the Notice of Termination;

f. Take such action as may be necessary or as the Contracting Officer may direct for the protection and preservation of the property related to this Agreement which is in the possession of the State and in which the Government has or may acquire an interest.

2. DOE shall, upon written request by the State, make prompt payment to the State pursuant to the article hereof entitled, "Payments and Allowable Costs," for any outstanding allowable costs incurred by the State and not yet paid by DOE as required by this Agreement.

3. The State shall, upon written request by DOE, make prompt payment to DOE pursuant to the article hereof entitled, "Payments and Allowable Costs," for its outstanding share of allowable costs incurred by DOE and the State in performance of this Agreement.

4. The State shall transfer title to the Government, to the extent title has not already been transferred, and deliver and otherwise account for and dispose of, in the manner, at the times, and to the extent directed by the Contracting Officer, any property acquired by the State pursuant to this Agreement.

5. The State shall immediately refund to DOE any balance of cash advanced to the State that is not authorized by the Contracting Officer to be retained by the State.

6. The State shall provide to DOE, within ninety days after either the date of expiration of the period of performance or the date of termination of performance, or at such time designated by the Contracting Officer, all financial, performance, and other reports required pursuant to this Agreement. The Contracting Officer may grant reasonable extensions when requested by the State. An independent audit may be requested by either party.

7. In the event a final audit has not been performed by DOE prior to closeout of this Agreement, either party shall, until such final audit is performed, retain the right to recover any outstanding share of allowable costs from the other party.

XV. PUBLIC PARTICIPATION AND INFORMATION

A. The State Site Representative shall cooperate with the Contracting Officer in formulating and implementing a public participation plan in order to encourage public participation in carrying out the provisions of the Act, this Agreement and the Remedial Action Plan.

B. Procedures for timely release of information to the public regarding activities by the State and DOE in carrying out this Agreement shall be those established by mutual agreement between the Contracting Officer and the State Site Representative.

XVI. LOCAL ADVISORY COMMITTEES

The State may, in such fashion as it deems appropriate, establish State advisory committees and consult with local advisory committees in connection with the remedial action to be performed under this Agreement for the purposes of: (1) providing information to and receiving information from the citizens of the State and the localities affected by such remedial action; and (2) evaluating candidate depository sites for recommendation to DOE. DOE shall not be a member of any such committee. DOE shall, however, make every reasonable effort to interface with any such committee to the extent requested by the State or the committee. No costs associated with any committee so established shall be allowable costs under this Agreement.

XVII. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

The State shall comply with the provisions of Part 1040, Chapter X, Title 10 of the Code of Federal Regulations, "Nondiscrimination in Federally Assisted Programs" (10 CFR Part 1040), as published in the Federal Register, Volume 45, No. 116, Friday, June 13, 1980 (pp. 40514-40535). 10 CFR Part 1040 provides that no person shall on the ground of race, color, national origin, sex, handicap, or age be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment where the main purpose of the program or activity is to provide employment or when the delivery of program services is affected by the State's employment practices, in connection with any program or activity receiving Federal assistance from DOE.

XVIII. NOTICE ADDRESS

Except as otherwise specifically provided herein, any notice, letter, or grievance given or payment made pursuant to the terms of

this Agreement shall be sent to the respective party at its address designated below:

STATE:

Commonwealth of Pennsylvania
Department of Environmental Resources
ATTN: Thomas Gerusky, Director
Bureau of Radiation Protection and Toxicology
State Contracting Officer
P.O. Box 2063
Harrisburg, PA 17120

DOE:

Project Manager, Uranium Mill Tailings Remedial Action Project
5301 Central Avenue, NE
Suite 1700
Albuquerque, NM 87108

XIX. CONCURRENCES AND CONSULTATIONS

Whenever in performing this Agreement or in carrying out the Act a concurrence from or consultation with another Government agency is required, DOE shall seek such concurrence and be responsible for undertaking such consultation.

XX. DISPUTES

A. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail, or otherwise furnish a copy thereof to the State. The decision of the Contracting Officer shall be final and conclusive unless within 60 days from date of receipt of such copy, the State mails, or delivers a written notice of appeal to the DOE Financial Assistance Appeals Board in accordance with 10 CFR Part 1024 (See Rule 1). The decision of the DOE Financial Assistance Appeals Board shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessary to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause the State shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the State and the Government shall proceed dili-

gently with the performance of this Agreement and in accordance with the Contracting Officer's decision.

B. This "Disputes Clause" does not preclude consideration of law questions in connection with decisions provided for in paragraph A above; provided, that nothing in this Agreement shall be construed as making final the decision of any administrative official, representative, or board, based on a question of law.

XXI. RULES AND REGULATIONS

All activities under this Agreement shall be carried out pursuant to applicable Federal, State and local regulations, including but not limited to such rules and regulations promulgated or to be promulgated by the Secretary pursuant to Section 109 of the Act.

XXII. OTHER REMEDIES

Nothing in this Agreement shall prevent the Secretary from enforcing any provision of Title I of the Act, any regulation promulgated thereunder, or any provision of this Agreement, by injunction or other equitable remedy, or as otherwise provided by Section 110 of the Act.

XXIII. ENTIRE AGREEMENT

This written Agreement constitutes the entire agreement of the parties hereto. No representations, promises, terms, conditions, or obligations whatsoever referring to the subject matter hereof, other than those expressly set forth herein, shall be of any binding legal force or effect whatsoever.

XXIV. ORDER OF PRECEDENCE

In the event of an inconsistency between provisions of this Agreement, the inconsistency shall be resolved by giving precedence as follows:

(a) Agreement Articles;

(b) Remedial Action Plan (when executed);

(c) Other provisions of this Agreement, whether incorporated by reference or otherwise.

XXV. COVENANT AGAINST CONTINGENT FEES

The State warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the State for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

XXVI. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

XXVII. STANDARD FORMS

All standard forms required to be submitted by the State pursuant to this Agreement shall be provided to the State by the Contracting Officer upon request.

XXVIII. APPENDICES

The following appendices are attached to and made a part of this Agreement:

Appendix A - Site Descriptions & Ownerships;
Appendix B - General Provisions;
Appendix C - Depository Sites.

Modification No. A002
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement in several counterparts.

THE UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

BY: _____
Terrell C. Cone, Jr.
Contracting Officer
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

DATE: _____

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

BY: _____
~~Clifford L. Jones~~
Secretary
P.O. Box 2063
Harrisburg, PA 17120

DATE: _____

STATE APPROVALS:

_____ _____

_____ _____

BY: _____ BY: _____

CONCURRENCE:
NUCLEAR REGULATORY COMMISSION

BY: _____

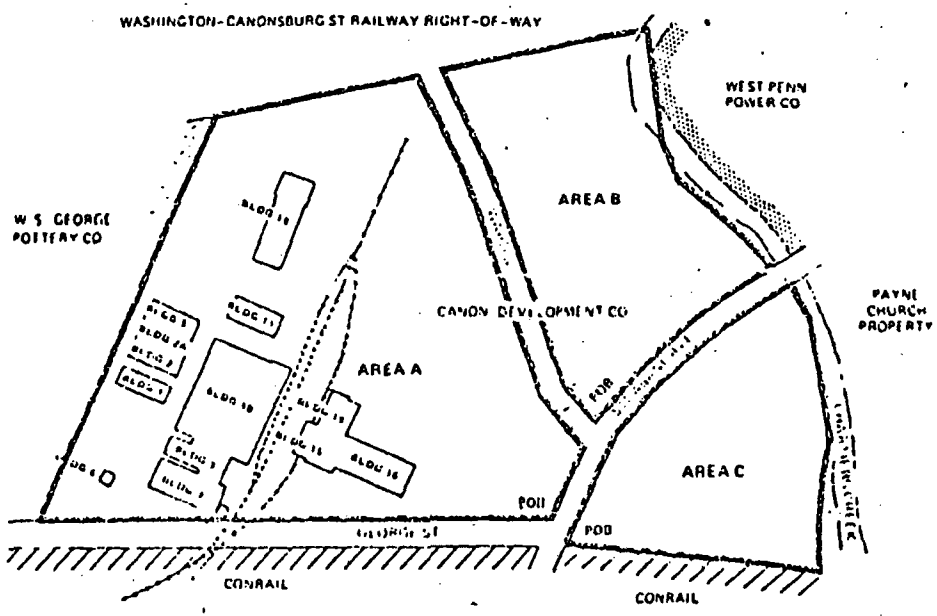
TITLE: _____

DATE: _____

Modification No. A002
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

APPENDIX A

SITE DESCRIPTIONS AND OWNERSHIPS



PARCEL "A"

BEGINNING AT A MONUMENT AT THE INTERSECTION OF THE NORTH LINE OF GEORGE STREET AND THE WEST LINE OF SEMIANE AVENUE IN THE BOROUGH OF CANONSBURG, PENNSYLVANIA, THENCE ALONG THE NORTH LINE OF GEORGE STREET S [illegible] W, [illegible] FT, THENCE N 6°00 E, [illegible] FT TO A MONUMENT AT THE SOUTHERN RW LINE OF THE WASHINGTON CANONSBURG STREET RAILWAY, THENCE ALONG SAID RW LINE N 50°34 E, [illegible] FT TO THE WEST LINE OF WARD STREET, THENCE ALONG THE WEST LINE OF WARD STREET S 44 [illegible] E, [illegible] FT, E [illegible] FT, S [illegible] FT, S [illegible] FT TO THE WEST LINE OF SEMIANE AVENUE, THENCE ALONG THE WEST LINE OF SEMIANE AVENUE S 5°00 W, 130.95 FT TO THE POINT OF BEGINNING.

CONTAINS 10.6 ACRES (MORE OR LESS)

PARCEL "B"

BEGINNING AT A POINT AT THE INTERSECTION OF THE EAST LINE OF WARD STREET AND THE WEST LINE OF SEMIANE AVENUE IN THE BOROUGH OF CANONSBURG, WASHINGTON COUNTY, PENNSYLVANIA THENCE ALONG THE EAST LINE OF WARD STREET N [illegible] W, [illegible] FT, N [illegible] W, [illegible] FT, N [illegible] W, [illegible] FT TO A MONUMENT ON THE SOUTH RW LINE OF THE WASHINGTON CANONSBURG STREET RAILWAY, THENCE ALONG SAID RW LINE N [illegible] E, [illegible] FT, THENCE S [illegible] E, [illegible] FT, THENCE S 22°42 E, [illegible] FT, THENCE S [illegible] 88.10 FT, THENCE S [illegible] FT TO THE WEST LINE OF SEMIANE AVENUE, THENCE ALONG SEMIANE AVENUE S 35°00 W, [illegible] FT, S 30°00 W, 145.65 FT, S 21°00 W, 100.47 FT TO THE POINT OF BEGINNING.

CONTAINS 4.2 ACRES (MORE OR LESS)

PARCEL "C"

BEGINNING AT A POINT WHICH IS THE INTERSECTION OF THE EAST LINE OF SEMIANE AVENUE AND THE NORTH RW LINE OF CONRAIL, THENCE ALONG THE EAST LINE OF SEMIANE AVENUE N [illegible], [illegible] FT, [illegible] FT TO CHARLOTTE CREEK, THENCE [illegible] FT, THENCE [illegible] FT, THENCE [illegible] FT, THENCE S [illegible] E, [illegible] FT TO A POINT ON THE NORTH RW LINE OF CONRAIL, THENCE ALONG SAID RW LINE [illegible] FT TO THE POINT OF BEGINNING.

CONTAINS 3.5 ACRES (MORE OR LESS)

Prepared for
United States Department of Energy

SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites

CANONSBURG, PENNSYLVANIA

6 15 79

BILLING CODE 6450-01-C

Appendix A
Modification NO. A002
Supplemental Agreement
to
U.S. Department of
Energy
Agreement No.
DE_FC04-82AL19487

Modification No. A002
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

APPENDIX B

GENERAL PROVISIONS

To the extent that DOE and the State agree in writing pursuant to Article XI, "Procurement," that the State will procure supplies, equipment, construction, or services under this Agreement the following clauses are applicable:

1. Inspection

DOE through any authorized representative, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder the premises in which it is being performed. If any inspection, or evaluation is made by DOE on the premises of the State or a subcontractor, the State shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of DOE representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

2. Convict-Labor

In connection with the performance of work under this Agreement, the State agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

3. Clean Air and Water

a. The State agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by P.L. 91-604 and P.L. 95-95) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et. seq., as amended by P.L. 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this Agreement.

(2) That no portion of the work required by this Agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use its best efforts to comply with clean air standards and clean water standards at the facility in which the Agreement is being performed.

(4) To insert the substance of this clause into any nonexempt contract, including this paragraph 5.a.(4).

b. The terms used in this provision have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857, et. seq., as amended by P.L. 91-604 and P.L. 95-95).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S. 1251, et. seq., as amended by P.L. 92-500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857(c)-6(c) or (d)), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards during and after remedial action. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the requirements of the Air Act or Water and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a participant or subcontractor, to be utilized in the performance of an agreement or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

4. Flood Insurance

The State will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The State will comply with provisions prescribed by the Federal Insurance Administrator in 24 CFR Chapter X, Subchapter B.

5. Permits and Licenses

Except as otherwise agreed to by the Contracting Officer, the State shall procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State territory, and political subdivision in which the work under this Agreement is performed.

6. Authorization and Consent

DOE hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this Agreement or any part hereof or any amendment hereto or any subcontract hereunder (including all lower-tier subcontracts).

7. Safety and Health

a. The State shall take all reasonable precautions in the performance of the work under this Agreement to protect the health and assure the safety of employees and the public. The State shall comply with all applicable Federal, State, and local health and safety

regulations and requirements including but not limited to those established pursuant to the Occupational Safety and Health Act and with any additional safety and health standards and requirements (including reporting requirements) established by DOE which is to include compliance with DOE Order 5481.1, Safety Analysis and Review System.

Upon written instruction from the Contracting Officer, the State shall submit a management program and implementation plan to the Contracting Officer for review and approval.

b. In the event that the State fails to comply with said regulations and requirements, the Contracting Officer may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the discretion of the Contracting Officer. The State shall make no claim for an extension of time or for an equitable adjustment, compensation or damages by reason of or in connection with such work stoppage.

Appendix C to
Modification No. A002
Supplemental Agreement to
U. S. Department of Energy
Agreement No. DE-FC04-82AL19487

APPENDIX C

DEPOSITORY SITES

MODIFICATION OF COOPERATIVE AGREEMENT

1. Modification No. A003

2. Effective Date:

3. Purchase Request No. 04-84AL19487.500

4. Cooperative Agreement No. DE-FC04-82AL19487

5. Issued By:
Department of Energy
Albuquerque Operations Office
Contracts and Procurement Division
P.O. Box 5400
Albuquerque, NM 87115

6. State:
Commonwealth of Pennsylvania
Department of Environmental Resources
P. O. Box 2063
Harrisburg, PA 17120

7. Accounting and Appropriation Data (If Required):

N/A

8. (___) The above numbered Cooperative Agreement is modified to reflect the administrative changes set forth in block 9.
(_X_) This agreement is entered into pursuant to authority of Uranium Mill Tailings Radiation Control Act of 1978, P.L. 95-604. It modifies the above numbered Cooperative Agreement as set forth in block 9.

9. Description of Modification:

(a) The parties have executed the Supplemental Agreement which is attached hereto.

Except as provided herein, all terms and conditions of the document referenced in block 4, as heretofore changed, remain unchanged and in full force and effect.

10. (___) State/Indian Tribe is not required to sign this document.
(_X_) State is required to sign this document and return 3 copies to issuing office.

11. Execution of and Concurrence with the Supplemental Agreement:

See page 33 of the Supplemental Agreement.

Modification No. A003
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

INDEX

ARTICLE	SUBJECT	PAGE
I.	Definitions	1
II.	Description of Remedial Action Program	5
III.	Acquisition, Disposition, and Use of Property	9
IV.	Payments and Allowable Costs	14
V.	Advance Payments	16
VI.	Cost Limitation and Obligation of Funds	18
VII.	State Financial Management System	21
VIII.	Audit	22
IX.	State Audit and Examination of DOE Records	23
X.	Reporting Requirements	24
XI.	Examination of Records	25
XII.	Contracting Officer's Representative	26
XIII.	Term and Termination	26
XIV.	Closeout Procedures	28
XV.	Public Participation and Information	30
XVI.	Local Advisory Committees	30
XVII.	Nondiscrimination in Federally Assisted Programs	30
XVIII.	Notice Address	31
XIX.	Concurrences and Consultations	31
XX.	Disputes	31
XXI.	Rules and Regulations	32
XXII.	Other Remedies	32

Modification No. A003
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

ARTICLE	SUBJECT	PAGE
XXIII.	Entire Agreement	32
XXIV.	Order of Precedence	32
XXV.	Covenant Against Contingent Fees	33
XXVI.	Officials Not to Benefit	33
XXVII.	Standards Forms	33
XXVIII.	Appendices	33

Appendix A Site Descriptions & Ownerships

Appendix B General Provisions

Appendix C Depository Sites

Modification No. A003
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

COOPERATIVE AGREEMENT

This SUPPLEMENTAL AGREEMENT, entered into between the UNITED STATES OF AMERICA (hereinafter called the "Government"), acting through the DEPARTMENT OF ENERGY (hereinafter called "DOE"), and the COMMONWEALTH OF PENNSYLVANIA (hereinafter called the "State"), acting through the DEPARTMENT OF ENVIRONMENTAL RESOURCES.

WITNESSETH THAT:

WHEREAS, the Uranium Mill Tailings Radiation Control Act of 1978, Public Law 95-604 (hereinafter called the "Act"), approved November 8, 1978, authorizes the Secretary of DOE to enter into agreements with affected States to cooperatively perform and share the costs of remedial action at those inactive uranium mill tailings sites and associated vicinity properties which have been or will be designated processing sites by the Secretary of DOE; and

WHEREAS, pursuant to the Act, the Secretary of DOE, on November 8, 1979, designated an inactive uranium mill tailings site in Canonsburg, Pennsylvania, as a processing site, thus making the site eligible for remedial action; and

WHEREAS, pursuant to the Act, the Secretary of DOE has assessed the potential health hazard to the public from the residual radioactive materials at the Canonsburg, Pennsylvania inactive uranium mill tailings site and has established the relative priorities for carrying out remedial action at such site; and

WHEREAS, DOE and the State entered into a cooperative agreement, effective September 5, 1980, for the purposes of establishing a plan of assessment and remedial action at the Canonsburg inactive uranium mill tailings site and any associated vicinity properties in order to stabilize and control such tailings in a safe and environmentally sound manner, to provide for acquisition of property by the State where determined appropriate by the Secretary, and to formally commit DOE and the State to the undertaking of their respective statutory responsibilities under the Act; and

WHEREAS, DOE and the State are mutually desirous of amending said cooperative agreement in certain respects and to incorporate the entire agreement of the parties into this Supplemental Agreement, including its appendices;

NOW THEREFORE, DOE and the State agree that the cooperative agreement is amended to make this Supplemental Agreement the entire agreement of the parties and provide as follows:

I. DEFINITIONS

As used throughout this Agreement, the following terms shall have the meanings set forth below:

I-A A. The term "Secretary" means the Secretary of Energy or any duly authorized representative thereof.

NEW B. The term "DOE" means the United States Department of Energy or any duly authorized representative thereof, including the Secretary and the Contracting Officer.

I-1 C. The term "Contracting Officer" means the person executing this Agreement on behalf of the Government, and any other officer or civilian employee who is properly designated as a Contracting Officer; and the term includes, except as otherwise provided in this Agreement, the authorized representative of a Contracting Officer acting within the limits of his authority, when so designated in writing to the State.

I-B D. The term "Commission" means the United States Nuclear Regulatory Commission or any duly authorized representative thereof.

I-C E. The term "Administrator" means the Administrator of the United States Environmental Protection Agency or any duly authorized representative thereof.

I-D F. The term "State" means the Commonwealth of Pennsylvania or any duly authorized representative thereof.

I-L G. The term "State Site Representative" means the Director, Bureau of Radiation Protection, and, as authorized by the Director, any duly authorized representative thereof.

I-E H. The term "person" means any individual, association, partnership, corporation, firm, joint venture, trust, government entity, and any other entity, except that such term does not include any Indian or Indian tribe.

I-F I. The term "millsite" means the inactive uranium mill tailings site located in Canonsburg, Pennsylvania, including any residual radioactive materials thereon, which the Secretary has designated (44 F.R. 74891) pursuant to Section 102(a) of the Act to be a "processing site" and which is further described in Appendix A to this Agreement.

I-G J. The term "vicinity property" means any real property or improvement thereon which: (1) is in the vicinity of the millsite; (2) is determined by the Secretary, in consultation with the State and the Commission, to be contaminated with residual radioactive materials derived from a millsite; and (3) the Secretary designates, during the term of this Agreement and

pursuant to Section 102(e) of the Act, to be a "processing site"; and includes any residual radioactive materials thereon.

I-P

K. The term "residual radioactive materials" means: (1) waste at a millsite or vicinity property, which DOE determines to be radioactive, in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and (2) other waste, which DOE determines to be radioactive, at a millsite or vicinity property which relates to such processing, including any residual stock of unprocessed ores or low-grade materials.

NEW

L. The term "tailings" means the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted.

I-Q

M. The term "EPA Standards" means those standards, promulgated as standards by rule of the Administrator pursuant to Section 275 of the Atomic Energy Act, as amended, of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials located at mill sites, vicinity properties and depository sites.

I-R

N. The term "depository site" means any site, which may include the mill site or vicinity property, used for the permanent disposition, stabilization and control of residual radioactive materials in accordance with and pursuant to this Agreement and Title I of the Act.

I-S (Revised)

O. The term "remedial action" means the assessment, design, construction, excavation, renovation, restoration, decommissioning and decontamination activities of DOE, or such person as it designates, which: (1) are directly related to the stabilization and control of residual radioactive materials at a millsite, vicinity property or depository site in a safe and environmentally sound manner in accordance with the EPA Standards and consistent with applicable Federal and State law; (2) with respect to millsites, are conducted after execution of a Remedial Action Plan; and (3) with respect to vicinity properties, are conducted in the development and preparation of a Radiological and Engineering Assessments or Remedial Action Plan, as appropriate; PROVIDED, that remedial action shall not include any maintenance or monitoring performed at a depository site after the State has transferred to the Government title to the residual radioactive materials and the depository site in accordance with the article hereof entitled "Acquisition, Disposition and Use of Property."

II-E

P. The term "Remedial Action Plan" means the document developed pursuant to the article hereof entitled, "Description of Remedial Action Program," in order to define the remedial action to be performed at a millsite pursuant to this Agreement, including, where appropriate, removal of residual radioactive materials to a depository site, and which also includes a discussion of the proposed means of accomplishing such remedial action, the estimated costs of design and performance of remedial action, project status and technical information reporting requirements, and a schedule of activities for such remedial action.

NEW

Q. The term "Radiological and Engineering Assessment" means the document developed pursuant to the article hereof entitled, "Description of Remedial Action Program," in order to define the remedial action to be performed at a vicinity property pursuant to this Agreement, and which includes a detailed radiological and engineering assessment of that vicinity property, and an estimated cost of design and performance of the remedial action.

NEW

R. The term "environmental document" means a written public document, such as an environmental assessment or environmental impact statement, which contains an appropriate environmental analyses of the preferred remedial action and all reasonable alternatives, and which is prepared in such format and in accordance with such procedures as prescribed by the Council on Environmental Quality National Environmental Policy Act Regulations, 40 CFR Parts 1500-1508, and the DOE National Environmental Policy Act Guidelines, published at 45 FR 20694-20701 on March 28, 1980.

I-M

S. The term "advance by Treasury check" means a payment made by DOE to the State by Treasury check, in accordance with the provisions of Treasury Circular No. 1075, upon request by the State before cash outlays are made for allowable costs incurred or anticipated to be incurred by the State.

I-N

T. The term "reimbursement by Treasury check" means a payment made by DOE to the State by Treasury check upon request by the State for reimbursement for cash outlays made for allowable costs.

I-O (Revised)

U. The term "program income" means the State's share of proceeds from the management or disposal by the State of a millsite or other property pursuant to the article hereof entitled, "Acquisition, Disposition and Use of Property." Program

income does not include any interest earned on advances of Government funds pursuant to this Agreement.

I-K V. The term "subcontractor" means any contractor to the State and all tiers of subcontractors thereunder.

I-J W. Except as otherwise provided in this Agreement, the term "subcontracts" includes purchase orders under this Agreement.

II. DESCRIPTION OF REMEDIAL ACTION PROGRAM

A. The Secretary, pursuant to Section 102 of the Act, has designated a millsite located in Canonsburg, Pennsylvania, and has assigned a relative priority for carrying out remedial action as high.

NEW

This millsite is further described in Appendix A, Attachment 1, of this Agreement.

In addition, from time to time during the term of this Agreement, the Secretary shall, pursuant to Section 102 of the Act, designate vicinity properties and relative priorities for carrying out remedial actions at such sites. Upon such designation, DOE shall provide the State with a notice of such designation and a description of the vicinity property so designated.

II-B/C B. DOE, or such person as the Contracting Officer may designate, shall select and perform remedial actions at the mill sites, vicinity properties and depository sites in accordance with the EPA Standards and other applicable federal and State law. As further described herein, it is contemplated that the State will fully participate in the selection and performance of such remedial action. Remedial action shall be: (1) carried out, to the greatest extent practicable, in accordance with the priorities established by DOE pursuant to Section 102 of the Act, and published at 44 F.R. 74891, 74892 (1979); (2) performed using technology that will assure compliance with the EPA Standards and will assure the safe and environmentally sound stablization of residual radioactive materials consistent with existing applicable law; and (3) performed in accordance with the applicable provisions of the Act, including the provisions of Section 108(b) regarding the remilling of residual radioactive materials.

II-D

XV/III-B C. Unless otherwise agreed by DOE and the State in writing, and except as provided in this Agreement, DOE shall procure, in

accordance with applicable DOE procurement policies and procedures and existing Federal law, all supplies, equipment, construction and services necessary for the performance of this Agreement. General provisions applicable to such DOE procurement are contained in Appendix B. The applicable standards and guidelines for any authorized procurement by the State of supplies, equipment, construction, and services pursuant to this Agreement shall, except as provided in Appendix B, be those provided in Attachment O to Office of Management and Budget (OMB) Circular A-102, as that Attachment was revised by OMB on August 1, 1979, and published in the Federal Register, Volume 44, No. 159, August 15, 1979, pp. 47874-47878; Provided, That such standards shall not apply to the State's acquisition of property pursuant to the article hereof entitled Acquisition, Disposition and Use of Property.

D. Except as specifically provided elsewhere in this Agreement, it is contemplated that the general sequence of major activities by DOE and the State under this Agreement will be as set forth below. The activities that are cost-shared in accordance with the article hereof entitled Payments and Allowable Costs are specifically identified; otherwise, the costs incurred by either DOE or the State in connection with such activities will be borne by the party incurring the cost.

NEW

1. Remedial Action Concept. DOE prepared and submitted to the State and the Commission a draft Remedial Action Concept Paper (RACP) for the millsite. The draft RACP was utilized to coordinate initial planning of remedial action with the State and the Commission. The draft RACP included a brief evaluation of all reasonable remedial action options and a proposed remedial action option, a schedule for completion of remedial actions, a brief discussion of environmental, health and safety concerns, and a cost estimate. The State and the Commission reviewed the draft RACP and concurred in the draft RACP prior to its finalization by DOE.

II-F

2. Environmental Document. DOE prepared and submitted to the State and the Commission an environmental impact statement (EIS) document for the millsite, environmental assessment (EA) for the vicinity properties and otherwise complied with the requirements of the National Environmental Policy Act (NEPA). The Commission was a "cooperating agency," as that term is defined in 40 CFR Section 1508.5, in connection with the preparation of the EIS, and coordinated with DOE in the development of environmental assessments. The State assisted DOE, to

the extent agreed upon by DOE and the State, in scoping, scoping meetings, draft environmental impact statement hearings, and in connection with other NEPA process matters. In addition, the State reviewed and commented to DOE on any such environmental document prior to its finalization.

3. Design.

II-F
XVIII - B

a. Remedial Action Plans. For the millsite, DOE prepared a draft Remedial Action Plan for State concurrence. Upon concurrence by the State, DOE obtained Commission concurrence. The Remedial Action Plan shall be executed by DOE and the State and shall be incorporated into and made a part of this Agreement by this reference. Either DOE or the State may at any time request in writing that such Remedial Action Plan be revised and both DOE and the State agree to negotiate in good faith concerning any requested revision. Significant revisions to the Remedial Action Plan, as determined by DOE and the Commission, shall be concurred with by the Commission. Upon necessary concurrence with the Remedial Action Plan, DOE shall prepare a preliminary and final design of the remedial actions. (The preliminary and final design effort is cost-shared.)

b. Radiological and Engineering Assessments (Cost-Shared). For each vicinity property:

(1) DOE shall prepare and submit to the State a draft Radiological and Engineering Assessment.

NEW

(2) The State shall review the Radiological and Engineering Assessment and shall concur with the proposed remedial action. Such State concurrence shall not be unreasonably withheld. DOE and the State agree to negotiate in good faith concerning any revisions of the Radiological and Engineering Assessment.

(3) The Commission shall concur with the Radiological and Engineering Assessment only in those instances of an unusually significant vicinity property which may warrant, in the opinion of DOE and the Commission, an individual Remedial Action Plan or environmental

document, or both, because of size, location, cost, remedial action feasibility, or schedule considerations. In the event a Remedial Action Plan is warranted, DOE shall prepare a Draft Remedial Action Plan for State review and concurrence prior to finalization of such Plan. Such State concurrence shall not be unreasonably withheld. Either DOE or the State may at any time request in writing that such Plan be revised and both DOE and the State agree to negotiate in good faith concerning any requested revision. Significant revisions to this Plan, as determined by DOE and the Commission, shall be concurred with by the Commission.

NEW

4. Obligation of Funds. Pursuant to the article hereof entitled Cost Limitation and Obligation of Funds, DOE and the State shall obligate funds from time to time for remedial actions based upon preliminary cost estimates by DOE and the State. In the case of millsites, such estimates shall be based upon the Remedial Action Plans. For vicinity properties, such estimates shall be by mutual agreement of the parties.

XVIII - C

5. Remedial Actions (Cost-Shared). After preparation of the final design in the case of a millsite or a Radiological and Engineering Assessment in the case of a vicinity property, DOE shall carry out the decontamination, excavation, demolition, decommissioning, renovation, restoration, construction, stabilization and other remedial action activities as necessary to ensure compliance with the EPA Standards and other applicable federal and State law. DOE, with the concurrence of NRC, shall certify that the remedial actions are completed at each millsite, vicinity property and depository site.

XVIII - A

6. Acquisition of Property (Cost-Shared). Remedial action shall not be implemented until any necessary acquisition of the affected millsite, vicinity property or depository site, or any interest therein, has been made pursuant to the article hereof entitled "Acquisition, Disposition and Use of Property."

7. Interim Maintenance and Surveillance. After completion of remedial actions, DOE shall perform monitoring and

maintenance activities at the depository sites pending issuance of a license to DOE (or other federal agency) by the Commission setting forth the long-term monitoring and maintenance of the depository sites.

V-H

8. Federal Custody of Depository Site. Custody of depository sites, and other property title to which the State transfers to the Government under this Agreement, shall be assumed by DOE or such other federal agency as the President may designate. Upon completion of remedial actions, such depository sites and other property shall be maintained by DOE or such other federal agency pursuant to a license issued by the Commission in such manner as will protect the public health, safety, and the environment. The Commission may, pursuant to such license or by rule or order, require DOE or such other federal agency to undertake monitoring, maintenance and emergency measures necessary to protect public health, safety, and the environment.

III. ACQUISITION, DISPOSITION, AND USE OF PROPERTY

V-A

A. DOE and the State have agreed to acquire two depository sites in connection with remedial actions under this Agreement. One depository site is located in Canonsburg, Pennsylvania and one is located in Burrell Township, Pennsylvania. The two depository sites are described in Appendix C - Depository Sites.

B. In connection with the depository sites, the acquisition responsibilities of DOE and the State are as follows:

1. The State shall:

V-K/L/M
(Revised)

a. Acquire fee simple title to the millsite, including any residual radioactive materials located thereon. The State, upon direction from DOE, has initiated a condemnation action for title to the millsite and has partially settled that action. The State shall pursue such condemnation action (including but not limited to hiring experts and preparing exhibits) in accordance with the State eminent domain code, other applicable law, and such other requirements agreed upon by DOE and the State; Provided, that every appeal or settlement in connection with such action shall be in consultation with the Contracting Officer.

V-P

b. Provide relocation assistance to all persons relocated in connection with acquisition of the millsite by the State pursuant to this Agreement. Such relocation assistance shall be pursuant to applicable State law of eminent domain; Provided, that should there be no applicable State law, any relocation assistance by the State shall be consistent with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, Sections 201 through 204, inclusive.

NEW

c. Manage and maintain the millsite, including, but not limited to the execution of appropriate lease or rental agreements as necessary, collection of rents, and payment of utilities, until such time as agreed upon by DOE and DER.

V-F

d. Assure that DOE, the Commission, the Administrator, and the State shall have a right of entry to perform remedial actions and to inspect the millsite at any time from the time the State acquired the millsite until the time the State transfers title to the millsite to the Government, in furtherance of the provisions of Title I of the Act and to carry out this Agreement and to enforce the provisions of the Act and any rules prescribed thereunder.

(Moved old "e" to Article X B

V-N-12

e. Forward to the Contracting Officer: (i) two copies of any deed or easement, right of entry, license or other temporary interest conveyance to the State; (ii) two copies of any declaration of taking or judgment; and (iii) a copy of all pleadings, motions or other papers filed in connection with any condemnation proceeding.

V-H

f. Transfer to the Government, when the Secretary (with the concurrence of the Commission) determines that remedial action is completed in accordance with the EPA Standards and other requirements of Title I of the Act, title to the millsite and any residual radioactive materials located thereon.

2. DOE shall:

NEW

a. Acquire, pursuant to federal law, regulations and procedures, fee simple title to the portion of the

Canonsburg depository site shaded in red in Appendix C and fee simple title to the Burrell Township depository site.

b. Provide relocation assistance to all persons relocated in connection with acquisition of property by DOE pursuant to this Agreement. Such relocation assistance shall be pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646.

c. Administer any abandonment and relocation of public utility easements or rights-of-way of record and municipal streets, roads or highways of record in connection with the Canonsburg depository site.

(Moved old "d." to Article X.A.)

d. In connection with its acquisition responsibilities under this Agreement, the parties acknowledge that DOE will utilize the real estate services of the United States Army Corps of Engineers, Huntington District.

V-O

C. When the State transfers title to the Government to the millsite pursuant to this Article, the State shall forward to the Contracting Officer a deed which conforms to applicable State law and the "Standards for the Preparation of Title Evidence in Land Aquisitions by the United States" (hereinafter referred to as the "Federal Title Standards") issued by the Department of Justice, and which:

1. Is a special warranty deed. This requirement may be waived by the Contracting Officer, upon a proper showing, as to conveyances by the State acting solely in a representative capacity.

2. Shows the name of the State as grantor in the body of the deed and its acknowledgment.

3. Conveys the land to the "United States of America and its assigns."

4. Contains a proper description of the land.

5. Conveys by quitclaim all the right, title and interest of the State as grantor in and to any alleys, streets, ways, strips, or gores abutting or adjoining the land.

6. Contains no reservations or exceptions not approved by the Contracting Officer; however, when land is to be conveyed subject to certain rights, such as easements or mineral rights thought to be outstanding in third parties, they must not be excepted from the conveyance, but the deed shall be framed to convey by quitclaim all the State's right, title, and interest subject to the outstanding rights.

7. Refers to the deed(s) to the State, or other source of the State's title, by book, page, and place of record, wherever customary or required by statute.

8. Contains a reference to DOE as the Government agency for which the lands are being acquired. This statement should follow the description of the land and in no instance should it be included in the granting, habendum or warranty provisions of the deed.

9. Is signed, sealed, attested, and acknowledged by the State as grantor as required by applicable State law.

10. If executed by an attorney in fact, is signed in the name of the principal by the attorney, properly acknowledged by the attorney as the free act and deed of the principal, and is accompanied by the original or a certified copy of the power of attorney and satisfactory proof that the principal was living and the power in force at the time of its exercise.

Upon the request of the Contracting Officer, the State shall provide such additional documentation or information that will assist DOE in preparing title evidence and otherwise complying with the Federal Title Standards.

V-H

D. After transfer of title to the millsite by the State to DOE, DOE or such other agency designated by the President of the United States, shall be responsible for maintenance, monitoring and control of such property.

NEW

E. In connection with the acquisition of real estate under this Agreement, it may be necessary for DOE or the State to acquire and dispose of items of personal property such as machinery and equipment. Acquisition and disposal of such personal property shall be in accordance with the regulations and procedures of the party making the acquisition; Provided, that DOE and the State shall, in good faith, attempt to reconcile any differences between State and federal regulations and

procedures prior to such acquisition or disposal. In any case, no such personal property shall be disposed of until such time as the Contracting Officer's Representative and the State Site Representative agree that it would not be hazardous to the public health, safety and environment to do so. DOE and the State shall share in the proceeds of any disposal at the same ratio that allowable costs are shared under this Agreement.

V-E

F. The State and DOE shall, prior to any remedial action at a vicinity property pursuant to this Agreement, obtain from any person holding any record interest in the vicinity property, execution of a Vicinity Property Remedial Action Agreement, in a form prescribed by the Contracting Officer, which provides for the State and DOE to perform remedial action at the vicinity property. Such agreement shall: (1) include a waiver by each such person on behalf of himself, his heirs, successors and assigns (i) releasing the Government and State of any liability or claim thereof by such person, his heirs, successors and assigns concerning such remedial action, and (ii) holding the Government and State harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action; (2) specify the remedial action to be performed; (3) provide that the remedial action shall be performed only by the DOE or such person as the Contracting Officer designates; (4) include a consent to the remedial action by such person; (5) include as parties the State, DOE, and each such person holding any record interest in the millsite or vicinity property; (6) provide for a right of entry to DOE, the Commission, the Administrator and the State for the purpose of inspecting the vicinity property at any time during the term of the Agreement for the purpose of carrying out the Act; and (7) provide for transfer of title to the residual radioactive materials thereon to the Government. Whenever the State and DOE are unable to obtain a Vicinity Property Remedial Action Agreement, DOE and the State shall determine how to proceed in connection with the site, which may include, but is not limited to, a determination that no remedial action shall be performed at the subject site.

V-J

G. The State shall take such action as may be necessary, pursuant to regulations of the Secretary and with the consent of the person who owns the property at the time remedial action is performed, to assure that any person who purchases a vicinity property after the removal of radioactive materials from such site shall be notified prior to purchase of the nature and extent of residual radioactive materials removed from the

site, including notice of the date when such action took place, and the condition of such site after such action. If the State is the owner of such site, the State shall so notify any prospective purchaser before entering into a contract, option, or other arrangement to sell or otherwise dispose of such site.

NEW

H. From time to time DOE and the State may agree that in order to effectuate the most practicable remedial action at a vicinity property, the vicinity property should be acquired. In such cases, DOE shall acquire the vicinity property and any residual radioactive materials located thereon.

IV. PAYMENTS AND ALLOWABLE COSTS

IV-B (Revised)

A. Allowable costs incurred by the State shall be those direct costs, as determined by the Contracting Officer in accordance with Office of Management and Budget Circular No. A-87, incurred to:

1. perform any State responsibility under the article hereof entitled, "Acquisition, Disposition and Use of Property";

2. conduct remedial action pursuant to and in accordance with the terms and conditions of this Agreement; and

3. reimburse, in accordance with the terms and conditions of Section 103(f) of the Act, property owners for remedial action performed at vicinity properties prior to passage of the Act.

Allowable costs incurred by the State shall also include such other costs in connection with performance of the remedial action as may be approved by the Contracting Officer in writing or as otherwise mutually agreed to in writing by DOE and the State. Allowable costs shall not include the administrative costs incurred by the State to develop, prepare, and carry out this Agreement, but shall include the administrative costs associated with the performance by the State of its responsibilities under the articles hereof entitled, "Acquisition, Disposition, and Use of Property," and "State Financial Management System," including costs of "compensation for personal services," "legal expenses," "travel," and "communications," as those categories are described in OMB Circular No. A-87.

B. Allowable costs incurred by DOE shall be those direct costs, as determined by the Contracting Officer in accordance with the general principles set forth in OMB Circular No. A-87, incurred to:

IV-B (Revised)

1. conduct remedial action pursuant to and in accordance with the terms and conditions of this Agreement;

2. reimburse, in accordance with the terms and conditions of Section 103(f) of the Act, property owners for remedial action performed at vicinity sites; and

3. perform any DOE responsibility under the article hereof entitled "Acquisition, Disposition and Use of Property."

III-A

C. DOE shall make payment for ninety percent (90%) of all allowable costs by advance or reimbursement by Treasury check, and the State shall make payment for ten percent (10%) of all allowable costs by cash contribution. The term "cash contribution" means the State's cash payment from non-Government funds for its share of allowable costs. Such cash payments: (i) shall not be included as contributions for any other Government assistance program; (ii) shall not be made from funds paid by the Government under any other Government assistance program; and (iii) shall otherwise conform to the provisions of this Agreement and the Act.

III-C

D. The State shall submit quarterly, or at more frequent intervals by mutual agreement between the State Site Representative and the Contracting Officer, OMB Standard Form 270, "Request for Advance or Reimbursement," to request payment for the DOE share of allowable costs incurred by the State. The State shall submit the OMB Standard Form 270, original and two copies, to the Contracting Officer. DOE shall promptly make advance by Treasury check pursuant to the article hereof entitled "Advance Payments," or reimbursement by Treasury check, or a combination thereof, as payment to the State for a maximum of ninety percent (90%) of allowable costs. In lieu of DOE payment to the State by advance or reimbursement by Treasury check, the State may submit an OMB Standard Form 270 showing allowable costs incurred by the State and requesting that the Contracting Officer offset such costs against the State's share (10%) of the total allowable costs. ✓

III-B

E. DOE shall submit quarterly, or at more frequent intervals by mutual agreement between the State Site Representative and the Contracting Officer, Standard Form 1114, "Bill for Collection," supported by a statement of allowable costs incurred by

(Revised) DOE. DOE shall submit the Standard Form 1114, original and two copies, to the State Site Representative. Prompt payment shall be made by the State for ten percent (10%) of allowable costs. In lieu of such payment by the State to DOE, the State may submit an OMB Standard Form 270 showing allowable costs incurred by the State and requesting that the Contracting Officer offset such costs against the State's share (10%) of the total allowable costs.

F. Program income earned during the term of this Agreement may, at the State's option, be retained by the State, or used to finance the State's share of the allowable costs.

V. ADVANCE PAYMENTS

NEW

A. At the request of the State, in accordance with the article hereof entitled, "Payments and Allowable Costs," and subject to the conditions hereinafter set forth, DOE shall make an advance payment, or advance payments from time to time, by Treasury check, to the State. No advance payment shall be made: (1) without the approval of the Contracting Officer as to the financial necessity therefor; and (2) without the submission by the State of OMB Standard Form 270 and properly certified invoice or invoices.

NEW

B. Funds advanced to the State by DOE under this Agreement may be used by the State solely for the purposes of making payments for items of allowable cost as defined in the article hereof entitled, "Payments and Allowable Costs," or to reimburse the State for such items of allowable costs, and for such other purposes as the Contracting Officer may approve in writing. Any interpretation required as to the proper use of such funds shall be made in writing by the Contracting Officer.

NEW

C. The State may at any time repay all or part of the funds advanced hereunder. Whenever so requested in writing by the Contracting Officer, the State shall repay to the Government such part of the unliquidated balance of advance payments as shall, in the opinion of the Contracting officer, be in excess of current requirements.

NEW

D. If upon completion or termination of this Agreement all advance payments have not been fully liquidated, the balance thereof shall be deducted from any sums otherwise due or which may become due to the State from the Government, and any deficiency shall be paid by the State to the Government upon demand.

XXV

E. Funds advanced hereunder must be deposited in a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the act creating the Federal Deposit Insurance Corporation (Act of August 23, 1935, 49 Stat. 684, as amended; 12 U.S.C. 264).

NEW

F. Any and all advance payments made under this Agreement shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon any millsite, vicinity property, depository site, residual radioactive materials, and on all material and other property acquired for or allocated to the performance of this Agreement, except to the extent that the Government, by virtue of any other provision of this Agreement, or otherwise, shall have valid title to such property as against other creditors of the State. Such lien arises by virtue of this Agreement and without need for executing or recording further documents. The State shall identify, by marking or segregation, all property which is subject to a lien in favor of the Government by virtue of any provision of this Agreement in such way to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this Agreement; PROVIDED, That in the case of real property, or residual radioactive materials purchased by the State under this Agreement, the State shall not convey or encumber, or suffer to be encumbered, such property except in favor of the Government or to the extent otherwise allowed under this Agreement. The State shall maintain adequate accounting control over such property on its books and records. If the State is authorized to sell or retain property acquired for or allocated to this Agreement, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such property is sold or retained, and to the extent that the proceeds of the sale are applied in reduction of advance payments then outstanding hereunder.

NEW

G. Upon a finding by the Contracting Officer that the State has failed to observe any of the covenants, conditions or warranties of this article, the Government, without limiting any rights which it may otherwise have, may, in its discretion and upon written notice to the State, withhold further payments on this Agreement. Upon the continuance of any such failure for a period of thirty (30) days after such written notice to the State, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional actions as it may deem appropriate in the circumstances:

1. Demand immediate repayment of the unliquidated balance of advance payments hereunder; or

2. Take possession of and, with or without advertisement, sell at public or private sale, at which the Government may be the purchaser, all or any part of the property on which the Government has a lien under this Agreement, and, after deducting any expenses incident to such sale, apply the net proceeds of such sale in reduction of any other claims of the Government against the State.

NEW

I. Notwithstanding any other provision of this Agreement, the State shall not transfer, pledge, or otherwise assign this contract, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

NEW

J. The terms of this Agreement shall be considered adequate security for advance payments hereunder, except that if at any time the Contracting Officer deems the security furnished by the State to be inadequate, DOE and the State, after negotiating in good faith, shall agree upon additional security to be provided for advance payment.

VI. COST LIMITATION AND OBLIGATION OF FUNDS

XVI
XXVII-K
(Revised)

A. From time to time in performing responsibilities under this Agreement, DOE and the State shall each incur costs which are allowable costs to be cost-shared under this Agreement. Prior to the beginning of each Government fiscal year or such other period of time agreed to by DOE and the State (hereinafter referred to as the "Cost Estimate Period"), DOE and the State shall use their best efforts to estimate the costs each will incur during the forthcoming Cost Estimate Period. It is contemplated by DOE and the State that each will obligate funds at such times and in such amounts as will ensure payment by each of its appropriate share of the total estimated allowable costs to be incurred by DOE and the State. DOE and the State acknowledge that the State, in incurring allowable costs, may, in accordance with Article V, "Payments and Allowable Cost," request advance payment for the DOE share of such allowable costs or that such costs be offset against the State's share of the total allowable costs.

After each such Cost Estimate Period, DOE and the State shall attempt to identify the actual costs incurred during that Cost Estimate Period.

B. 1. For each past Cost Estimate Period under this Agreement, the actual costs incurred by the parties are as follows:

a. Cost Estimate Period Number 1 -

September 5, 1981 through September 30, 1983:

(1) State - $1,754,162;
(2) DOE - $3,763,888;
(3) Total - $5,518,050.

NOTE: Includes Corp of Engineer costs.

2. For Cost Estimate Period Number 2, the estimated allowable costs to be incurred are as follows -

a. October 1, 1983 through September 30, 1984:

(1) State - One Hundred and Fifty Thousand Dollars ($150,000);
(2) DOE - Eight Million, Six Hundred and Thirty Thousand Dollars ($8,630,000);
(3) Total - Eight Million, Seven Hundred and Eighty Thousand Dollars ($8,780,000).

3. The total of the estimated allowable costs that will be incurred by the State from the effective date of this Agreement through the latest Cost Estimate Period shown above is - $1,904,162 - .

4. The total of the estimated allowable costs that will be incurred by DOE from the effective date of this Agreement through the latest Cost Estimate Period shown above is - $12,393,888 -.

5. The total of the estimated allowable costs that will be incurred by both DOE and the State from the effective date of this Agreement through the latest Cost Estimate Period shown above is - $14,298,050 - (hereinafter referred to as the "Total Cost Limitation").

C. At such time as either party has reason to believe that the allowable costs it will incur in performing its responsibilities under this Agreement will be greater than the estimated allowable costs shown above, then such party shall notify the other in writing to that effect, giving its revised estimate of allowable costs, and DOE and the State shall execute a modification to this Agreement appropriately revising the estimated allowable costs shown above; Provided, that, prior to

being included as part of the Total Cost Limitation, the estimated allowable costs associated with remedial action shall be established and revised by execution and modification of Remedial Action Plans and Radiological Engineering Assessments, as appropriate, pursuant to Article II, "Description of Remedial Action Program."

D. The State, for the Cost Estimate Period, has obligated funds in the amount of $1,429,805.00, for payment of its share of allowable costs under this Agreement. The State shall not be liable in an amount in excess of the funds it has obligated herein; however, DOE shall not be required to continue performance of this Agreement beyond such time as the Total Cost Limitation exceeds an amount 10 times the amount of the funds obligated by the State. Prior to each Government fiscal year or from time to time during the performance of this Agreement, as necessary, the State shall increase the amount of funds obligated by written notice to the Contracting Officer specifying the amount of such increase. Upon such written notice DOE and the State shall execute a modification to this Agreement which reflects the increased obligation of funds by the State. In the event the State fails to obligate funds at a level necessary to ensure payment of its share of the Total Cost Limitation, DOE may elect to treat such failure as a termination by the State pursuant to the article of this Agreement entitled "Term and Termination."

E. DOE, for the Cost Estimate Period: (1) has obligated funds in the amount of $1,713,745.80 for payment to the State for DOE's share of allowable costs which the State incurs under this Agreement; and (2) will obligate funds in an amount sufficient to pay to DOE contractors and subcontractors DOE's share of those allowable costs which DOE incurs under this Agreement. DOE shall not be liable to the State in an amount in excess of the funds it has obligated herein for payment to the State; however, the State shall not be required to continue performance of this Agreement beyond such time as such amount obligated by DOE is less than 90% of the amount shown in paragraph B.3. of this article. Prior to each Government fiscal year or from time to time under this Agreement, as necessary, DOE shall increase the amount of funds obligated by unilateral modification to this Agreement which reflects the increased obligation of funds by DOE. In the event DOE fails to obligate funds at a level necessary to ensure payment of its share of the total allowable costs to be incurred by the State, the State may elect to treat such failure as a termination by the State pursuant to the article of this Agreement entitled "Term and Termination."

F. The State shall not be required to pay for allowable costs incurred in excess of 10% of the Total Cost Limitation as it may be amended from time to time by modification to this Agreement. DOE shall use its best efforts to perform its responsibilities under this Agreement within the estimated allowable costs set forth in paragraph B.4. of this article. However, the Government and DOE do not guarantee the correctness of any such estimate of allowable costs and there shall be no liability on the part of the Government or DOE by reason of errors in the computation of estimates or differences between such estimates and the actual allowable costs.

G. DOE shall not be required to pay for allowable costs incurred in excess of 90% of the Total Cost Limitation as it may be amended from time to time by modification to this Agreement. The State shall use its best efforts to perform its responsibilities under the Agreement within the estimated allowable costs set forth in paragraph B.3. of this article. However, the State does not guarantee the correctness of any such estimate of allowable costs and there shall be no liability on the part of the State by reason of errors in the computation of estimates or differences between such estimates and the actual allowable costs.

VII. STATE FINANCIAL MANAGEMENT SYSTEM

The State shall assure that its financial management system provides for:

XXIV

A. Accurate, current and complete disclosure of the financial results of the State's participation in the remedial action program, carried out pursuant to this Agreement and the Remedial Action Plan.

B. Records that identify adequately the source and application of funds for activities supported pursuant to this Agreement. These records shall contain information pertaining to authorizations, obligations, unobligated balances, assets, liabilities, outlays, and program income.

C. Effective control over and accountability for all funds, property, and other assets. The State shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

D. Comparison of actual outlays with budgeted or otherwise authorized amounts.

Modification No. A003
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

F. The State shall not be required to pay for allowable costs incurred in excess of 10% of the Total Cost Limitation as it may be amended from time to time by modification to this Agreement. DOE shall use its best efforts to perform its responsibilities under this Agreement within the estimated allowable costs set forth in paragraph B.4. of this article. However, the Government and DOE do not guarantee the correctness of any such estimate of allowable costs and there shall be no liability on the part of the Government or DOE by reason of errors in the computation of estimates or differences between such estimates and the actual allowable costs.

G. DOE shall not be required to pay for allowable costs incurred in excess of 90% of the Total Cost Limitation as it may be amended from time to time by modification to this Agreement. The State shall use its best efforts to perform its responsibilities under the Agreement within the estimated allowable costs set forth in paragraph B.3. of this article. However, the State does not guarantee the correctness of any such estimate of allowable costs and there shall be no liability on the part of the State by reason of errors in the computation of estimates or differences between such estimates and the actual allowable costs.

VII. STATE FINANCIAL MANAGEMENT SYSTEM

The State shall assure that its financial management system provides for:

XXIV

A. Accurate, current and complete disclosure of the financial results of the State's participation in the remedial action program, carried out pursuant to this Agreement and the Remedial Action Plan.

B. Records that identify adequately the source and application of funds for activities supported pursuant to this Agreement. These records shall contain information pertaining to authorizations, obligations, unobligated balances, assets, liabilities, outlays, and program income.

C. Effective control over and accountability for all funds, property, and other assets. The State shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

D. Comparison of actual outlays with budgeted or otherwise authorized amounts.

E. Procedures to minimize the time elapsing between transfer of funds from the U.S. Treasury and the disbursement by the State, whenever funds are advanced by the Government.

F. Procedures for identifying the reasonableness of costs.

G. Accounting records that are supported by adequate and reasonable source documentation.

H. Examinations in the form of audits which meet the requirements set forth in Office of Management and Budget (OMB) Circular A-102, Attachment P, as that Attachment was revised by OMB effective October 22, 1979, and published in the Federal Register, Volume 45, No. 65, April 2, 1980, pp. 21875-21878, and which are in accordance with the "Guidelines for Financial and Compliance Audits of Federal Assisted Programs," issued by the United States General Accounting office.

I. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

VIII. AUDIT

III-F

XXVII-(D)(a)

A. The State shall maintain, and the Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all allowable costs claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. Such right of examination shall include inspection at all reasonable times of the State's plants, or such parts thereof, as may be engaged in the performance of this Agreement as to cost or pricing data submitted by the State.

XXVII-(D)(b)

B. If the State submitted or submits cost or pricing data in connection with the pricing of this Agreement or any other change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or process set by law or regulation, the Contracting Officer or his representatives who are employees of the United States Government shall have the right to examine all books, records, documents, and other data of the State related to the negotiation, pricing or performance of such Agreement, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. Additionally, in the case of pricing any change or modification exceeding $1,000,000 to formally advertised agreements, the Comptroller General of the

United States or his representatives who are employees of the United States Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projects used therein.

C. The materials described in paragraphs A. and B. above shall be made available at the offices of the State, at all reasonable times, for inspection, audit or reproduction, until the expiration of three years from the date of final payment under this Agreement or such lesser time specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) and for such longer period, if any, as is required by applicable statute, or by other articles or clauses of this contract, or by 1. and 2. below:

XXVII-(B)(c)

1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.

2. Records which relate to appeals or disputes or litigation or the settlement of claims arising out of the performance of this Agreement, shall be made available until such appeals, litigation, or claims have been disposed of.

X

IX. STATE AUDIT AND EXAMINATION OF DOE RECORDS

A. DOE shall maintain, in accordance with Government policy and practice, and the State Site Representative or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all allowable costs claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. Such right of examination shall include inspection at all reasonable times of DOE's facilities, or such parts thereof, as may be engaged in the performance of this Agreement as to cost or pricing data submitted by the DOE.

III-F

B. The materials described in paragraph A. above shall be made available at the offices of the Contracting Officer, at all reasonable times, for inspection, audit or reproduction, until the expiration of three years from the date of final payment under this Agreement and for such longer period, if any, as is required by applicable statute, or by other articles or clauses of this contract, or by 1. and 2. below:

NEW

1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.

2. Records which relate to appeals or disputes or litigation or the settlement of claims arising out of the performance of this Agreement, shall be made available until such appeals, litigation, or claims have been disposed of.

X. REPORTING REQUIREMENTS

XVII - A

NEW

A. DOE shall inform the State Site Representative of the status of activities under this Agreement as major milestones are reached but in no event less frequently than quarterly. With respect to DOE acquisition of the depository sites, DOE shall provide periodic, but no less than quarterly, reports to the State Site Representative regarding the status of such acquisition, including a schedule of future activities, a narrative summary of past activities, an estimate of costs to be incurred, an itemization of costs incurred, and any comments or recommendations for State consideration.

XVII - B

NEW

B. Upon the request of the Contracting Officer, the State shall submit to the Contracting Officer progress and financial reports of its activities in the performance of this Agreement; Provided, that with respect to State acquisition of the millsite, relocation assistance, and management of the millsite, the State shall provide periodic, but no less than quarterly, reports to the Contracting Officer regarding the status of such activities, including a schedule of future activities, a narrative summary of past activities, an estimate of costs to be incurred, and any comments or recommendations for DOE consideration.

XVII - C

C. The State shall submit annually, commencing one year from the effective date of this Agreement, to the Contracting Officer, OMB Standard Form 269, "Financial Status Report," to report the status of funds paid to the State by DOE pursuant to this Agreement. DOE shall request that the reports be either on a cash or accrual basis. If DOE requests accrual information and the State's accounting records are not normally kept on the accrual basis, the State shall not be required to convert its accounting system but shall develop such accrual information through an analysis of the documentation on hand. The State shall submit a final Financial Status Report upon closeout of this Agreement in accordance with the article hereof

entitled, "Closeout Procedures." The State shall submit the OMB Standard Form 269, original and two copies, to the Contracting Officer no later than 90 days after the end of the specified reporting period for the annual and final reports. Reasonable extensions to reporting due dates may be granted by the Contracting Officer upon written request of the State.

XVII-D

D. The State shall supply to DOE such additional financial information as is requested in writing by DOE to comply with Congressional requirements.

XI. EXAMINATION OF RECORDS

XI

A. The State agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this Agreement or such lesser time specified in the Federal Procurement Regulations, Part 1-20, have access to and the right to examine any directly pertinent books, documents, papers, and records of the State involving transactions related to this Agreement.

B. The State further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under the subcontract or such lesser time specified in the Federal Procurement Regulations, Part 1-20, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

C. The periods of access and examination described in A and B, above, for records which relate to (1) litigation or the settlement of claims arising out of the performance of this Agreement, or (2) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

D. The State shall report to the Secretary promptly and in reasonable written detail, each notice or claim of patent or

copyright infringement based on the performance of this Agreement of which the State has knowledge.

E. In the event of any claim or suit against the Government, on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed hereunder, the State shall furnish to the Government, when requested by the Secretary, all evidence and information in possession of the State pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the State has agreed to indemnify the Government.

F. DOE may request, and the State shall, transfer to the custody of DOE copies of certain records maintained by the State pursuant to this Agreement when DOE determines that the records possess long-term retention value. In order to avoid duplicate recordkeeping, DOE may make arrangements with the State to retain any records that are continuously needed for joint use.

XII. CONTRACTING OFFICER'S REPRESENTATIVE

NEW

The work to be performed by DOE under this Agreement will be managed for DOE by the Manager, Uranium Mill Tailings Remedial Actions (UMTRA) Project. The work to be performed by the State under this Agreement is subject to the monitoring of the Manager, Uranium Mill Tailings Remedial Actions (UMTRA) Project Office, who has been designated by the Contracting Officer as "Contracting Officer's Representative" (COR). A copy of such designation shall be furnished to the State. Said designation shall set forth the COR's responsibilities regarding this Agreement. The COR shall not make any commitments or authorize any changes which affect the Agreement scope, price, terms or conditions; any request for such changes shall be referred to the Contracting Officer for action.

XIII. TERM AND TERMINATION

XII-A

A. The period of performance of this Agreement shall expire at the earliest effective date that: (1) DOE and the State mutually agree in writing, with the concurrence of the Commission, that the objectives of the remedial action program have been met and that all work to be performed under this Agreement, or any modification or amendment hereto, has been completed; or (2) the date seven years from the date of promulgation of the EPA Standards or such other date as Congress shall establish,

after the date of enactment of the Act, as the date of termination of the Secretary's authority to perform remedial action under the Act.

XII-B

B. DOE and the State may terminate this Agreement in whole, or in part, when both parties agree that continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. Neither party shall incure new obligations for the terminated portion after the effective date. The parties shall cancel as many outstanding obligations as possible. Full credit shall be allowed by each party for non-cancellable obligations properly incurred by the other party prior to the termination.

XII-C

C. DOE, upon written Notice of Termination to the State, may terminate this Agreement, in whole, or from time to time, in part, whenever the Contracting Officer determines that the State has failed to comply with the conditions of this Agreement and such non-compliance continues for 60 days after receipt of a written Notice of Default from DOE. For purposes of this Article, the failure by the Pennsylvania Legislature to appropriate funds shall not constitute failure by the State to comply with the conditions of this Agreement.

NEW

D. The State, upon written Notice of Termination to DOE, may terminate this Agreement whenever the State Site Representative determines that DOE has failed to comply with the conditions of this Agreement and such non-compliance continues for 60 days after receipt of a written Notice of Default from the State. For purposes of this Article, failure by the United States Congress to appropriate funds shall not constitute failure by DOE to comply with the conditions of this Agreement.

XII-D

E. After receipt of a Notice of Termination by either party, DOE and the State shall close out this Agreement in accordance with the terms and conditions of the article hereof entitled, "Closeout Procedures"; Provided, that DOE may, in its discretion, continue unilateral performance of this Agreement, including performance of the State's responsibilities, until such time as the remedial action contemplated by this Agreement and the Remedial Action Plan is completed.

XII-E

F. Neither DOE nor the State shall be considered in default of this Agreement because of delay in performance for reasons beyond its control including, but not restricted to, acts of

God or the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.

G. In the event appropriated funds are not available to the State to carry out this Agreement:

XII - E

1. DOE shall have the right to continue unilateral performance of the remedial action contemplated by this Agreement, including performance of the State's responsibilities, without cost to the State, until such time as the remedial action contemplated by this Agreement and the Remedial Action Plan is completed.

2. DOE and the State shall close out this Agreement pursuant to the article hereof entitled, "Closeout Procedures," and such other procedures as mutually agreed to in writing.

XII - G

H. In the event appropriated funds are not available to DOE to carry out the Act or this Agreement, DOE and the State shall close out this Agreement pursuant to Article XV, "Closeout Procedures," and such other procedures as mutually agreed to in writing by the parties.

XIV. CLOSEOUT PROCEDURES

XXIII - A

As of the date of receipt of a Notice of Termination pursuant to the article hereof entitled, "Term and Termination," or on the date of expiration of the period of performance or failure of the State or the Government to appropriate funds as provided in the article hereof entitled, "Term and Termination," and except as otherwise directed by the Contracting Officer:

1. The parties shall:

a. Stop performance under this Agreement on the date and to the extent specified in the Notice of Termination or on the date when the period of performance expires;

b. Place no further orders and make no further subcontracts or other agreements, for materials, services, or property except as may be necessary for completion of such portion of the work under this Agreement as is not terminated by any Notice of Termination;

c. Terminate all orders, subcontracts or other agreements entered into in performing this Agreement, to the extent

that they relate to the performance of work terminated by the Notice of Termination or terminated by the expiration of the period of performance of this agreement.

d. Settle all outstanding liabilities and all claims arising out of such termination of orders, subcontracts and agreements, the cost of which would be reimbursable, in whole or in part, as an allowable cost in accordance with the provisions of this Agreement;

e. In the event of termination of performance in part, complete performance of such part of the work as shall not have been terminated by the Notice of Termination;

f. Take such action as may be necessary or as the Contracting Officer may direct for the protection and preservation of the property related to this Agreement which is in the possession of the State and in which the Government has or may acquire an interest.

2. DOE shall, upon written request by the State, make prompt payment to the State pursuant to the article hereof entitled, "Payments and Allowable Costs," for any outstanding allowable costs incurred by the State and not yet paid by DOE as required by this Agreement.

3. The State shall, upon written request by DOE, make prompt payment to DOE pursuant to the article hereof entitled, "Payments and Allowable Costs," for its outstanding share of allowable costs incurred by DOE and the State in performance of this Agreement.

(REVISED)

4. The State shall transfer title to the millsite and any residual radioactive materials thereupon to the Government and shall transfer title to the Government (to the extent title has not already been transferred) and deliver or otherwise account for and dispose of, in the manner, at the times, and to the extent directed by the Contracting Officer, any other property acquired by the State pursuant to this Agreement.

5. The State shall immediately refund to DOE any balance of cash advanced to the State that is not authorized by the Contracting Officer to be retained by the State.

6. The State shall provide to DOE, within ninety days after either the date of expiration of the period of performance or the date of termination of performance, or at such time designated by the Contracting Officer, all financial, performance,

and other reports required pursuant to this Agreement. The Contracting Officer may grant reasonable extensions when requested by the State. An independent audit may be requested by either party.

7. In the event a final audit has not been performed by DOE prior to closeout of this Agreement, either party shall, until such final audit is performed, retain the right to recover any outstanding share of allowable costs from the other party.

XV. PUBLIC PARTICIPATION AND INFORMATION

XI

A. The State Site Representative shall cooperate with the Contracting Officer in formulating and implementing a public participation plan in order to encourage public participation in carrying out the provisions of the Act, this Agreement and the Remedial Action Plan.

B. Procedures for timely release of information to the public regarding activities by the State and DOE in carrying out this Agreement shall be those established by mutual agreement between the Contracting Officer and the State Site Representative.

XVI. LOCAL ADVISORY COMMITTEES

XIX

DOE shall not be a member of any local advisory committees established in connection with the remedial action to be performed under this Agreement for the purpose of providing information to and receiving information from the citizens of the State and the localities affected by such remedial action. DOE shall, however, make every reasonable effort to interface with any such committee to the extent requested by the State or the committee. No costs associated with any committee so established shall be allowable costs under this Agreement.

XVII. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

X

Recipients of DOE financial assistance awards which are provided under DOE Federal Assistance programs shall comply with the provisions of Part 1040, Chapter X, Title 10 of the Code of Federal Regulations, "Nondiscrimination in Federally Assisted Programs" (10 CFR Part 1040), as published in the Federal Register, Volume 45, No. 116, Friday, June 13, 1980 (pp. 40514-40535). 10 CFR Part 1040 provides that no person shall on the ground of race, color, national origin, sex, handicap, or age be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment where the main purpose of the program or activity

is to provide employment or when the delivery of program services is affected by the State's employment practices, in connection with any program or activity receiving Federal assistance from DOE.

XVIII. NOTICE ADDRESS

Except as otherwise specifically provided herein, any notice, letter, or grievance given or payment made pursuant to the terms of this Agreement shall be sent to the respective party at its address designated below:

NEW

STATE:

Commonwealth of Pennsylvania
Department of Environmental Resources
ATTN: Thomas Gerusky, Director
Bureau of Radiation Protection and Toxicology
State Contracting Officer
P.O. Box 2063
Harrisburg, PA 17120

DOE:

Project Manager, Uranium Mill Tailings Remedial Action Project
5301 Central Avenue, NE
Suite 1700
Albuquerque, NM 87108

XIX. CONCURRENCES AND CONSULTATIONS

XXII

Whenever in performing this Agreement or in carrying out the Act a concurrence from or consultation with another Government agency is required, DOE shall seek such concurrence and be responsible for undertaking such consultation.

XX. DISPUTES

XIII - A

A. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail, or otherwise furnish a copy thereof to the State. The decision of the Contracting Officer shall be final and conclusive unless within 60 days from date of receipt of such copy, the State mails, or delivers a written notice of appeal to the DOE Financial Assistance Appeals Board in accordance with 10 CFR Part 1024 (See Rule 1). The decision of the DOE Financial Assistance Appeals Board shall be final and conclusive unless determined by a court of competent jurisdiction to

have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessary to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause the State shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the State and the Government shall proceed diligently with the performance of this Agreement and in accordance with the Contracting Officer's decision.

B. This "Disputes Clause" does not preclude consideration of law questions in connection with decisions provided for in paragraph A above; provided, that nothing in this Agreement shall be construed as making final the decision of any administrative official, representative, or board, based on a question of law.

XIII - B

XXI. RULES AND REGULATIONS

VII

All activities under this Agreement shall be carried out pursuant to applicable Federal, State and local regulations, including but not limited to such rules and regulations promulgated or to be promulgated by the Secretary pursuant to Section 109 of the Act.

XXII. OTHER REMEDIES

XX

Nothing in this Agreement shall prevent the Secretary from enforcing any provision of Title I of the Act, any regulation promulgated thereunder, or any provision of this Agreement, by injunction or other equitable remedy, or as otherwise provided by Section 110 of the Act.

XXIII. ENTIRE AGREEMENT

XXI

This written Agreement constitutes the entire agreement of the parties hereto. No representations, promises, terms, conditions, or obligations whatsoever referring to the subject matter hereof, other than those expressly set forth herein, shall be of any binding legal force or effect whatsoever.

XXIV. ORDER OF PRECEDENCE

XXVI

In the event of an inconsistency between provisions of this Agreement, the inconsistency shall be resolved by giving precedence as follows:

(a) Agreement Articles;

(b) Remedial Action Plan (when executed);

(c) Other provisions of this Agreement, whether incorporated by reference or otherwise.

XXV. COVENANT AGAINST CONTINGENT FEES

VIII

The State warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the State for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

XXVI. OFFICIALS NOT TO BENEFIT

IX

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

XXVII. STANDARD FORMS

XVII-E

All standard forms required to be submitted by the State pursuant to this Agreement shall be provided to the State by the Contracting Officer upon request.

XXVIII. APPENDICES

NEW

The following appendices are attached to and made a part of this Agreement:

Appendix A - Site Descriptions & Ownerships;
Appendix B - General Provisions;
Appendix C - Depository Sites.

Modification No. A003
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement in several counterparts.

THE UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

BY: .....
Terrell C. Cone, Jr.
Contracting Officer
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

DATE: .....

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

BY: .....
Nicholas De Benedictis
Secretary
P.O. Box 2063
Harrisburg, PA 17120

DATE: .....

STATE APPROVALS:

.....

.....

BY: .....

BY: .....

CONCURRENCE:
NUCLEAR REGULATORY COMMISSION

BY: .....

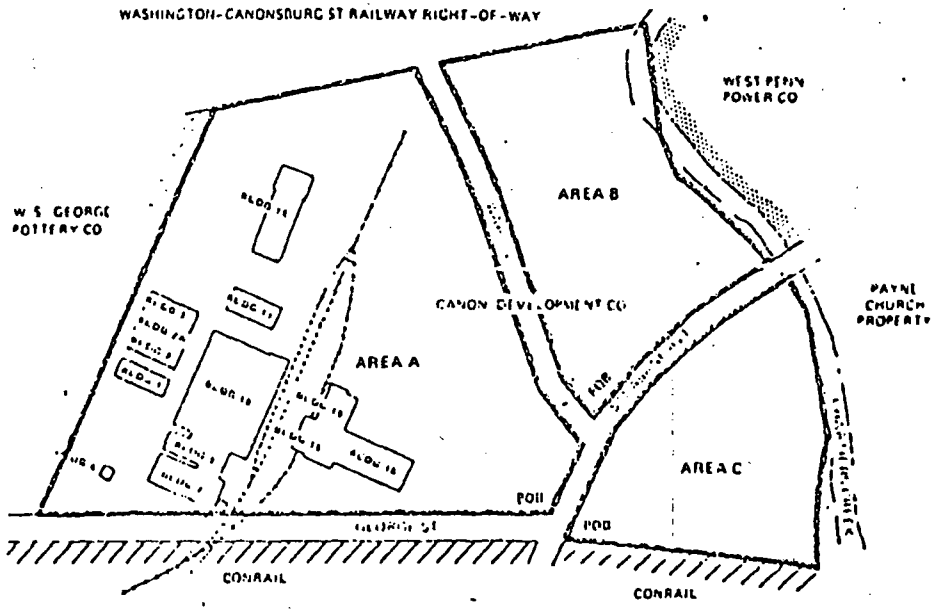
TITLE: .....

DATE: .....

Modification No. A003
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

APPENDIX A

SITE DESCRIPTIONS AND OWNERSHIPS



PARCEL "A"

BEGINNING AT A MONUMENT AT THE INTERSECTION OF THE NORTH LINE OF GEORGE STREET AND THE WEST LINE OF STRABANE AVENUE IN THE BOROUGH OF CANONSBURG, PENNSYLVANIA, THENCE ALONG THE NORTH LINE OF GEORGE STREET S [illegible] W, [illegible] FT. THENCE N [illegible] E, [illegible] FT TO A MONUMENT AT THE SOUTH R/W LINE OF THE WASHINGTON-CANONSBURG STREET RAILWAY. THENCE ALONG SAID R/W LINE N [illegible] E, [illegible] FT TO THE WEST LINE OF WARD STREET. THENCE ALONG THE WEST LINE OF WARD STREET S [illegible] E, [illegible] FT. S [illegible] E, [illegible] FT. S [illegible] E, [illegible] FT TO THE WEST LINE OF STRABANE AVENUE. THENCE ALONG THE WEST LINE OF STRABANE AVENUE S [illegible] W, [illegible] FT TO THE POINT OF BEGINNING.

CONTAINS [illegible] ACRES (MORE OR LESS).

PARCEL "B"

BEGINNING AT A POINT AT THE INTERSECTION OF THE EAST LINE OF WARD STREET AND THE WEST LINE OF STRABANE AVENUE IN THE BOROUGH OF CANONSBURG, WASHINGTON COUNTY PENNSYLVANIA. THENCE ALONG THE EAST LINE OF WARD STREET [illegible] FT TO A MONUMENT ON THE SOUTH R/W LINE OF THE WASHINGTON-CANONSBURG STREET RAILWAY. THENCE ALONG SAID R/W LINE [illegible] FT. THENCE [illegible] FT. THENCE S [illegible] E, [illegible] FT. THENCE S [illegible] FT. THENCE S [illegible] E, [illegible] FT TO THE WEST LINE OF STRABANE AVENUE. THENCE ALONG STRABANE AVENUE S [illegible] W, [illegible] FT. S [illegible] W, [illegible] FT. S [illegible] W, [illegible] FT TO THE POINT OF BEGINNING.

CONTAINS [illegible] ACRES (MORE OR LESS).

PARCEL "C"

BEGINNING AT A POINT WHICH IS THE INTERSECTION OF THE EAST LINE OF STRABANE AVENUE AND THE SOUTH R/W LINE OF CONRAIL. THENCE ALONG THE EAST LINE OF STRABANE AVENUE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. THENCE [illegible] FT. THENCE S [illegible] E, [illegible] FT. THENCE S [illegible] E, [illegible] FT. THENCE S [illegible] E, [illegible] FT. THENCE S [illegible] E, [illegible] FT TO A POINT ON THE SOUTH R/W LINE OF CONRAIL. THENCE ALONG SAID R/W LINE S [illegible] W, [illegible] FT TO THE POINT OF BEGINNING.

CONTAINS 2.1 ACRES (MORE OR LESS).

Prepared by
United States Department of Energy

SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites

CANONSBURG, PENNSYLVANIA

6-15-80

BILLING CODE 6450-01-C

Appendix A
Modification NO. A003
Supplemental Agreement
to
U.S. Department of
Energy
Agreement No.
DE_FC04-82AL19487

Modification No. A003
Supplemental Agreement to
U.S. Department of Energy
Agreement No. DE-FC04-82AL19487

APPENDIX B

GENERAL PROVISIONS

A. To the extent that DOE and the State agree in writing pursuant to Article XI, "Procurement," that the State will procure supplies, equipment, construction, or services under this Agreement the following clauses are applicable:

1. Inspection

XXVII-A

DOE through any authorized representative, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder the premises in which it is being performed. If any inspection, or evaluation is made by DOE on the premises of the State or a subcontractor, the State shall provide and shall require its subcontractors to provide all reasonable facilities and assistance for the safety and convenience of DOE representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

2. Convict-Labor

XXVII-C

In connection with the performance of work under this Agreement, the State agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

3. Clean Air and Water

a. The State agrees as follows:

XXVII E

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by P.L. 91-604 and P.L. 95-95) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et. seq., as amended by P.L. 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this Agreement.

(2) That no portion of the work required by this Agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use its best efforts to comply with clean air standards and clean water standards at the facility in which the Agreement is being performed.

(4) To insert the substance of this clause into any non-exempt contract, including this paragraph 3.a.(4).

b. The terms used in this provision have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857, et. seq., as amended by P.L. 91-604 and P.L. 95-95).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S. 1251, et. seq., as amended by P.L. 92-500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857(c)-6(c) or (d)), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards during and after remedial action. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the requirements of the Air Act or Water and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a participant or subcontractor, to be utilized in the performance of an agreement or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

4. Flood Insurance

XXVII-F

The State will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The State will comply with provisions prescribed by the Federal Insurance Administrator in 24 CFR Chapter X, Subchapter B.

5. Permits and Licenses

XXVII-G

Except as otherwise agreed to by the Contracting Officer, the State shall procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State territory, and political subdivision in which the work under this Agreement is performed.

6. Authorization and Consent

XXVII-H

DOE hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent

of the United States in the performance of this Agreement or any part hereof or any amendment hereto or any subcontract hereunder (including all lower-tier subcontracts).

7. Safety and Health

a. The State shall take all reasonable precautions in the performance of the work under this Agreement to protect the health and assure the safety of employees and the public. The State shall comply with all applicable Federal, State, and local health and safety regulations and requirements including but not limited to those established pursuant to the Occupational Safety and Health Act and with any additional safety and health standards and requirements (including reporting requirements) established by DOE which is to include compliance with DOE Order 5481.1, Safety Analysis and Review System.

XXVII - L

Upon written instruction from the Contracting Officer, the State shall submit a management program and implementation plan to the Contracting Officer for review and approval.

b. In the event that the State fails to comply with said regulations and requirements, the Contracting Officer may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the discretion of the Contracting Officer. The State shall make no claim for an extension of time or for an equitable adjustment, compensation or damages by reason of or in connection with such work stoppage.

B. If DOE procures supplies, equipment, construction or services under this Agreement, each of the following clauses is applicable:

1. Inspection

XXVIII - A

The State through any authorized representative, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder in which it is being performed. If any inspection, or evaluation is made by the State on the premises of the DOE, the DOE shall provide and shall require his contractors to provide all reasonable facilities and assistance for the safety and convenience of the State representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

2. Clean Air and Water

a. The DOE agrees as follows:

XXVIII-B

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et. seq., as amended by P.L. 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et. seq., as amended by P.L. 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this Agreement.

(2) That no portion of the work required by this Agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air standards and clean water standards at the facility in which the Agreement is being performed.

(4) To insert the substance of this clause into any non-exempt contract, including this paragraph 2.d.

b. The terms used in this provision have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857, et. seq., as amended by P.L. 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et. seq., as amended by P.L. 92-500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act (42 U.S.C. 857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d),

respectively, of the Air Act (42 U.S.C. 1857(c)-6(c) or (d)), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Sectin 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards during and after remedial action. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency on an air or water pollution control agency in accordance with the requirements of the Air Act or Water and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a participant or subcontractor, to be utilized in the performance of an agreement or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

3. Permits and Licenses

XXVIII-C

Except as otherwise agreed to by the State Contracting Officer, the DOE or its contractors shall procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State territory, and political subdivision and which the work under this Agreement is performed.

4. Safety and Health

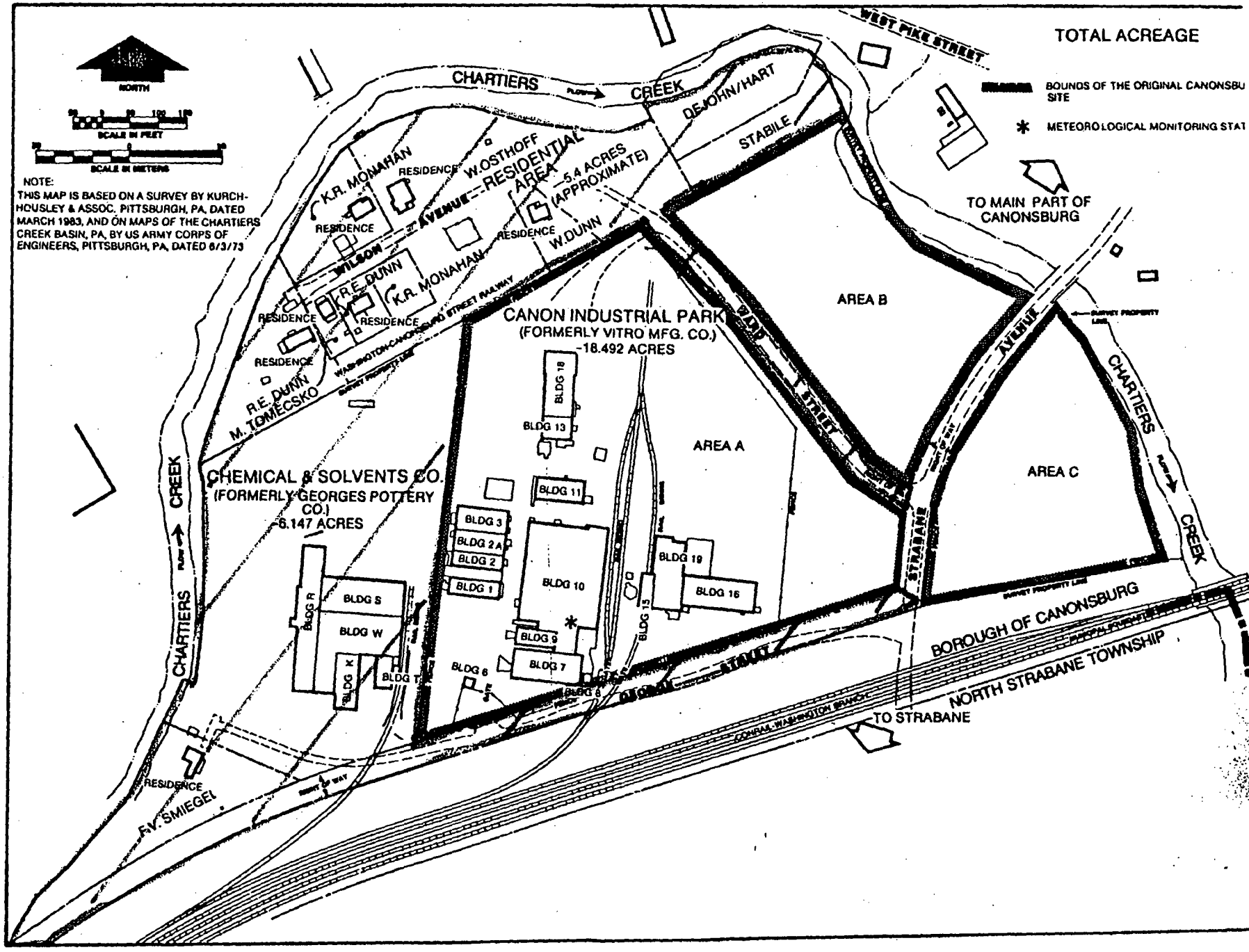
XXVIII-D

The DOE shall take all reasonable precautions in the performance of the work under this Agreement to protect the health and assure the safety of employees and the public. The DOE shall comply with all applicable Federal, State, and local health and safety regulations and requirements including but not limited to those established pursuant to the Occupational Safety and Health Act and with any additional safety and health standards and requirements (including reporting requirements) established by DOE.

Appendix C to
Modification No. A003
Supplemental Agreement to
U. S. Department of Energy
Agreement No. DE-FC04-82AL19487

APPENDIX C

DEPOSITORY SITES


TOTAL ACREAGE
BOUNDS OF THE ORIGINAL CANONSBU SITE
METEOROLOGICAL MONITORING STAT
NORTH
SCALE IN FEET
SCALE IN METERS
NOTE:
THIS MAP IS BASED ON A SURVEY BY KURCH-HOUSLEY & ASSOC. PITTSBURGH, PA, DATED MARCH 1983, AND ON MAPS OF THE CHARTIERS CREEK BASIN, PA, BY US ARMY CORPS OF ENGINEERS, PITTSBURGH, PA, DATED 6/3/73
WEST PIKE STREET
CHARTIERS CREEK
DEJOHN/HART
STABILE
TO MAIN PART OF CANONSBURG
K.R. MONAHAN
RESIDENCE
W.OSTHOFF
RESIDENTIAL AREA
~5.4 ACRES (APPROXIMATE)
WILSON AVENUE
W.DUNN
R.E. DUNN
WASHINGTON-CANONSBURG STREET RAILWAY
SURVEY PROPERTY LINE
M. TOMECSKO
CANON INDUSTRIAL PARK
(FORMERLY VITRO MFG. CO.)
~18.492 ACRES
AREA B
AREA A
AREA C
CHEMICAL & SOLVENTS CO.
(FORMERLY GEORGES POTTERY CO.)
~6.147 ACRES
BLDG 18
BLDG 13
BLDG 11
BLDG 3
BLDG 2A
BLDG 2
BLDG 1
BLDG 10
BLDG 19
BLDG 16
BLDG 15
BLDG 9
BLDG 7
BLDG 6
BLDG 8
BLDG R
BLDG S
BLDG W
BLDG K
BLDG T
STRABANE AVENUE
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NORTH STRABANE TOWNSHIP
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CONRAIL WASHINGTON BRANCH
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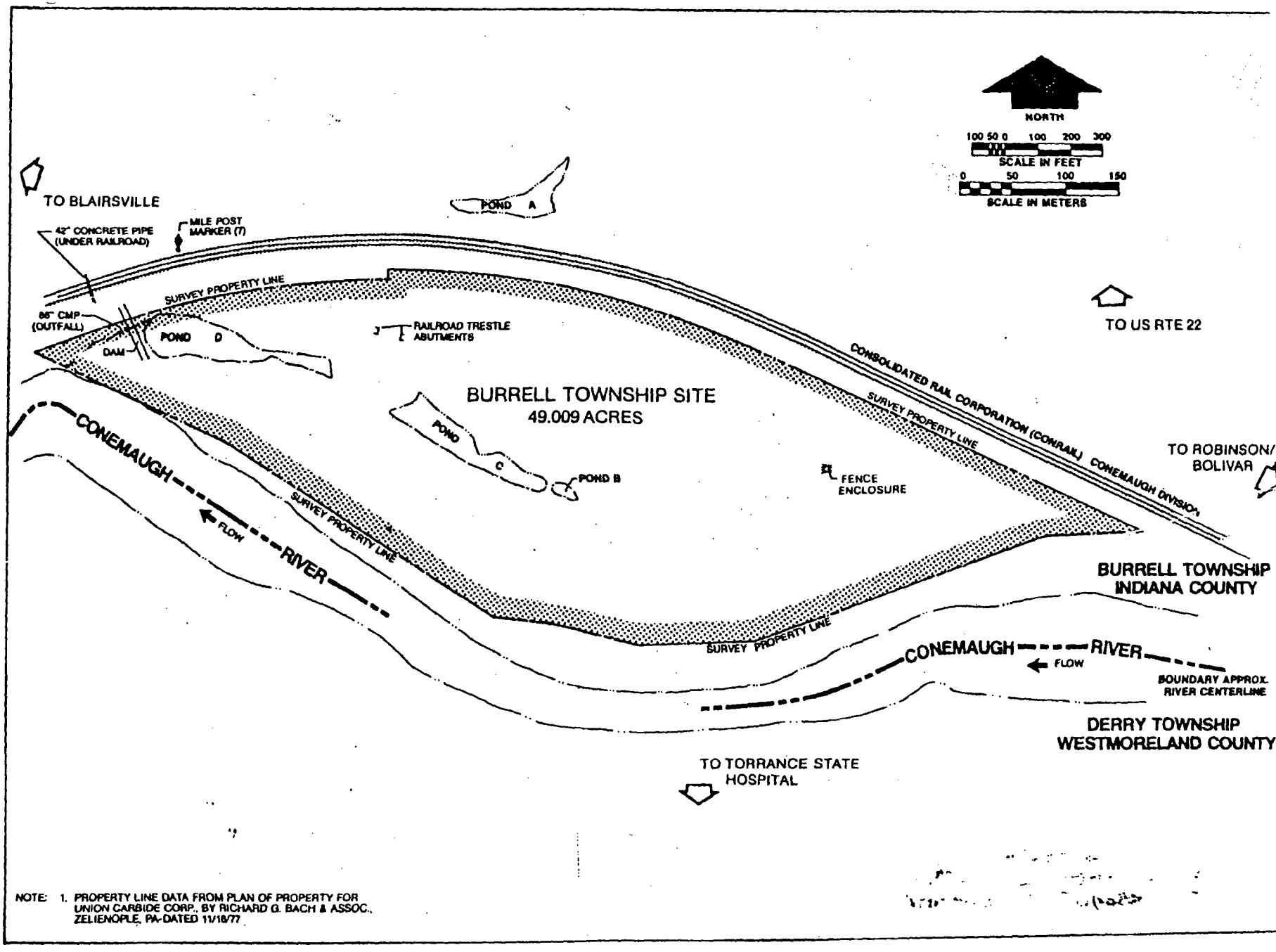


NOTE: 1. PROPERTY LINE DATA FROM PLAN OF PROPERTY FOR UNION CARBIDE CORP., BY RICHARD G. BACH & ASSOC., ZELIENOPLE, PA-DATED 11/18/77

MODIFICATION OF COOPERATIVE AGREEMENT

1. Modification No. A004

2. Effective Date:

3. Purchase Request No. 04-85AL19487.500

4. Cooperative Agreement No. DE-FC04-82AL19487

5. Issued By:
Department of Energy
Albuquerque Operations Office
Contracts and Procurement Division
P.O. Box 5400
Albuquerque, NM 87115

6. State:
Commonwealth of Pennsylvania
Department of Environmental Resources
P. O. Box 2063
Harrisburg, PA 17120

7. Accounting and Appropriation Data (If Required):

B&R No.	Approp. Sym.	Allot. Sym.	Object Class
AH-10-15	89X0224	89X0224	721

Increase to DOE Funds Obligated: $ 27,000
Total DOE Funds Obligated: $1,755,367
Increase in Funds Obligated by Commonwealth of Pennsylvania: $1,102,000
Total Funds Obligated by Commonwealth of Pennsylvania: $2,410,291

8. (___) The above numbered Cooperative Agreement is modified to reflect the administrative changes set forth in block 9.
(X) This agreement is entered into pursuant to authority of Uranium Mill Tailings Radiation Control Act of 1978, P.L. 95-604. It modifies the above numbered Cooperative Agreement as set forth in block 9.

9. Description of Modification:

See continuation pages.

Except as provided herein, all terms and conditions of the document referenced in block 4, as heretofore changed, remain unchanged and in full force and effect.

10. (___) State/Indian Tribe is not required to sign this document.
(X) State is required to sign this document and return 3 copies to issuing office.

11. Execution of and concurrence with the Modification:

See page 4 of this Modification.

I. The purposes of this modification are to:

A. Amend Article VI, Cost Limitation and Obligation of Funds, to provide estimates of allowable costs to be incurred by DOE and the Commonwealth of Pennsylvania during the period from October 1, 1984 through September 30, 1985, and to obligate DOE and State funds accordingly; and

B. To amend the Remedial Action Plan for the millsite.

II. The following modifications to the Cooperative Agreement are hereby affected.

A. Paragraph B. of Article VI, Cost Limitation and Obligation of Funds, is revised by adding the following new subparagraph 3.

"3. For Cost Estimate Period Number 3, the estimated allowable costs to be incurred are as follows-

a. October 1, 1984 through September 30, 1985:

(1) State - Thirty Thousand Dollars ($30,000)

(2) DOE - Ten Million, Nine Hundred and Ninety Thousand Dollars ($10,990,000)

(3) Total - Eleven Million, Twenty Thousand Dollars ($11,020,000)"

B. Subparagraphs 3., 4. and 5. of Paragraph B under Article VI are redesignated as subparagraphs 4., 5., and 6. and revised to read as follows:

"4. The total of the estimated allowable costs that will be incurred by the State from the effective date of this Agreement through the latest Cost Estimate Period shown above is $1,950,408.

5. The total of the estimated allowable costs that will be incurred by DOE from the effective date of this Agreement through the latest Cost Estimate Period shown above is $22,152,506.

6. The total of the estimated allowable costs that will be incurred by both DOE and the State from the effective date of this Agreement through the latest Cost Estimate Period shown above is $24,102,914 (hereinafter referred to as the Total Cost Limitation)."

C. Paragraphs D. and C. under Article VI are revised to read as follows:

"D. The State, for the Cost Estimate Period, has obligated funds in the amount of $2,410,291, for payment of its share of allowable costs under this Agreement. The State shall not be liable in an amount in excess of the funds it has obligated herein; however, DOE shall not be required to continue performance of this Agreement beyond such time as the Total Cost Limitation exceeds an amount 10 times the amount of the funds obligated by the State. Prior to each Government fiscal year or from time to time during the performance of this Agreement, as necessary, the State shall increase the amount of funds obligated by written notice to the Contracting Officer specifying the amount of such increase. Upon such written notice DOE and the State shall execute a modification to this Agreement which reflects the increased obligation of funds by the State. In the event the State fails to obligate funds at a level necessary to ensure payment of its share of the Total Cost Limitation, DOE may elect to treat such failure as a termination by the State pursuant to the article of this Agreement entitled 'Term and Termination.'

E. DOE, for the Cost Estimate Period: (1) has obligated funds in the amount of $1,755,367 for payment to the State for DOE's share of allowable costs which the State incurs under this Agreement; and (2) will obligate funds in an amount sufficient to pay to DOE contractors and subcontractors DOE's share of those allowable costs which DOE incurs under this Agreement. DOE shall not be liable to the State in an amount in excess of the funds it has obligated herein for payment to the State; however, the State shall not be required to continue performance of this Agreement beyond such time as such amount obligated by DOE is less than 90% of the amount shown in paragraph B.3. of this article. Prior to each Government fiscal year or from time to time under this Agreement, as necessary, DOE shall increase the amount of funds obligated by unilateral modification to this Agreement which reflects the increased obligation of funds by DOE. In the event DOE fails to obligate funds at a level necessary to ensure payment of its share of the total allowable costs to be incurred by the State, the State may elect to treat such failure as a termination by the State pursuant to the article of this Agreement entitled 'Term and Termination.'"

III. The Remedial Action Plan for the millsite is modified by revising Section 5.6, Cost Estimate, in its entirety by deleting pages 23 through 25 of the Remedial Action Plan and replacing them with new pages 23 through 25 attached hereto as Attachment 1 and incorporated herein by this reference.

IV. The parties have executed this Modification in several counterparts and NRC has concurred therewith.

COMMONWEALTH OF PENNSYLVANIA		UNITED STATES OF AMERICA	
By:	_____	By:	_____
Name:	_____	Name:	Theetis V. Hill
Title:	_____	Title:	Contracting Officer Contracts and Industrial Relations Division
Date:	_____	Date:	_____

CONCURRENCE:

NUCLEAR REGULATORY COMMISSION

By: _____

Name: _____

Title: _____

Date: _____

Attachment No. 1

Modification No. A004 to
Cooperative Agreement No.
DE-FC04-82AL18487

0751R

The original designated site has been acquired for the DOE by the Commonwealth of Pennsylvania. The Corps of Engineers will assist the DOE with the acquisition of adjacent properties between Chartiers Creek and the railroad and with easements and rights-of-way on the entire site. This acquisition and the subsequent relocation of residents and commercial firms must be completed prior to the initiation of major demolition and encapsulation construction activities.

Work during the first winter (October-March) will include site preparation and the construction of some of the safety features with a minimum of earth disturbance. Construction of the encapsulation cell will be initiated in the Spring of 1984. The excavation and encapsulation will be started about June, and should be essentially completed by October 1984, barring any delay problems. Site restoration is scheduled to be completed in 1985.

If the remedial action is completed at the site on schedule, the Canonsburg vicinity property remedial actions may not yet be complete. In this event, space will be left on the site for the remaining contaminated materials and the last phase of the vicinity property program will be the final restoration of the site following stabilization of these materials.

5.6 COST ESTIMATE

A cost estimate has been prepared, based upon the conceptual design described in this Remedial Action Plan. The conceptual design cost estimate is $17.13 million and is summarized on Table 5.1. This represents the preliminary cost estimate for cost-sharing purposes. Table 5.2 presents a time-phased distribution of the project costs, consistent with the schedule described above. In addition to these costs, costs will be incurred for remedial action at the Burrell Township site and at vicinity properties.

Table 5.1 Site cost estimate summary (Escalated - $000)

Item		Costs	
Site Acquisition			
Mineral value		$ -0-	
Land value		3,660	
	Total	$3,660	
Remedial Action (RA)			
Processing site			
Site preparation		$ 1,121	
Liner		1,682	
Site grading		1,233	
Cover		3,364	
Floor protection		336	
Decontamination facilities		561	
Restoration		1,121	
Fencing		112	
Supervisory & field services		1,682	
	Total	$11,212	
Engineering/construction management			
Processing site			
Engineering (ENG)		$ 728	
Construction management (CM)		1,530	
	Total	$2,258	
	TOTAL		$17,130

Table 5.2 Expenditure schedule* (Escalated - $000)

Year		Cost	
FY 1982			
Site acquisition		$668	
	Total	$668	
FY 1983			
Site acquisition		$ 919	
Engineering		728	
	Total	$1,647	
FY 1984			
Site acquisition		$2,053	
Stage I construction		3,888	
Engineering & construction management		554	
	Total	$6,495	
FY 1985			
Site acquisition		$ -0-	
Stage II construction		7,055	
Engineering & construction management		1,245	
	Total	$8,300	
	TOTAL		$17,130

* This projected expenditure schedule is for the Canonsburg site only and excludes the Burrell Township site and other vicinity properties.

Attachment A

Commonwealth of Pennsylvania
Office of the Governor
Harrisburg

The Governor

November 4, 1986

Nunzio J. Palladino, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Palladino:

As requested, enclosed please find three signed copies of the Memorandum of Understanding between the Commonwealth of Pennsylvania and the U.S. Nuclear Regulatory Commission regarding methods of cooperation in areas of mutual interest involving nuclear safety. On behalf of Pennsylvania I would like to thank you for this opportunity.

Sincerely,

Dick Thornburgh
Governor

bcc: Honorable Nicholas DeBenedictis
Barry Hartman, Esquire
Harold Miller

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COMMONWEALTH OF PENNSYLVANIA
AND THE
U.S. NUCLEAR REGULATORY COMMISSION

This Memorandum of Understanding between the Commonwealth of Pennsylvania (hereafter "Commonwealth") and the U.S. Nuclear Regulatory Commission (hereafter "NRC") expresses the desire of the parties to cooperate in the regulation of nuclear activities; it sets forth mutually agreeable principles of cooperation between the Commonwealth and NRC in areas subject to the jurisdiction of the Commonwealth or the NRC or both. This Memorandum is intended to provide the basis of subsequent detailed subagreements between the parties.

Close cooperation between the signatories will help assure that the goals and policies of the Commonwealth and Federal law will be carried out efficiently and expeditiously without diminishing the responsibilities or authorities of either party.

With the execution of the Memorandum, the Commonwealth and NRC agree to consult regularly and to cooperate in exploring and devising appropriate procedures to minimize duplication of effort to the extent permitted by Commonwealth and Federal law, to avoid delays in decisionmaking, and to ensure the exchange of information that is needed to make the most effective use of the resources of the Commonwealth and the NRC in order to accomplish the purpose of both parties.

Principles of Cooperation

1. Toward these goals, the State and NRC agree to explore together the development of detailed subagreements in areas of mutual concern including, but not necessarily limited to, transportation regulation, at a low-level waste disposal site, low-level waste packaging and shipping inspections, confirmatory environmental monitoring and emergency information exchange.

2. Subagreements under this Memorandum may provide for activities to be performed by either party under mutually acceptable guidelines and criteria which assure that the needs of both are met. For activities performed by one party at the request of the other party under specific subagreements to this Memorandum, either party may explore means by which compensation can be made available to the other party or by which the costs may be shared by the parties.

3. NRC agrees to explore with the Commonwealth the possibility of sharing with the Commonwealth proprietary and other information in NRC's possession that is exempt from mandatory public disclosure.

4. Nothing in this Memorandum is intended to restrict or extend the constitutional or statutory authority of either NRC or the Commonwealth or to affect or vary the terms of a future agreement

between the Commonwealth and the NRC under Section 274b. of the Atomic Energy Act of 1954, as amended.

5. The principal NRC contact under this Memorandum shall be the Director of the Office of State Programs. The principal Commonwealth contact shall be the Director of the Pennsylvania Bureau of Radiation Protection or his or her designee. Subagreements will name appropriate individuals, agencies or offices as contacts.

6. This Memorandum shall take effect upon signing by the Governor of the Commonwealth of Pennsylvania and the Chairman of the Nuclear Regulatory Commission, and may be terminated by either party upon 30 days written notice.

FOR THE COMMONWEALTH OF PENNSYLVANIA

Dick Thornburgh
Governor

Dated at Harrisburg, Pa.
This 4th day of November, 1986

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

Nunzio J. Palladino
Chairman

Dated at Washington, D.C.
This 7th day of November, 1986

SUBAGREEMENT 1
PERTAINING TO LOW-LEVEL RADIOACTIVE WASTE PACKAGE AND TRANSPORTATION INSPECTIONS
BETWEEN THE
COMMONWEALTH OF PENNSYLVANIA
AND THE
U.S. NUCLEAR REGULATORY COMMISSION

This Subagreement is entered into under the provisions of the Memorandum of Understanding between the Commonwealth of Pennsylvania and the United States Nuclear Regulatory Commission effective November 4, 1986.

The Commonwealth of Pennsylvania, in fulfilling its obligations under the Low-Level Radioactive Waste Policy Amendments Act of 1985 contemplates that it will make periodic inspections of the areas of low-level radioactive waste packages and transport activities of generators located within its borders if shipments of such waste are destined for disposal at a low-level radioactive waste disposal facility.

The United States Nuclear Regulatory Commission (NRC or Commission) has the statutory responsibility to inspect its licensees to determine compliance with NRC requirements, including requirements pertaining to the shipment, packaging and transportation of low-level radioactive waste destined for disposal. In the exercise of this responsibility, the Commission regularly conducts a review of the waste packaging and transportation programs of its licensees including the licensees' procedures for quality assurance, packaging, marking, labeling and loading of vehicles. These program reviews usually have been found adequate to ensure licensee compliance with the Commission's regulations regarding low-level radioactive waste packaging and transportation without the need for Commission inspection of each individual shipment.

Under Section 274i. of the Atomic Energy Act of 1954, as amended, the Commission in carrying out its licensing and regulatory responsibilities under the Act is authorized to enter into a Memorandum of Understanding (agreement) with any State to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. While the Commission does not conduct on-site inspections of every low-level radioactive waste shipment of its licensees, it desires to foster the goals of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commonwealth of Pennsylvania, and the Appalachian Compact.

Accordingly, this Subagreement between the Commonwealth of Pennsylvania and the NRC establishes mutually agreeable procedures whereby the Commonwealth may perform inspection functions for and on behalf of the Commission at certain NRC reactor and materials licensees' facilities which generate low-level radioactive waste.

It is hereby agreed between the Commission and the Commonwealth as follows:

1. The Commission hereby authorizes the Commonwealth to perform, for an on behalf of the Commission, the following functions with respect to low-level radioactive waste, as defined in Section 2(g) of the Low-Level Radioactive Waste Policy Amendments Act of 1985, in the possession of Commission licensees located within the Commonwealth.

   (a) Inspections to determine compliance with the Commission's rules and regulations regarding waste packages and transportation of low-level radioactive waste destined for disposal at a commercial low-level radioactive waste disposal site; and

   (b) Notification of Commission licensees and the Commission in writing of any findings disclosed by such inspections. All enforcement actions (such as Notices of Violations, Civil Penalties or Orders) pursuant to this Subagreement resulting form such inspection findings will be undertaken by the Commission.

   The Commission agrees to utilize personnel knowledgeable in radiation safety, waste packaging requirements, and packaging and transportation regulations. The Commonwealth agrees to perform its functions under this Subagreement at no cost or expense to the NRC. NRC may provide training to employees of the Commonwealth at no expense to the Commonwealth (except travel and per diem). The Commission does not normally evaluate the Commonwealth's ability to perform such functions; however, prior to Commonwealth qualification of inspectors, Commonwealth management, accompanied by an NRC representative, will assess its inspectors preparedness to conduct independent inspections.

2. The authority to inspect NRC licensees pursuant to the preceding paragraph is limited to the licensee's low-level waste packages and low-level transpiration activities. Specifically, this authority is limited to:

   (a) Review, for understanding, the licensee's written procedures;

   (b) Inspection of the licensee's written records; and

   (c) Inspection of completed packages and transportation activities.

   The authority does not include assessment of the adequacy of the licensee's written procedures, plant equipment, quality control programs, training programs or staffing. Specific implementing procedures are attached hereto which may be modified, as required.

3. In taking any action authorized hereunder, the Commonwealth shall not undertake to amend or revoke Commission licenses. This Subagreement, however, shall not be construed to preclude the Commonwealth from exercising any authority lawfully available to it under its own laws.

4. Efforts will be made by both parties to avoid duplicative enforcement action against an NRC licensee for the same inspection finding. However, this is not meant to preclude appropriate

complementary actions for the same inspection findings such as termination of a user permit by the Commonwealth and NRC enforcement action.

5. Nothing herein shall be deemed to authorize the Commonwealth to inspect or otherwise enter the premises of any licensee of the Commission which is a Federal instrumentality without the prior consent of the licensee.

6. Nothing herein shall be deemed to preclude or affect in any manner the authority of the Commission to perform any or all of the functions described herein.

7. Nothing herein is intended to restrict or expand the statutory authority of NRC or the Commonwealth or to affect or vary the terms of any agreement in effect under the authority of Section 274b. of the Atomic Energy Act of 1954, as amended.

8. Nothing herein shall be deemed to permit the Commonwealth to impose packaging or transport standards beyond those continued in Federal regulations.

9. The principal NRC contacts under this Subagreement shall be the Emergency Preparedness and Radiological Protection Branch Chief for reactor licensees and the Nuclear Materials Safety and Safeguards Branch Chief or materials licensees, both of whom are located in the Division of Radiation Safety and Safeguards, Region I, NRC. The principal Commonwealth contact shall be the Chief, Division of Nuclear Safety, Pennsylvania Bureau of Radiation Protection.

10. This Subagreement shall become effective upon signing by the Secretary, Department of Environmental Resources, Commonwealth of Pennsylvania, and the Regional Administrator, Region I, Nuclear Regulatory Commission and shall remain in effect permanently unless terminated by either party on thirty days prior written notice.

Dated this 17th day of August 1987 at King of Prussia, PA.

FOR THE NUCLEAR REGULATORY COMMISSION

_____

Regional Administrator

FOR THE COMMONWEALTH OF PENNSYLVANIA

_____

Secretary, Department of Environmental Resources

Dated: September 11, 1987

AGENCY REIMBURSEMENT AGREEMENT

Project Title: "National Orphan Radioactive Material Program"

This AGREEMENT is made and entered into by and between the Conference of Radiation Control Program Directors, Inc. (CRCPD), 205 Capital Avenue, Frankfort, KY 40601, and the Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, Pennsylvania, 17105-2063.

Recitals

Radioactive material becomes an "orphan" and a candidate for CRCPD financial assistance when:

- the possessor of such material cannot pay for the proper disposition of the material, or
- the individual or firm became the possessor of the material inadvertently, and should not be liable for such material. Examples of this circumstance are:
  - an individual or firm, not holding a radioactive material license, comes in possession of a radioactive material in the course of business, and
  - an individual or firm that is licensed to possess radioactive material, but comes in possession of radioactive material not authorized by the license, or
- abandoned radioactive material has been taken into custody, with no traceability to the owner.

Orphan radioactive material poses a potential public health threat. Such material for which appropriate action is not taken for disposition could, over a long period of storage by the possessor of such material, result in radiation exposure to individuals close to the material and/or result in the spread of radioactive contamination to the environment.

Purpose

The overall purpose of this agreement is to financially assist, through the cooperation of state radiation control programs, persons that do not have sufficient funding or who should not be held liable to fund the safe disposition of orphan radioactive material.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

Article I
Definitions

"Agreement" means this agreement.

"Agency" means the Pennsylvania Department of Environmental Protection.

"Company" means a person with an Agreement with the Agency to provide disposition of orphan radioactive material or to assist with that disposition.

"CRCPD" means the Conference of Radiation Control Program Directors, Inc.

03-2096

"Person" means any individual, corporation, partnership, firm, association, public or private institution, group, or Agency, but shall not include federal government agencies.

Article II
Objectives

The specific objective of this program is for CRCPD to financially assist in the disposition of orphan radioactive material.

Article III
Responsibilities of the Agency

3.1 Procurement Procedures

The Agency hereby assures and represents to CRCPD its authority to enter into an Agreement to accept reimbursement for those costs contemplated hereunder. The Agency will follow and apply their state procurement rules and regulations to assure that each Company is qualified, licensed as appropriate, and selected at a competitive cost. In the event that competitive bidding is not employed, the Agency shall notify the CRCPD that competitive bidding was not used for the service, with an explanation as to why such competitive bidding was not employed in the selection process to assure the lowest reasonable cost.

3.2 Request for Financial Assistance

The Agency will request a written commitment from CRCPD to reimburse the Agency for the cost(s) incurred in payment to vendors for the successful completion of the safe disposition of the orphan radioactive material. The letter of request shall contain the following:

- The radionuclides and radioactivities.
- The type and description of each device involved, if applicable.
- The manufacturer and serial number of each device, if applicable.
- The estimated cost of the proposal.
- An estimate of any other anticipated costs to carry out this Agreement.

3.3 Program Implementation

Upon receipt of a written commitment from the CRCPD to honor the request of the Agency, the Agency shall take the necessary steps for the disposition of the orphan radioactive material. Upon completion of such disposition, the Agency shall, by letter, notify the CRCPD that the orphan material(s) has been disposed of at a licensed disposal facility or transferred to another licensed recipient, and that such disposal or transfer has been in accordance with the Agency's rules and regulations. The Agency shall submit a single invoice, with supporting documentation reflecting payments to vendors, for the requested reimbursement.

Article IV
Responsibilities of the CRCPD

4.1 CRCPD will be acting solely as a cost reimbursement source, and will not be responsible or liable for the identification and/or relocation of orphan radioactive material, and shall not in any way arrange for, manage or direct the identification and/or relocation of such material.

4.2 The Agency agrees to ensure that its contractors reimburse, indemnify and hold CRCPD harmless from any and all claims, causes of action, damages, and other liabilities (administrative and/or civil), and costs incurred (including reasonable attorney's fees) that might be made against or imposed upon CRCPD as a result of the work performed by the contractor under its agreement with the agency.

4.3 CRCPD will only consider funding the disposition of the orphan material that has been identified and recommended for funding by the Agency.

4.4 Each Agreement for disposal, relocation or associated service shall be between the Agency and the Company providing the service. CRCPD shall not be a party to that Agreement.

4.5 Upon the request of the Agency, and at the sole discretion of the CRCPD, and provided the estimated costs are deemed reasonable, CRCPD will, pending the availability of funds, issue a commitment letter to the Agency committing to reimburse the Agency to provide the disposition service. The commitment letter will state a maximum amount that CRCPD will reimburse the Agency for the service identified. CRCPD shall not have any responsibility or liability for the relocation/disposition of the orphan material.

4.6 Upon the successful completion of the service, and upon receipt of the Agency's written notification that the orphan radioactive material has been disposed of, or transferred to a licensed recipient, in accordance with the Agency's rules and regulations, and upon receipt of an invoice from the Agency, CRCPD will reimburse the Agency, not to exceed the maximum amount identified in the CRCPD's letter of commitment.

4.7 CRCPD will maintain records in accordance with its record retention policy relating to all transactions performed under this project.

Article V
Term

5.1 This agreement will expire twenty-four (24) months from its effective date.

Article VI
Termination of Agreement

Either party may terminate this Agreement upon notification of the other party at least 30 days prior to such termination. Any funding commitment made by CRCPD prior to termination will be honored.

Nicholas A. DiPasquale, Deputy Secretary, ARRP
Pennsylvania Department of Environmental Protection

12/29/03
Date

Ronald G. Fraass
Executive Director
Conference of Radiation Control
Program Directors, Inc.

25 NOV 2003
Date

Approved as to form and legality:

Chief Counsel, PA DEP

Office of the PA Attorney General

PA BUREAU OF RADIATION PROTECTION - DUQUESNE LIGHT COMPANY

LETTER OF AGREEMENT

This letter states the agreement between the PA Department of Environmental Resources, Bureau of Radiation Protection (BRP) and Duquesne Light Company (DLC) for the deployment of field teams during actual emergencies, or drills and exercises at Beaver Valley Power Station.

BRP field teams will be deployed to pre-selected monitoring locations within the Beaver Valley EPZ to perform ambient radiation measurements, and air sampling and analysis for radioiodine.

DLC field teams will be dispatched to specific pre-designated survey locations to perform ambient radiation measurements and air sampling for radioactivity. Additional locations may be assigned during an emergency in response to special needs. Survey procedures require DLC field teams to monitor ambient radiation measurements while enroute between assigned monitoring locations.

The purpose of field measurements is to verify the adequacy of plume exposure pathway protective action recommendations based on plant conditions or dose assessments. Measurements of peak dose rate are obtained when the value of the measurements is deemed to justify the additional exposure of field team personnel. Due to local constraints associated with the river valley and/or the road network in the plant environs, peak measurements are likely unachievable. Duquesne Light agrees to exchange available field survey results with BRP once the Technical Support Center is activated.

Because DLC accepts the responsibility to obtain available peak measurements in the plume, it will not be necessary for these measurements to be repeated by BRP field teams.

Date: 1/14/94 By: William P Dornsife

William P. Dornsife, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources

Date: 1/24/94 By: George S Thomas

George S. Thomas, Vice-President
Nuclear Services
Duquesne Light Company

PA BUREAU OF RADIATION PROTECTION – EXELON NUCLEAR

LETTER OF AGREEMENT

The purpose of this letter is to state the agreement between the PA Department of Environmental Protection, Bureau of Radiation Protection (BRP) and Exelon Nuclear for the deployment of field teams during actual emergencies, or drills and exercises at Limerick Generating Station, Peach Bottom Atomic Power Station, and Three Mile Island Station.

BRP field teams will be directed to monitoring locations within the Limerick, Peach Bottom or TMI EPZ to perform ambient radiation measurements, and air sampling and analysis for radioiodine. Exelon field teams will operate on the free-ranging basis to obtain peak measurements in the plume. Information on field team measurements will be exchanged between Exelon and BRP.

Because Exelon accepts the responsibility to obtain peak measurements in the plume, it will not be necessary for these measurements to be repeated by BRP field teams.

Date: 10-16-01 By: _____

David J. Allard, CHP, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Protection

Date: 10/19/01 By: _____

Donald R. Tailleart, Manager
Emergency Preparedness
Mid Atlantic Regional Operating Group
Exelon Nuclear

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville MD 20852–2738; or

2. By mail, telegram or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d)—that is, filed within 30 days of the date of this notice.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Kerr-McGee Corporation, Kerr-McGee Technical Center, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73125; and

2. The NRC staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Arlington, Texas, this 3rd day of July, 2001.

For the Nuclear Regulatory Commission.

D. Blair Spitzberg,

Chief, Fuel Cycle and Decommissioning Branch, Division of Nuclear Materials Safety, Region IV.

[FR Doc. 01–17451 Filed 7–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 AND 50–362]

Southern California Edison Company, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 180 and 171 to Facility Operating Licenses Nos. NPF–10 and NPF–15, Southern California Edison Company (SCE or the licensee), which revised the Operating License and Technical Specifications for operation of the San Onofre Nuclear Generating Station (SONGS), Units Nos. 2 and 3, located in San Diego County, California. The amendments are effective as of the date of issuance.

The amendments modified the Technical Specifications and Operating License for SONGS Units 2 and 3, to allow SCE to increase the maximum reactor core power level for each unit from 3390 megawatts thermal (MWt) to 3438 MWt, which is an increase of 1.42 percent of rated core thermal power for SONGS Units 2 and 3.

The proposed action is in accordance with the licensee's application for amendment dated April 3, 2001, and supplemented by letters dated April 23, May 11, May 25, May 31, and June 25, 2001.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on April 18, 2001 (66 FR 19996). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendments will not have a significant effect on the quality of the human environment (66 FR 32964, and corrected in 66 FR 33982).

For further details with respect to the action see (1) the application for amendment dated April 3, 2001, (and supplemented by letters dated April 23, May 11, May 25, May 31, and June 25, 2001), (2) Amendments No. 180 to License No. NPF–10, and No. 171 to License No. NPF–15, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 6th day of July 2001.

For the Nuclear Regulatory Commission.

Joseph E. Donoghue,

Senior Project Manager, Project Directorate IV, Section 2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–17449 Filed 7–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and The U.S. Army Corps of Engineers for Coordination of Cleanup & Decommissioning of the Formerly Utilized Sites Remedial Action Program (FUSRAP) Sites With NRC-Licensed Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to advise the Public of the issuance of a Memorandum of Understanding between the U.S. Army Corps of Engineers (USACE) and the U.S. Nuclear Regulatory Commission (NRC). The purpose of the MOU is to avoid unnecessary duplication of regulatory requirements that may hinder USACE in its remediation of sites under the Comprehensive Environmental Response, Compensation, and Liability

Act (CERCLA). Under the MOU, NRC could exercise its discretion to suspend NRC-issued licenses, or portions thereof, at FUSRAP sites. The MOU addresses unrestricted releases under 10 CFR 20.1402, and the MOU will ensure that the criteria of the License Termination Rule or a more stringent requirement will be met. The MOU will enhance interagency dialogue and will make the agencies activities and decisions concerning site decommissioning and cleanup more effective and efficient. The MOU will assist the agencies to reduce unnecessary burden on stakeholders and avoid duplication of regulatory requirements and effort by setting out cooperative conditions, consistent with the protection of the public health and safety.

EFFECTIVE DATE: July 5, 2001.

ADDRESSES: Copies of all NRC documents are available for public inspection, and copying for a fee, in the NRC Public Document Room, 11455 Rockville Pike (Mail Stop: 01F13), Rockville, MD. The NRC Public Document Room is open from 7:45 a.m. to 4:15 p.m., Monday through Friday (except Federal holidays). Telephone service is provided from 8:30 a.m. to 4:15 p.m., at (301) 415–4737 or toll-free at 1–800–397–4209 or e-mail: pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Amir Kouhestani, NMSS Mail Stop T7-F27, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–0023; Fax (301) 415–5398; e-mail: *aak@nrc.gov.*

Dated at Rockville, Maryland, this 5th Day of July, 2001.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the U.S. Army Corps of Engineers for Coordination on Cleanup & Decommissioning of the Formerly Utilized Sites Remedial Action Program (FUSRAP) Sites With NRC-Licensed Facilities

Article I—Purpose and Authority

A. This Memorandum of Understanding (MOU) is entered into by and between the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers (USACE), ("The Parties") for the purpose of minimizing dual regulation and duplication of regulatory requirements at FUSRAP sites with NRC-licensed facilities. For activities where a potential for dual regulation could exist, the two agencies agree to cooperate, share information, and/or coordinate activities in their respective programs. This MOU applies to USACE response actions meeting the decommissioning requirements of 10 CFR 20.1402, "Radiological Criteria for Unrestricted Use." USACE Response actions meeting the restricted release requirements of 10 CFR 20.1403, are outside the scope of this MOU.

B. The NRC has the statutory responsibility for the protection of the public health and safety related to the possession and use of source, byproduct, and special nuclear material under the Atomic Energy Act of 1954, as amended (Public Law 83–703, 68 Stat. 919). This includes ensuring the decommissioning of the nuclear facilities that it licenses. The Commission's licenses and regulations set out conditions to provide for the protection of the public health and safety and the environment. To terminate such licenses, NRC must ensure that licensees meet the Commission's decommissioning requirements including the provisions of 10 CFR 20 subpart E—Radiation Criteria for License Termination.

C. USACE is administering and executing cleanup at FUSRAP sites pursuant to a March 1999, MOU with the Department of Energy and the provisions of the Energy and Water Development Appropriations Acts for Fiscal Years 1998–2001 (Public Laws 105–62, 105–245, 106–60 and 106–377, respectively). Section 611 of Pub. L. 106–60 requires the USACE to remediate FUSRAP sites, in accordance with, and subject to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR, chapter 1, part 300. Section 611 also confers lead agency status on the USACE for remedy selection. USACE, as provided for in section 121(e) of CERCLA and 40 CFR 300.400(e), is not required to obtain a NRC license for its on-site remediation activities conducted under its CERCLA authority. However, if a response action is required, CERCLA requires the remedy to be protective of human health and the environment.

D. This MOU describes how the two agencies will work together to meet their existing statutory responsibilities. It neither creates nor removes any agency responsibility or authority. This MOU is not an admission of responsibility or liability on the part of the United States with regard to any hazardous substances or operations at a licensed site; does not relieve a license holder of its responsibilities and liabilities under any law; and does not create rights in any third party against USACE, NRC, or the United States.

E. CERCLA obligations imposed on the USACE may duplicate the obligations established by NRC regulations and licenses, resulting in duplicate regulatory requirements at NRC-licensed FUSRAP sites that will impose an added regulatory burden without an added safety benefit. To avoid unnecessary duplication of regulatory requirements and effort, this MOU sets out the conditions, consistent with the protection of the public health and safety, that will permit NRC to exercise its discretion to suspend NRC issued licenses at FUSRAP sites so that NRC requirements do not hinder USACE in its remediation of sites under CERCLA.

F. Each agency will bear its own costs for actions consistent with this MOU, but this does not preclude each agency from recovering costs, based on it's statutory authority, from the licensee or responsible parties.

G. *Use of Terms.*

1. The term "response action" means response actions as defined in CERCLA at 42 U.S.C. 9601(25) including removal and remedial actions and related CERCLA enforcement actions.

2. The term "closeout" means that all construction activities and reports are complete, the cleanup goals specified in the final ROD are achieved, coordination with regulatory agencies, and publication of notice in accordance with the provisions of CERCLA, the National Contingency Plan (NCP) and USACE procedures have been completed.

3. The term "completed response action" means that all construction activities are complete; for components other than ground or surface water, the cleanup goals specified in the ROD are achieved; any ground and/or surface water restoration remedies are operating as designed; and a remedial or removal action report is complete.

4. The term "FUSRAP site" means any geographic area certified by the Department of Energy (DOE) to have been used for activities in support of the Nation's early atomic energy program, and determined by USACE to require a response action pursuant to CERCLA or placed into the FUSRAP program pursuant to Congressional direction. A FUSRAP site may overlap all, or any part, of an NRC-licensed site.

5. The term "possession" means physical control of the property or

materials for purposes of environmental restoration and protection of the health and safety of the public.

Possession does not require ownership nor is USACE assuming responsibility for the operations and activities of the NRC licensee or owner of the materials. The USACE will take control only of the FUSRAP-related materials on the licensed site as provided in paragraph III. B.. Non-FUSRAP materials, unless the responsibility of the USACE under CERCLA, remain under control of the licensee.

6. The term "licensed site" means that a NRC license has been issued, and remains active or suspended, to possess and use material licensed under the Atomic Energy Act at the site.

Article II—Intragency Communication

To provide for consistent and effective communication between NRC and USACE, each agency shall appoint a Principal Representative to serve as its headquarters-level point of contact on matters relating to this MOU. Written notices required by the MOU shall be sent to the USACE's and NRC's Principal representatives. The Principal Representatives are:

Chief, Decommissioning Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Chief, Environmental Division, Directorate of Military Programs, U.S. Army Corps of Engineers 441 G Street, NW., Washington, DC 20314–1000

Article III—Agreement

A. At the request of USACE, NRC will initiate action for the suspension of the NRC license or portions of the license for a FUSRAP site to be remediated by USACE under CERCLA authority contingent upon USACE notifying the NRC in writing that:

(1) USACE is prepared to take physical possession of all or part of the licensed site for purposes of control of radiation from FUSRAP materials subject to NRC jurisdiction and be responsible for the protection of the public health and safety from those materials consistent with 10 CFR part 20 "Standards For Protection Against Radiation" and other requirements consistent with CERCLA;

(2) USACE will conduct a response action at the licensed site under its FUSRAP and CERCLA authority, with regard to FUSRAP materials subject to NRC jurisdiction, to meet at least the standards required under 10 CFR 20.1402, and

(3) USACE has no objection to, and will facilitate, NRC observing USACE in-process remediation activities.

Such written notification to the NRC should be provided after the final Record of Decision (ROD), or its equivalent, is issued, if one is prepared, and at least 90 calendar days prior to USACE's expected date of initiation of a site response action so that the NRC can initiate the process for suspension of the license. Prior to submitting the notification, USACE will make a reasonable attempt to obtain the licensee's consent to USACE's proposed action and document the results of this effort in the notification.

B. Depending on the extent of FUSRAP materials and their separability from other hazardous substances on the site, USACE's responsibility may encompass the entire site, portions of the site, all the radioactive materials or just the FUSRAP and commingled materials, as specified in the final ROD. USACE will notify NRC of its findings regarding the type and extent of hazardous substance on a licensed site prior to requesting license suspension. Prior to USACE submitting a request for license suspension on a site where the NRC license suspension will not encompass the entire site, USACE and NRC will meet to agree on the scope of the suspension. The licensee may be involved in these discussions.

C. NRC licensing action for the suspension of the license, or portions of the license, will be effective, subject to:

(1) Written notification from USACE to the NRC that USACE has taken physical possession of the licensed site for purposes of radiation control and is now responsible for the protection of the public health and safety consistent with the requirements of 10 CFR Part 20 and

(2) The effectiveness rules of the NRC hearing process pursuant to 10 CFR Part 2, "Rules Of Practice For Domestic Licensing Proceedings And Issuance Of Orders."

Prior to license suspension, the licensee retains responsibility for meeting the Commission's requirements for protecting the environment and the health and safety of the public.

D. NRC may observe, as it deems warranted, remediation activities being conducted by USACE. For the purpose of scheduling in-process activity observation, USACE shall provide the NRC with the schedule of major activities, regular progress reports on sites' activities, studies, and/or remediation, and planned work stoppages.

E. The NRC shall keep USACE apprised in writing of questions, comments or concerns arising from any NRC observations of USACE response action activities and shall immediately notify the USACE of any conditions having a potential to adversely affect the environment or the health and safety of the public.

F. USACE shall be responsible for the protection of the health and safety of the public consistent with the requirements of CERCLA and 10 CFR part 20 during the time it is in physical possession of the licensed site or portions thereof which are suspended in accordance with the agreement at the time of license suspension.

G. USACE shall remediate the licensed site to meet at least the requirements of CERCLA and of 10 CFR 20.1402. The Applicable or Relevant and Appropriate Requirement (ARAR) in the final executed ROD will include 10 CFR 20.1402 or a more stringent requirement.

H. USACE shall manage all activities and prepare program estimates, funding requirements, and budget justifications for all FUSRAP activities for which it has been given responsibility as provided by the annual Energy and Water Development Appropriations Act, and the terms of this MOU. USACE shall request FUSRAP appropriations in the annual Energy and Water Development Appropriations Act for these activities. USACE shall respond to inquiries from public officials, Congressional interests, stakeholders, and members of the press regarding USACE activities under FUSRAP.

I. USACE shall consult with NRC if USACE surveys, investigations, and data analyses are inconsistent with the NRC description of the potential radioactive and/or chemical contaminants and processes involved in the historical activities at a licensed site at which the USACE is conducting a FUSRAP investigation or response action under CERCLA. USACE shall immediately notify NRC if, as a result of its Preliminary Assessments, Remedial Investigations, or other surveys prior to production of a ROD, conditions warrant a time-critical removal action, and the agencies will identify an appropriate response that protects the environment and the health and safety of the public.

J. USACE shall notify NRC in writing if there is a need for a radiological response action under FUSRAP on any property not covered by the license suspended or to be suspended (whether or not owned by the licensee) as a result of radioactive contamination from a licensed site undergoing a FUSRAP investigation or response action.

K. Following completion of the response action at a FUSRAP site with an NRC-licensed facility, USACE shall provide the NRC with a copy of the CERCLA Administrative Record for the NRC historical public record. At the time of close out USACE will provide NRC with copies of any additional information that has been placed in the CERCLA Administrative Record.

L. USACE shall notify the NRC in writing if there are NRC-licensed facilities on FUSRAP sites that may require coordination with the NRC in addition to the four known sites: Maywood Site (Stepan), Maywood, NJ; CE-Windsor Site, Windsor, CT; St. Louis Downtown Site (Mallinkrodt), St. Louis, MO; and the Shallow Land Disposal Area, Parks Township, PA.

M. USACE shall keep NRC apprised in writing of progress toward completion of Preliminary Assessments and/or Site Investigations at licensed sites to determine:

(1) Whether FUSRAP and commingled materials at the site are a threat or potential threat to public health and safety or the environment as a result of the licensed materials there; and

(2) Whether the release requires a response under CERCLA.

N. The NRC will reinstate the license or portions of the license put into suspension due to USACE's remediation if USACE:

(1) Is no longer controlling the FUSRAP-related portion of the licensed site for radiation protection purposes,

(2) Is no longer proceeding with a response action at the licensed site under CERCLA, or

(3) Has otherwise completed its response action.

At least 90 calendar days prior to USACE terminating its physical possession of the licensed site for purpose of control of radiation, USACE will notify the NRC in writing so that the NRC can initiate the process for reinstating the license. USACE shall promptly notify NRC in writing if annual funding for the FUSRAP response action at an NRC-licensed site does not appear to be sufficient to complete the response action.

O. NRC shall be responsible for appropriate regulatory action, including requiring any further decommissioning if necessary, following license reinstatement.

P. As may be necessary, NRC and USACE will develop working procedures to implement this MOU. Such procedures will be approved by the Principal Representatives.

Article IV—Further Assistance

NRC and USACE shall provide such information as may be reasonably necessary or required, which are not inconsistent with applicable laws and regulations, and the provisions of this MOU, in order to give full effect to this MOU and to carry out its intent.

Article V—Dispute Resolution

Every effort will be made to resolve issues between NRC and USACE by the staff directly involved in the activities at issue, through consultation and communication. If a mutually acceptable resolution cannot be reached, the dispute will be elevated to successively higher levels of management up to the signers of this MOU. If resolution cannot be reached, NRC may in its discretion reinstate the licenses involved after providing a written 30 calendar day advance notice to the USACE. Upon license reinstatement, USACE's obligations under this MOU for the particular site shall cease and the licensee becomes responsible for control of radioactive materials on the licensed site, as well as protecting the environment and the health and safety of the public, subject to NRC regulation and other applicable law. Upon determining that the licensee has established control of the site and hazardous substances, USACE will relinquish possession of the site and hazardous substances, will cease remediation activities, and will vacate the site. License reinstatement constitutes notice of the shift in responsibility for control of the site and its hazardous substances.

Article VI—Amendment and Termination

This MOU may be modified or amended in writing by the mutual agreement of the parties. Either party may terminate the MOU by providing written notice to the other party. The termination shall be effective 60 calendar days following notice, unless the parties agree to a later date. Termination of this MOU does not relieve USACE of its statutory responsibility for protecting the environment or the health and safety of the public until NRC has reinstated the license and the licensee has taken control of the site and its hazardous substances.

Article VII—Effective Date

This MOU shall become effective when signed by authorized officials of NRC and USACE.

Dated: February 2, 2001.

U.S. Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission.

Dated: July 5, 2001.

U.S. Army Corps of Engineers.

Hans A. Van Winkle,

Major General, U.S. Army, Director, Civil Works, U.S. Army Corps of Engineers.

[FR Doc. 01–17452 Filed 7–11–01; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency has prepared an information collection request for OMB review and approval and has requested published review and comment on the submission. OPIC published its first **Federal Register** Notice on this information collection request on May 2, 2001, in 66 FR 22054, at which time a 60-calendar day comment period was announced. This comment period ended July 2, 2001. No comments were received in response to this Notice.

This information collection submission has now been submitted to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received on or before August 13, 2001.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: *OPIC Agency Submitting Officer:* Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8563.

OMB Reviewer: David Rostker, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket

COOPERATIVE AGREEMENT
BETWEEN
THE UNITED STATES DEPARTMENT OF THE ARMY
AND
THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

THIS COOPERATIVE AGREEMENT ("Agreement") is entered into this 13 Day of Nov, 2002, by and between the UNITED STATES DEPARTMENT OF THE ARMY ("Government"), represented by the Grants Officer for the United States Army Engineer Division, Great Lakes and Ohio River, and the PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION ("Pennsylvania DEP"), represented by the Deputy Secretary for Air, Land Recycling and Waste Management, and Radiation Protection.

INTRODUCTION:

In 1974, the United States Department of Energy ("DOE") initiated the Formerly Utilized Sites Remedial Action Program ("FUSRAP"). The purpose of the FUSRAP is to clean up contaminated sites throughout the United States where work was performed as part of the United States' early atomic energy program. The Energy and Water Development Appropriations Act of 1998 (Public Law 105-62) transferred responsibility for the administration and execution of the FUSRAP to the United States Army Corps of Engineers ("USACE").

The Government is authorized to enter into a cooperative agreement with the Pennsylvania DEP for activities associated with remediation at FUSRAP sites (Section 3 of the Rivers and Harbors Appropriations Act of August 11, 1888, 33 U.S.C. section 622; 31 U.S.C. sections 6304-6305).

Pennsylvania DEP administers the laws of Pennsylvania relating to air and water quality, hazardous, solid and infectious wastes, hazardous substances, construction and demolition debris, sewage, industrial and other wastes, radioactive materials, sources of radiation and low level radioactive waste and the protection of human health and the environment, under Purdon's Statutes 35 P.S. Sections 4001 et seq, 6018.101 et seq, 6019.1 et seq, 6020.101 et seq, 6021.101 et seq, 7110.101 et seq, and 7130.101 et seq. Pennsylvania DEP is authorized to enter into this Agreement pursuant to 35 P.S. § 7110.301(c)(10)(11).

02-2346

By entering into this Agreement, Pennsylvania DEP agrees to provide reimbursable services as described under Article I of this Agreement. The Government agrees to reimburse Pennsylvania DEP for reimbursable services provided by Pennsylvania DEP in accordance with the terms and conditions of this Agreement.

ARTICLE I
REIMBURSABLE STATE SERVICES

A. Coverage

This Agreement provides the terms and conditions for payment of costs associated with the provision of services by Pennsylvania DEP to the Government's FUSRAP program within the Buffalo and Pittsburgh Districts of the USACE. This Agreement only covers Pennsylvania DEP activities directly related to the investigation and remediation of FUSRAP material at the current FUSRAP sites in the Commonwealth of Pennsylvania, as well as any other sites and their vicinity properties in the Commonwealth of Pennsylvania designated as FUSRAP sites in the future by the Government. This initial Agreement shall be effective from the date as set forth above until December 31, 2002, with the option to extend annually on a calendar year basis, or until this Agreement is otherwise terminated.

B. Reimbursable Services

Services that qualify for reimbursement under this Agreement include the following types of assistance provided by the Commonwealth of Pennsylvania (Pennsylvania DEP) commencing at the time that the Government, represented by USACE, becomes responsible for the sampling and assessment of a site in the Commonwealth and continuing through response actions and operation and maintenance, as well as any other cleanup activities that are funded by FUSRAP appropriations. In the performance of the activities described herein, Pennsylvania DEP shall provide personnel who are suitably trained, experienced, and possess the necessary skills and capabilities to perform the duties assigned to them, including training, experience, and capability in hazardous, toxic and radiological waste management. Pennsylvania DEP and the Government will consult with each other regarding the priorities to be assigned to the services to be provided by Pennsylvania DEP and funded by the Government under this Agreement.

1. Timely technical review, comments and recommendations shall be performed for all documents or data in accordance with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. sections 9601-9675, the Atomic Energy Act of 1954, as amended (Public Law 83-703, 68 Stat. 919), the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300, and applicable Pennsylvania statutes and regulations. The universe of documents includes, but is not limited to:

a. Remedial Investigation/Feasibility Study ("RI/FS").

b. Proposed Plan.

c. Record of Decision ("ROD").

d. Work Plan - Review the plan and make comments, e.g., relative to data gaps or further investigation needs, if applicable.

e. Designs - Review any preliminary or intermediate design plans to ensure that technical requirements of the project have been addressed and to determine if the final design will provide an operable and usable remediation project.

f. Operation and Maintenance Plan.

g. Quality Assurance Project Plan.

h. Site Safety Plan.

i. Removal assessment.

j. Removal draft and final design.

k. Removal sampling and analysis plans.

l. Removal decision documents.

m. Community Relations Plans.

n. Waste Disposal Plans and proposed disposal facility licenses/permits.

o. Characterization Reports.

p. Final Status Surveys.

q. Risk Assessments.

The Government will provide Pennsylvania DEP with advance notice of all document review requirements by: furnishing a copy of the projected schedule for each calendar year no later than May 15th of the previous calendar year; providing updates if the schedule changes; and including Pennsylvania DEP in discussions regarding the initial drafting of documents supporting or proposing site cleanup criteria. Except for documents supporting or proposing site cleanup criteria, Pennsylvania DEP will be given thirty (30) calendar days from document receipt to provide comments, unless that time is shortened or lengthened by mutual agreement of the parties. Pennsylvania DEP will be given up to sixty (60) calendar days from document receipt to review documents written to support or propose numeric criteria to be applied in site review and comment. The Government will work closely with Pennsylvania DEP through partnering meetings and other communications to give Pennsylvania DEP both the information and support necessary to maintain the schedule.

2. Identification and explanation of Pennsylvania's applicable or relevant and appropriate requirements ("ARARs ") and, as appropriate, other pertinent advisories, criteria, or guidance to be considered ("TBCs"). Pennsylvania's ARARs and TBCs must be identified in a timely manner in accordance with the NCP.

3. Participation in any of the following meetings regarding Government response actions:

a. Preconstruction conferences

b. Prefinal inspections

c. Final inspections

d. Value engineering studies

e. Partnering meetings

The Government will provide Pennsylvania DEP a minimum of five (5) business days advance notice of meetings to be held in the Commonwealth of Pennsylvania and a minimum of thirty (30) calendar days advance notice for meetings to be held outside the Commonwealth of Pennsylvania.

4. Participation in activities designed to insure that the Government's response activities shall be conducted in compliance with CERCLA and the NCP.

5. Oversight of the Government's site characterization, sampling and monitoring; waste packaging, transportation and in-state disposal or reuse; and site remediation.

6. Preparation of proposals and administration of this Agreement, including the provisions for reimbursement of Pennsylvania DEP for services associated with the oversight of the FUSRAP activities described herein.

7. Participation with the Government and other parties in the conduct of public education and community relations. The Government will provide Pennsylvania DEP with at least fifteen (15) business days advance notice of such public meetings or activities. Such public education and community relations activities include:

a. Reviewing mailing lists of interested parties for FUSRAP sites and up-to-date fact sheets for distribution to interested parties. Mailing lists will include parties identified as a result of initial contacts, in addition to legislators, congressional representatives, local officials, environmental groups, and other interested parties.

b. Communicating Pennsylvania DEP's position for community updates during the project period, via newsletters, public meetings, press releases, or other media, as determined by the Community Relations Plan, and providing responses to inquiries regarding FUSRAP sites when requested.

c. Assisting the Government in responding to comments received from the public during the public comment period pertaining to site issues within the knowledge and purview of Pennsylvania DEP.

C. Non-reimbursable Services

1. The Government shall not reimburse Pennsylvania DEP under this Agreement for the expense of non-site-specific training programs, professional seminars, or conferences (i.e., programs, conferences or seminars that are not directly related to FUSRAP site activities) unless specifically approved in advance by the Government.

2. The Government shall not reimburse Pennsylvania DEP under this Agreement for formal enforcement activities, i.e., notices of violation, administrative enforcement orders and litigation by Pennsylvania DEP to seek sanctions against the Government for violations of state laws or regulations.

3. No funds provided hereunder shall be used to support Pennsylvania DEP information gathering or activities for FUSRAP sites outside (the State) of Pennsylvania. However, subject to prior approval of the Government, Pennsylvania DEP's review of sites selected by the Government for the disposal of FUSRAP material which was generated within the Commonwealth and which is subject to this Agreement, shall be otherwise reimbursable in accordance with the terms and conditions of this Agreement.

ARTICLE II
REIMBURSEMENT OF STATE COSTS

A. Reimbursement by the Government

1. Subject to the appropriation of funds by the Congress of the United States and the receipt of such funds, the Government shall reimburse Pennsylvania DEP up to the total amount identified in advance by Pennsylvania DEP as their estimated expenses for appropriate activities of Pennsylvania DEP for the initial period covered by this Agreement, and continuing until termination of this Agreement, in support of the Government's FUSRAP work, as described in Article I, provided the support is reasonable, allowable, and allocable to the appropriate sites. The costs shall include only items of expense that are properly chargeable, including but not limited to labor, materials, transportation, insurance, overhead charges, supervision, surveys, sample collection and analysis. All original time cards or payrolls, material records, and accounts for all charges and expenditures by Pennsylvania DEP shall be available at all reasonable times, to allow the Government to check and audit the records of Pennsylvania DEP. So far as practicable, separate records shall be maintained by Pennsylvania DEP on all items and accounts that will constitute the basis for Pennsylvania DEP's claimed costs.

2. During the fiscal year, Pennsylvania DEP shall provide to the Government quarterly written reports, by the last day of the month following the end of the quarter, that fairly and accurately summarize Pennsylvania DEP's activities with regard to the services provided under this Agreement, including an estimate of costs incurred.

3. A quarterly reimbursement request for each quarter of the calendar year will be provided to the Government by Pennsylvania DEP by the 15th day following each quarter (i.e., April 15, July 15, October 15, and January 15). The requests will be submitted on Standard Forms 269A and 270. The reports on costs incurred shall identify actual costs directly related to each FUSRAP site, plus the share of joint costs allocated to each site.

4. Payment of eligible Pennsylvania DEP costs for services provided under this Agreement must comply with all applicable Federal procurement and auditing requirements. Procedures for Pennsylvania DEP reimbursement through cooperative agreements are as described in Office of Management and Budget ("OMB") Circulars A-102, A-87, A-133, and Article V of this Agreement. As Pennsylvania DEP submits requests for reimbursement to the Government on a quarterly basis, the Government shall process the requests and transfer funds in accordance with OMB Circular A-102. Allowable costs shall be determined in accordance with this Agreement.

B. Estimates of Reimbursable Costs

1. The Government shall provide Pennsylvania DEP with a project schedule for the upcoming calendar year by May 15 of the prior year for use by Pennsylvania DEP in drafting its reimbursement request.

2. Pennsylvania DEP shall provide to the Government its estimate of reimbursable costs anticipated to be incurred by Pennsylvania DEP for the upcoming calendar year on or before September 30th of the current calendar year. After a review of the estimate and finding it to be appropriate for the expected amount of work planned by the Government for the next calendar year, the Grants Officer shall formally extend the agreement for the following calendar year. The formal extension shall be provided to the Pennsylvania DEP in writing by December 1st of the calendar year preceding the one that is the subject of the estimate. The Government shall not be responsible for the payment of any expenses in excess of the yearly estimate unless subsequent modifications are submitted by Pennsylvania DEP and agreed to by the Government Grants Officer. The estimate for Calendar Year 2002 is at Appendix A; this estimate will be updated annually.

3. Pennsylvania DEP may submit modifications to estimates in writing to: District Engineer, U.S. Army Engineer District, Pittsburgh; Attn: CELRP-PM (FUSRAP Project Manager) 1809 Wm. S. Moorhead Federal Building,; 1000 Liberty Avenue; Pittsburgh, PA 15222-4186. All modifications must be approved in writing by the Government's Grants Officer in advance of payment.

C. Other Agreements

This Agreement is the mechanism for payment of the costs incurred by Pennsylvania DEP in providing the services described in Article I. Full payment of Pennsylvania DEP costs pursuant to this Agreement constitutes final settlement of any claims the Commonwealth may have for performance of the services described in Article I for the applicable quarterly request for reimbursement. Any funds disbursed to Pennsylvania DEP by the Government under the terms of this Agreement shall serve to reimburse Pennsylvania DEP for FUSRAP activities only, and any equipment or machinery acquired by Pennsylvania DEP using said FUSRAP funds shall not be used for any other project, without the express approval of the Government.

D. Government Funding

1. The Government will seek timely and sufficient funding through the Government budgetary process to perform its FUSRAP responsibilities and meet its commitments under this

Agreement, including reimbursement of Pennsylvania DEP for the services described in Article I, subject to the conditions and limitations set forth in this Agreement.

2. If it appears that sufficient funds will not be available to the Government to reimburse Pennsylvania DEP for the FUSRAP support planned for a coming calendar year, the Government will so inform Pennsylvania DEP prior to the beginning of that calendar year. The Government and Pennsylvania DEP will meet to discuss a revised list of FUSRAP support activities, with a revised cost estimate, for that calendar year. If the Government and Pennsylvania DEP agree upon a revised list of FUSRAP support activities and a revised cost estimate, the revised list and revised cost estimate shall be signed by both parties and become a modification to this Agreement, in accordance with Article VII of this Agreement, effective for only the applicable calendar year.

E. Anti-Deficiency Act

Nothing in this Agreement shall be interpreted to require any obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. section 1341).

ARTICLE III
INTERAGENCY COMMUNICATIONS

A. Position of the Commonwealth of Pennsylvania

The Government shall be entitled to rely on the guidance provided and positions communicated by the Pennsylvania DEP employees named in an "authorized persons" list. That list shall be provided to the Government by Pennsylvania DEP within thirty (30) calendar days after the effective date of this Agreement, and shall be updated as necessary. Pennsylvania DEP will provide the Government copies of any Pennsylvania DEP positions regarding particular matters related to this Agreement that are provided to third parties.

B. Press Releases

Pennsylvania DEP and the Government will provide each other with at least two (2) business days advance notification of any press releases concerning activities covered by this Agreement.

C. Points of Contact

1. Pennsylvania DEP's general point of contact for administration of this Agreement and communication concerning technical issues and activities under this Agreement shall be David Allard, Director, Bureau of Radiation Protection, Pennsylvania DEP, P.O. Box 8469, Harrisburg, PA, 17105-8469, 717-787-2480. Pennsylvania DEP's site specific point of contact for technical issues under this Agreement shall be Robert Maiers, Chief-Decommissioning Section, Bureau of Radiation Protection, Pennsylvania DEP, P.O. Box 8469, Harrisburg, PA, 17105-8469, 717-783-8979.

2. The Government's general point of contact for administration of this Agreement and communication concerning issues and activities under this Agreement shall be James Karsten, FUSRAP Program Manager, USAED, Buffalo, 1776 Niagara Street, Buffalo, New York, 14207;

(716) 879-4245. The Government's site-specific point of contact for technical issues under this Agreement shall be Dilip Kothari, Project Manager, Engineering Division, Pittsburgh District, U.S.Army Corps of Engineers, 1000 Liberty Avenue, Pittsburgh, Pa. 15222; (412)-395-7314.

ARTICLE IV
DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation.

A. The procedures of this Article shall apply to any dispute arising under this Agreement, or any activity, action, function, decision or responsibility referenced in this Agreement.

B. Following the occurrence of circumstances giving rise to a dispute, the parties shall make reasonable efforts to informally resolve the dispute. If resolution cannot be achieved informally within thirty (30) calendar days, either party may elevate the dispute for formal resolution pursuant to paragraph C of this Article.

C. Within thirty (30) calendar days following the occurrence of circumstances giving rise to a dispute, either Party may initiate formal dispute resolution under this paragraph. To initiate formal dispute resolution, a party shall submit to the other party a written notification of the dispute. The written notification of the dispute shall specify:

1. the nature of the dispute;

2. the activity, action, function, decision or responsibility affected by the dispute;

3. the disputing party's position with respect to the dispute; and

4. the information the disputing party is relying on to support its position.

D. Within fifteen (15) calendar days of written notification of a dispute, the points of contact and designated representatives of the parties shall meet and attempt to resolve the dispute.

E. If the points of contact and designated representatives of the parties are unable to resolve the dispute within fifteen (15) calendar days of receipt of the written notification of dispute, either Party may submit a written statement of the dispute to the signatories of this Agreement or their successors in office. Within thirty (30) calendar days of submittal of the written statement of dispute, or as soon thereafter as practicable, the signatories of this Agreement (or appropriate designees) or their successors in office (or appropriate designees) shall meet in order to resolve the dispute.

F. The parties may agree to suspend the activity, action, function, decision or responsibility affected by the circumstances that gave rise to the dispute until the dispute is resolved. This dispute resolution process may be used to resolve site-specific disputes, provided this dispute resolution

process does not conflict with a dispute resolution process specified in an administrative order, judicial consent decree or other legally binding document governing activities at a particular facility or site.

G. The final resolution of any dispute elevated for formal resolution pursuant to paragraph C. of this Article shall be memorialized in writing and acknowledged by the signatures of the points of contact for each party. The parties shall incorporate and implement such resolution as part of the activity, action, function, decision or responsibility affected by the circumstances that gave rise to the dispute. Nothing in this agreement shall operate to preclude either party from pursuing any other remedy at law or equity to ensure faithful performance in accordance with this agreement.

ARTICLE V
RECORDS AND REPORTS

A. Financial Management Systems

In order to facilitate and to accommodate the terms and conditions of Article II, not later than sixty (60) calendar days after the effective date of this Agreement, the Government shall review Pennsylvania DEP's current procedures for keeping books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to this Agreement. The Government shall consult with Pennsylvania DEP regarding whether Pennsylvania DEP's current administrative procedures and financial management systems meet, as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Part 33.20. The Government and Pennsylvania DEP shall maintain such books, records, documents, and other evidence in accordance with these procedures and for a minimum of three years after the termination of this Agreement and resolution of all relevant claims arising therefrom. To the extent permitted under applicable Federal laws and regulations, the Government and Pennsylvania DEP shall each allow the other to inspect such books, documents, records, and other evidence at reasonable times and places as the parties shall mutually agree upon.

B. Single Audit Act

Pursuant to 32 C.F.R. section 33.26, Pennsylvania DEP is responsible for complying with the Single Audit Act of 1984, 31 U.S.C. sections 7501-7507, as implemented by OMB Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of Pennsylvania DEP and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to Pennsylvania DEP and independent auditors any information necessary to enable an audit of Pennsylvania DEP's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133.

C. Other Audits

In accordance with 31 U.S.C. section 7503, the Government may conduct audits in addition to any audit that Pennsylvania DEP is required to conduct under the Single Audit Act. Any such

Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations.

ARTICLE VI
FEDERAL AND STATE ANTI-DISCRIMINATION LAWS

In the exercise of their respective rights and obligations under this Agreement, Pennsylvania DEP and the Government agree to comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S. C. section 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulations 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

ARTICLE VII
MODIFICATION

The terms of this Agreement may be modified at any time by mutual agreement of the parties. If a party requests the Agreement to be modified but the other party does not concur, a party may invoke the dispute resolution process in Article IV. If no resolution is reached after the matter is referred to the signatories of this Agreement or their successors in office, the Agreement shall not be modified.

ARTICLE VIII
RELATIONSHIP OF PARTIES

A. No Agency

In the exercise of their respective rights and obligations under this Agreement, the Government and Pennsylvania DEP each act in an independent capacity, and neither is to be considered the officer, agent, nor employee of the other.

B. No Waiver

1. This Agreement does not diminish the authority of Pennsylvania DEP to fully carry out its statutory and regulatory responsibilities or exercise its authorities under state and federal law, or the right of the Government to raise any defenses available under law in the case of any enforcement action brought by the Commonwealth, whether in an administrative or a judicial proceeding. Nothing in this Agreement relieves or alters any responsibility, commitment, or duty of the Government under any existing or future administrative or judicial order, or in any way limits or restricts any right or authority of the Commonwealth to enforce such order.

2. In the exercise of their respective rights and obligations under this Agreement, neither party shall, without the consent of the other party, provide any contractor with a release that waives or

purports to waive any rights such other party may have to seek relief or redress against such contractor either pursuant to any cause of action that such other party may have or for violation of any law.

ARTICLE IX
OFFICIALS NOT TO BENEFIT

No member of or delegate to the Congress shall be admitted to any share or part of this Agreement, nor to any benefit that may arise therefrom.

ARTICLE X
CONFIDENTIALITY

To the extent permitted by the laws and regulations applicable to each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party. However, nothing in this Agreement shall be construed to -prohibit the parties from using information developed or obtained via activities covered by this Agreement in furtherance of their statutory rights, duties or obligations.

ARTICLE XI
TERMINATION

A. Notification

This Agreement may be terminated by either party for any reason upon written notice, signed by the signatories to this Agreement or their successors in office, effective ninety (90) calendar days thereafter. After receiving a notice of termination, a party may invoke the dispute resolution process in Article IV.

B. Expiration Date

Unless terminated at an earlier date by the parties, or otherwise extended by the parties, this Agreement shall expire on December 31, 2002. This Agreement may be extended annually by mutual agreement of the parties.

C. Continuing Provisions

The provisions of this Agreement that require performance after the expiration or termination of this Agreement shall remain in force notwithstanding the expiration or termination of this Agreement.

ARTICLE XII
NOTICES

A. Addresses

Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and either delivered personally or mailed by first-class, registered, or certified mail, as follows:

If to Pennsylvania DEP:

David Allard
Director
Bureau of Radiation Protection
Pennsylvania DEP
P.O. Box 8469
Harrisburg, PA 17105-8469

If to the Government:

District Engineer,
U.S. Army Engineer District, Pittsburgh
Attn: CELRP-ED-PM (FUSRAP Project Manager)
1809 Wm. S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

B. Changes

A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

THE PARTIES HAVE EXECUTED this Agreement to become effective as of the date first set forth, above.

THE UNITED STATES DEPARTMENT OF THE ARMY

BY: Susan M. Erwin
SUSAN ERWIN,
U.S. Army Corps of Engineers
Grants Officer

Date: Nov. 13, 2002

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 9-9-02
David J. Allard, Deputy Secretary for the Office of Air, Land Recycling and Waste Management and Radiation Protection

Date:

Approved as to form and legality:

Michael D. Bedrin NBC
Chief Counsel, Pennsylvania Department of Environmental Protection

09/30/02
Office of General Counsel

(APPROVED PER OAG MEMO DATED 10/10/02)
Office of the Attorney General

Appendix A

Pennsylvania Department of Environmental Protection Estimate of Reimbursable Expenses for Parks Township Shallow Land Disposal Area (SLDA) Calendar Year 2002*			
Activity	Total DEP Hours	Hourly Rate	Total
Review and comment on Data Review and Gap Analysis Report; July, 2002	80	$50.00	$4000.00
Preparation and Participation in Public and Technical Meeting(s), March, 2002 and August, 2002	100	$50.00	$5000.00
Total Reimbursable Expenses Estimate for Calendar Year 2002			**$9000.00**

* This estimate of reimbursable expenses for calendar year 2002 is based upon information provided by Dilip Kothari, USACE Project Manager for Parks Township SLDA.

CERTIFICATE OF LEGAL REVIEW

The Cooperative Agreement between The United States Department of the Army and The Pennsylvania Department of Environmental Protection for reimbursable services in connection with the Commonwealth of Pennsylvania has been reviewed by the Office of Counsel, U.S. Army Engineer District, Pittsburgh, and has been determined to be legally sufficient.

CORNELIUS W. PURCELL
District Counsel

Date: 10/30/02

MEMORANDUM FOR THE EXTENSION OF COOPERATIVE AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF THE ARMY AND THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

This Memorandum of Agreement is entered into this ~~14th~~ 27th day of October, 2003 between the United States Department of the Army ("Government") represented by the Grants Officer for the United States Army Engineer Division, Great Lakes and Ohio River, and the Pennsylvania Department of Environmental Protection ("Pennsylvania DEP"), represented by the Director, Bureau of Radiation Protection..

WHEREAS, the parties hereto entered into a Cooperative Agreement on the 13th day of November 2002, whereby Pennsylvania DEP agreed to provide certain reimbursable services, as described in Article 1 thereto, for the investigation and remediation of FUSRAP sites located within the Commonwealth; and

WHEREAS, Article XI-B of that Agreement provides that the Agreement, unless otherwise terminated or extended by the parties thereto, shall expire on December 31, 2002; and

WHEREAS, the Agreement was extended on December 30, 2002 by mutual agreement of the parties hereto, until December 31, 2003; and

WHEREAS, Pennsylvania DEP has stated a desire to extend the Agreement until December 31, 2004; and

WHEREAS, Pennsylvania DEP has provided an estimate of reimbursable expenses under this Agreement for calendar year 2004 in the total amount of $16,200.00.

NOW, THEREFORE, the afore-mentioned Cooperative Agreement is hereby modified as follows:

1. In accordance with Article XI-B, the parties agree to extend the term of the Cooperative Agreement until midnight, December 31, 2004, Eastern Standard Time.

2. All other terms and conditions of the said Agreement shall continue in full force and effect.

THE UNITED STATES
DEPARTMENT OF THE ARMY

Susan M. Erwin

SUSAN M. ERWIN, Grants Officer
U.S. Army Corps of Engineers

Date:

PENNSYLVANIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

DAVID J. ALLARD, Director
Bureau of Radiation Protection

Date: 10/14/03

MEMORANDUM FOR THE EXTENSION OF COOPERATIVE AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF THE ARMY AND THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

This Memorandum of Agreement is entered into this 9th day of ~~December, 2005~~ January, 2006 between the United States Department of the Army ("Government") represented by the Grants Officer for the United States Army Engineer Division, Great Lakes and Ohio River, and the Pennsylvania Department of Environmental Protection ("Pennsylvania DEP"), represented by the Director, Bureau of Radiation Protection.

WHEREAS, the parties hereto entered into a Cooperative Agreement on the 13th day of November 2002, whereby Pennsylvania DEP agreed to provide certain reimbursable services, as described in Article 1 thereto, for the investigation and remediation of FUSRAP sites located within the Commonwealth; and

WHEREAS, Article XI-B of that Agreement provides that the Agreement, unless otherwise terminated or extended by the parties thereto, shall expire on December 31, 2002; and

WHEREAS, by mutual agreement, the Agreement has been extended on an annual calendar year basis, and the latest extension is due to expire on December 31, 2005; and

WHEREAS, Pennsylvania DEP has stated a desire to extend the Agreement until December 31, 2006; and

WHEREAS, Pennsylvania DEP has provided an estimate of reimbursable expenses under this Agreement for calendar year 2006 in the total amount of $17,900.00.

NOW, THEREFORE, the afore-mentioned Cooperative Agreement is hereby modified as follows:

1. In accordance with Article XI-B, the parties agree to extend the term of the Cooperative Agreement until midnight, December 31, 2006, Eastern Standard Time.

2. All other terms and conditions of the said Agreement shall continue in full force and effect.

THE UNITED STATES
DEPARTMENT OF THE ARMY

Susan M. Booth
SUSAN M. BOOTH, Grants Officer
U.S. Army Corps of Engineers

Date: 9 January 2006

PENNSYLVANIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

DAVID J. ALLARD, Director
Bureau of Radiation Protection

Date: 12/28/05

Pennsylvania - New Jersey
Radiation Protection Agreement

I. Purpose

The purpose of this agreement is to define how the Pennsylvania Bureau of Radiation Protection (PABRP) and the New Jersey Bureau of Nuclear Engineering (NJBNE) will cooperatively participate during an emergency response to a nuclear power plant accident within their respective jurisdictions.

II. Scope

A. Specific areas in Pennsylvania and New Jersey are within the designated 50 mile Emergency Planning Zone (EPZ) ingestion pathway for the Limerick (PA), Peach Bottom (PA), Oyster Creek (NJ), Salem (NJ), and Hope Creek (NJ) nuclear generating stations. This Agreement establishes which emergency response operations conducted by the two Bureaus related to the ingestion EPZ radiological evaluation are best served by a cooperative effort.

B. This Agreement supplements the Statement of Agreement between the Commonwealth of Pennsylvania and the State of New Jersey.

III. Agreement

A. PABRP and NJBNE will provide each other with the following information during an emergency response to a nuclear generating station notification at the Alert, Site Area, or General Emergency Action Level: Status of reactor safety systems and prognosis for accident mitigation and plant recovery; source term; meteorological data; dose projection; and potential for 50 mile EPZ significance; and protective action recommendations.

The primary means of communication will be via facsimile transmitter. (PABRP 717-783-8965, PA Emergency Management Agency 717-783-7393.) New Jersey facsimile transmitter numbers will be confirmed by commercial telephone at each location. (NJBNE Headquarters 609-987-2032, NJBNE EOF Artificial Island 609-339-3788 or 3789, NJBNE EOF Oyster Creek 201-370-8073 or 8083.)

B. The PABRP and NJBNE will also supply each other with their field monitoring data and the results of radiochemical analyses of samples collected. This will be accomplished by facsimile transmitter or commercial phone between the PABRP Assessment Center (717-787-3479) and the NJBNE Assessment Center (609-530-6501, 5714, 6388, 6389). The results of all accident related measurements shall be reconciled within 30 days of the closeout of an accident involving measurements by either party.

C. PABRP or NJBNE will, to the extent practicable, lend their respective field monitoring teams to assist in monitoring within the 10 and 50 mile EPZs.

D. Field monitoring teams may cross state lines if necessary.

IV. Authority

Nothing in this mutual agreement is intended to bind, alter, restrict, or extend the constitutional or statutory authority of the New Jersey Department of Environmental Protection or the Pennsylvania Department of Environmental Resources or any other Agency of these states.

V. Revisions

This agreement supersedes the prior agreement signed August 30, 1982, by Frank J. Cosolito and signed September 13, 1982 by Thomas M. Gerusky.

By: Thomas M. Gerusky Date: 12/9/88

THOMAS M. GERUSKY, DIRECTOR
Bureau of Radiation Protection
Pennsylvania Department of Environmental Resources

By: Jennifer A. Moon Date: 12/15/88

JENNIFER A. MOON, ACTING CHIEF
Bureau of Nuclear Engineering
New Jersey Department of Environmental Protection

IMPLEMENTING PROCEDURES-SUBAGREEMENT I
PERTAINING TO LOW-LEVEL RADIOACTIVE WASTE PACKAGE
AND TRANSPORTATION INSPECTIONS
BETWEEN THE COMMONWEALTH OF PENNSYLVANIA AND THE NRC

I. TRAINING

A. Pennsylvania staff attendance at NRC Sponsored Courses

1. Pennsylvania staff may attend NRC sponsored training courses when mutually agreed upon by Pennsylvania and NRC.

2. Attendance at any particular course will be scheduled on a space available basis.

3. Staff applying for attendance must fulfill any necessary course prerequisites.

4. Attendance will normally be limited to 1-2 individuals at any one particular course.

5. Pennsylvania will pay any transportation and per diem expenses except for courses offered in connection with the Agreement State Program where NRC pays for travel and per diem of State personnel selected to attend.

B. On-the-Job Training

1. On-the-job training will be provided to the Pennsylvania staff in the conduct of inspections to determine compliance with the requirements in 10 CFR Parts 20, 61 and 71.

2. The training accompaniments will normally be limited to NRC licensees located in the Commonwealth of Pennsylvania.

3. The training accompaniments will follow the protocol set out in Mr. Haynes' November 5, 1982 letter to Mr. Gerusky. Under the protocol, the activities of the individual accompanying the NRC inspector will be limited to observation and familiarization with plant activities and the NRC inspection process. The NRC inspector will be responsible for initiating action to correct any program deficiencies identified during the inspection through NRC's normal inspection and enforcement process.

4. Commonwealth of Pennsylvania staff accompanying the NRC inspector will normally be limited to two persons - the senior staff member responsible for the program and the cognizant inspector for the plant being inspected.

5. Emphasis will be placed on training two senior Pennsylvania staff who can learn this area quickly and who, in turn, can begin to train other Pennsylvania staff.

6. The training may also involve pre-inspection planning at the Regional office or in the NRC resident inspection office prior to the inspection. The Commonwealth inspection staff is expected to have reviewed prior inspection reports, inspection findings and enforcement actions for the facility being inspected. It is also expected that the Commonwealth inspectors are thoroughly knowledgeable of the NRC inspection procedures and reference material cited in those procedures. These are important parts of preparing for the inspection.

7. The training accompaniments will be provided by a Region based inspector who routinely inspects waste packaging and transportation activities, not the resident inspector or TMI-2 inspection staff.

8. The contact for the training accompaniment inspections at reactors will be the Chief, Emergency Preparedness and Radiological Protection Branch, Division of Radiation Safety and Safeguards. The similar contact for materials inspections will be the Chief, Nuclear Materials Safety and Safeguards Branch, Division of Radiation Safety and Safeguards. If either of the above are not available the contact will be the Regional State Liaison Officer.

C. Initiation of Independent Inspections by Pennsylvania Staff

1. The Commonwealth will ensure that its inspectors are qualified in accordance with NRC inspection and Enforcement Manual Chapter 1245, or its equivalent, and will keep NRC informed of the Commonwealth inspectors that have been so qualified and certified. Prior to Commonwealth qualification of inspectors, Commonwealth management, accompanied by an NRC representative, will assess the performance of its inspectors during an inspection to determine their preparedness to conduct independent inspections. Following the accompaniment, the NRC representative will provide a critique to the inspector and his supervisor. Periodically, Commonwealth management will accompany its inspectors during the performance of inspections to verify the inspector's continued effectiveness. Finally, NRC will inform Commonwealth management of problems identified during the NRC review of Commonwealth inspection findings for appropriate corrective action.

2. Commonwealth inspectors may periodically accompany NRC inspectors during NRC's programmatic waste package and transportation inspections to maintain familiarity with a licensee's program and NRC inspection requirements. The Commonwealth and NRC may also meet periodically to exchange information and discuss changes in procedures. Commonwealth inspectors may also contact the region based and resident inspectors prior to or during the Commonwealth's independent inspection at the site.

3. Arrangements to gain access to any licensee's facility are a responsibility of the Commonwealth. Specially, individuals planning to conduct inspections at reactor facilities should meet all licensee requirements for site access.

II. PROCEDURES TO BE FOLLOWED BY PENNSYLVANIA FOR INSPECTIONS CONDUCTED UNDER THE SUBAGREEMENT

A. Pennsylvania will perform the following inspection activities relating to 10 CFR 71:

1. Examine the licensee's written waste shipment records. As the situation allows, observe completed packages so as to:

a. Verify that the licensee has marked the package with the applicable general and specific package markings which are required (49 CFR 172.300 through 310).

Verify that for NRC-certified packages, or DOT-revalidated packages of foreign origin, the outside of the package is durably and legibly marked with the package identification marking indicated in the COC or the DOT Competent Authority Certificate.

b. Verify that for non-exempted packages, the licensee provides for and accomplishes labeling of each package with the appropriate category of RADIOACTIVE (White-I, Yellow-II, or Yellow-III) label, one each on two opposite sides of the package; and accurately completes the entry of the required information in the blank spaces thereon (49 CFR 172, Subpart E).

c. Verify that the licensee provides for and accomplishes monitoring of each completed package to assure that external radiation and removable surface contamination are within the allowable limits [49 CFR 173.475(i), 49 CFR 173.411, 49 CFR 173.433, and 10 CFR 71.87(i) and (j)].

2. Examine the licensee's written waste shipment records. As the situation allows, observe actual transport operations so as to:

   a. Verify whether the licensee prepared the required shipping paper documentation, so as to accurately include all of the applicable required elements of information, including the shipper's certificate. [NOTE: for licensee private motor vehicle shipments, the certificate is not required (49 CFR 172, Subpart C).]

   b. For non-exclusive use shipments, verify that the licensee provides to a highway carrier or applies directly to a rail vehicle, the required placards whenever he delivers any quantity of RADIOACTIVE-Yellow-III labeled packages to such carrier for transport (49 CFR 172.506 and 508).

   c. For exclusive use shipments, verify that the licensee assures that the package and vehicle radiation/contamination levels are within the regulatory limits [49 CFR 173.475(i) and 10 CFR 71.897(i) and (j)].

      Verify that except for uranium or thorium ores, the transport vehicle is placarded by the licensee when delivering to a carrier any exclusive-use shipment for which placarding is required [49 CFR 172, Subpart F, and 49 CFR 173.425(b)(7))].

      For exclusive use shipments, verify that shipping paper documentation provided by the licensee to the carrier contains satisfactory instructions for maintenance of exclusive-use shipment controls [49 CFR 173.411(c) and 49 CFR 173.425(b)(9)].

      Verify that for exclusive-use shipments of low-specific activity materials, the licensee has provided for the additional specific requirements [49 CFR 173.425(b)(1) through (9)].

   d. Verify that the licensee provides for notification to the consignee before shipment: the dates of shipment and expected arrival, any special loading/unloading or operating instructions whenever any non-exempt fissile material and/or packages containing "highway route controlled quantities" are involved [49 CFR 173.22(b) and 10 CFR 71.89].

   e. Verify that the licensee provides for advance notification to the Governor of a State, or his designee, or any shipment or radioactive waste requiring Type B packaging through, to, or across a state

boundary (10 CFR 71.97). [NOTE: This requirement is not the same as that required for safeguards purposes pursuant to 10 CFR 73.72.]

3. Review the licensee's records and reports to verify that a system is in place to:

   a. Maintain on file for two years after shipment a record of each shipment of licensed material (which is not exempt therefrom) and that such records contain the required information [10 CFR 71.87 and 10 CFR 71.91(a)].

   b. Reports to the director, NMSS, within 30 days, any instances where there has been a significant reduction in the effectiveness of any packaging during its use; providing additionally the details of any defects of safety significance to the packaging after first use and the means employed to repair such defects to prevent their recurrence (10 CFR 71.95).

   c. Immediately report to DOT, when transporting licensed material as a private carrier, any incident that occurs in which as a direct result of the radioactive material; any person is killed; receives injuries requiring hospitalization; property damage exceeds $59,000; or fire, breakage, spillage, or suspected radioactive contamination occurs (49 CFR 171.15 and 49 CFR 171.16).

B. Pennsylvania will perform the following inspection activities relating to 10 CFR Parts 20 and 61:

1. Review the licensee's record and, as the situation allows, observe actual packages and transport activities to verify that each shipment of radioactive waste intended for off-site disposal to a broker or a licensed land disposal facility is accompanied by a shipment manifest which includes all of the required information [10 CFR 20.311(b) and (c)].

2. Review the licensee's documentation and records to determine whether procedures have been established and are being maintained to properly classified all low-level wastes according to 10 CFR 61.55.

3. Review the licensee's documentation and records to determine whether procedures have been established and are being maintained, to properly characterize low-level waste in conformance with the requirements of 10 CFR 61.56.

4. Review the licensee's records and as the situation allows, observe actual packages and transport activities to verify that each package of low-level waste intended for shipment to a licensed land disposal facility is labeled, as appropriate, to identify it as Class A, B, or C waste in accordance with the classification criteria of 10 CFR 61.55 [10 CFR 20.311(d)(2)].

5. Review the licensee's records and, as the situation allows, observe actual packages and transport activities to verify that the licensee has forwarded to receptionist or delivered to waste collectors at the time of shipment a copy of the waste manifest. Verify that acknowledgement of receipt of the manifest is obtained. Verify that the licensee has a procedure in place to effect an investigation in any instances wherein acknowledgement of receipt of the shipment has not been received within the specified period. Verify that procedures are in place to report such investigations to the appropriate NRC Regional Office and file the required written report [10 CFR 20.311(d), (3), (f) and (h)].

6. Review the licensee's records to verify that the applicable disposal site license conditions are being met. Verify that the licensee has on file a current version of the disposal site license.

C. Inspections performed by the Commonwealth for and on behalf of the Commission are not to include those elements of NRC inspection procedures dealing with evaluation of the licensee's written procedures, equipment quality control, programs, training or staffing.

III. DOCUMENTATION OF INSPECTION FINDINGS

Following each inspection, the Commonwealth will document the areas covered and findings of the inspection in an inspection report using guidance set out in NRC Inspection and Enforcement Manual Chapters 0610 and 0611. Following Commonwealth management approval, the report will be sent to the NRC contact listed in Section 9 of the Subagreement with a copy to the licensee. The Commonwealth will complete and forward the inspection report to the NRC within 30 days of completion of the inspection. Following appropriate NRC review, the report will be placed in the Public Document Room and a request sent to the licensee by the NRC for proper corrective action if deemed necessary. For those inspections performed by the Commonwealth which result in deficiencies in compliance with NRC regulations, the Commonwealth shall identify the deficiencies in the cover letter transmitting the report, and specify that any enforcement action is a responsibility of the NRC. In addition, when any findings which would become a violation once the shipment departs the plant gate are identified, such findings should be furnished to the licensee and the NRC Resident Inspector before the shipment departs the licensee's site. It is the Commission's sole discretion as to whether the licensee will be requested or required to take corrective action or to respond to

discrepancies in compliance with NRC regulations as a result of findings from these inspections. Commonwealth inspectors will provide support to NRC during any hearings and other meetings relating to their inspections, as required.

IV. CHANGES TO IMPLEMENTING PROCEDURES

These implementing procedures may be changed by mutual written agreement between the Director, Division of Radiation Safety and Safeguards, NRC, and the Chief, Division of Nuclear Safety, Commonwealth of Pennsylvania.

FOR THE NUCLEAR REGULATORY COMMISSION

_____
Division of Radiation Safety and Safeguards

Dated: August 17, 1987

FOR THE COMMONWEALTH OF PENNSYLVANIA

_____
Division of Nuclear Safety

Dated: September 16, 1987

PP&L

PA Bureau of Radiation Protection - Pennsylvania Power and Light Letter of Agreement

The purpose of this letter is to state the agreement between the PA Department of Environmental Resources, Bureau of Radiation Protection (BRP), and Pennsylvania Power and Light Company (PP&L) for deployment of field teams during actual emergencies, or drills and exercises at the Susquehanna Steam Electric Station (SSES).

BRP field teams will be deployed to pre-selected monitoring locations within the SSES EPZ to perform ambient radiation measurements, and air sampling and analysis for radioiodine. PP&L field teams will operate on the free-ranging basis to obtain peak measurements in the plume. Information on field team measurements will be exchanged between PP&L and BRP.

PP&L accepts the responsibility to obtain peak measurements in the plume and it will not be necessary for these measurements to be repeated by BRP field teams.

Date: 8/11/95

By: William P. Dornsife
William P. Dornsife, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources

Date: 8/11/95

By: Anthony M. Price
Anthony M. Price, Supervisor
Nuclear Emergency Planning
Pennsylvania Power and Light Company

Take Care PP&L

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96-22562 Filed 9-4-96; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis for NSFNET Connections Panel (#1207)

Date and Time: September 25, 1996; 8:30 a.m. to 5:00 p.m.

Place: Room 1175

Type of Meeting: Closed

Contact Person(s): Mark Luker, Program Director, CISE/NCRI, Room 1175, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1950.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted for the NSFNET Connections Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96-22561 Filed 9-4-96; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 86th meeting on September 26 and 27, 1996, at the Hotel San Remo, 115 East Tropicana Avenue, Las Vegas, Nevada, in Chateau 1 and Chateau 2. The date of this meeting was previously published in the Federal Register on Wednesday, December 6, 1995 (60 FR 62485).

The entire meeting will be open to public attendance. The agenda for this meeting shall be as follows: *Thursday, September 26, 1996—8:30 A.M. until 6:00 P.M. Friday, September 27, 1996—8:30 A.M. until the conclusion of business*

During this meeting, the Committee plans to consider the following:

A. *Radionuclide Transport at Yucca Mountain*—The Committee will investigate the status and results of studies and modeling of radionuclide transport in the saturated and unsaturated zone at Yucca Mountain. This topic will constitute the entire meeting on Thursday. Specific focus will be on the transport of radionuclides in fracture systems at Yucca Mountain. This will include the ingress of water to the repository horizon and geochemical processes that affect transport of radionuclides out of the repository via fracture systems.

B. *Site Characterization*—The Committee will discuss site characterization integration through the use of performance assessment. A continuation of discussions with the Department of Energy on Total System Performance Assessment will be held with emphasis on the use of expert elicitation panels.

C. *Repository Design for Viability Assessment*—The Committee will discuss the advanced conceptual design for the proposed repository at Yucca Mountain, Nevada, with representatives of the Department of Energy and other interested parties.

D. *Public Comments*—The Committee will hear comments from members of the public on concerns related to nuclear waste disposal.

E. *Preparation of ACNW Reports*—The Committee will discuss proposed reports, including: radionuclide transport at Yucca Mountain, specifying a critical group and reference biosphere to be used in a performance assessment of a nuclear waste disposal facility, the consideration of coupled processes (thermal-mechanical-hydrological-chemical) in the design of a high-level waste repository, time of compliance in high- and low-level waste disposal, and the DOE program plan and waste isolation strategy.

F. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

G. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on September 27, 1995 (60 FR 49924). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415-7366), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303-9672; the local direct dial number is 703-321-3339.

Dated: August 29, 1996

Andrew L. Bates,

Advisory Committee Management Office.

[FR Doc. 96-22612 Filed 9-04-96; 8:45 am]

BILLING CODE 7590-01-P

Issuance of a Memorandum of Understanding between the Nuclear Regulatory Commission and the Pennsylvania Department of Environmental Protection

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance of a Memorandum of Understanding.

SUMMARY: This notice is to advise the public of the issuance of a Memorandum of Understanding (MOU)

between the U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Pennsylvania Department of Environmental Protection (PADEP). The MOU provides the basis for cooperation between the agencies to facilitate the safe and timely remediation and decommissioning of Site Decommissioning Management Plan Sites (SDMP) and other decommissioning sites in Pennsylvania at which both agencies exercise regulatory authority.

The broad MOU expresses the desire of PADEP and the NRC to cooperate in areas subject to the jurisdiction of both parties. Under the MOU, PADEP and NRC will designate site coordinators for each SDMP site in Pennsylvania. Each agency will provide the other with reasonable notice of inspections, and meetings with other agencies or the public which concern a particular SDMP site. The MOU also provides the basis for the dissemination of information between the agencies and the review and comment of draft documents.

EFFECTIVE DATE: This MOU was effective July 15, 1996.

FOR FURTHER INFORMATION CONTACT: Heather Astwood, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop T-7-F27, Washington, D.C., 20555, telephone (301) 415-5819.

Dated at Rockville, MD this 28th day of August 1996.

For the U.S. Nuclear Regulatory Commission.

Michael F. Weber,

Chief Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

Memorandum of Understanding Between the United States Nuclear Regulatory Commission and the Commonwealth of Pennsylvania Department of Environmental Protection

1. *Purpose.* This Memorandum of Understanding ("MOU") is intended to provide a framework for voluntary cooperation between the United States Nuclear Regulatory Commission ("NRC") and the Commonwealth of Pennsylvania, Department of Environmental Protection ("DEP") to facilitate the safe and timely remediation and decommissioning of Site Decommissioning Management Plan ("SDMP") and other decommissioning sites in Pennsylvania at which both agencies exercise regulatory authority.

2. *Regulatory Authority.* The NRC regulates radioactive material and related activities at SDMP sites and licensed nuclear facilities under authority of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 *et seq.* The DEP administers and enforces Pennsylvania's environmental statutes, including the Solid Waste Management Act, 35 P.S. § 6018.101 *et seq.*; the Clean Streams Law, 35 P.S. § 691.1 *et seq.*; and the Radiation Protection Act, 35 P.S. § 7110.101 *et seq.*

3. *Designation of Site Coordinators.* Within ninety (90) days after execution of this MOU, each agency will designate a site coordinator for each SDMP site identified in Appendix A. Each agency shall notify the other, in writing, of the name, address, telephone and facsimile numbers of each site coordinator. Each agency may also designate coordinators for other decommissioning sites. Any changes in the designation of a coordinator will be communicated in writing to the other agency.

4. *Meetings and Conference Calls between the Agencies.* At the request of either agency, with reasonable notice, a meeting or conference call will be scheduled between the site coordinators and other agency representatives to discuss coordination of remediation and decommissioning activities.

5. *Technical and Regulatory Consultation.* At the request of either agency, with reasonable notice, representatives of each will be made available to discuss technical or regulatory matters pertaining to the SDMP site or other decommissioning sites.

6. *Meetings with the Public.* Except in response to site emergencies, each agency will notify the other, at least two weeks in advance, of any public meeting related to remediation or decommissioning activities at an SDMP or other decommissioning site.

7. *Meetings with Other Regulatory Entities.* At its discretion, an agency may invite representatives of the other agency to attend meetings with other regulatory entities who share some responsibility for the SDMP or other decommissioning site. At a minimum, an agency will keep the other agency informed of such meetings and the results of those meetings. It should be noted that the NRC has an Open Meeting Policy which would require these meetings to be open to the public because they would almost always involve discussions concerning a specific licensee (Open Meeting Statement of NRC Staff Policy, 59 Federal Register 48340, 9/20/94).

8. *Notice of Site Inspections.* Each agency will make a good faith effort to coordinate routine site inspections of SDMP sites and other decommissioning sites by providing advance notice to the other agency.

9. *Dissemination of Information to Other Agencies.* As necessary to effectively implement remediation and decommissioning of SDMP and other decommissioning sites, the agencies will coordinate pertinent and appropriate dissemination of information to other Federal, State and local Government agencies.

10. *Exchange of Information Between Agencies.*

A. The agencies will exchange information concerning the remediation and decommissioning of SDMP or other decommissioning sites as follows:

i. Within two weeks of receipt, the following information will be forwarded from one agency to the other: plans and reports relating to site assessment/characterization; remediation or decommissioning; and all available related analytic data generated through site remediation or decommissioning.

ii. Upon request, NRC will make available to DEP for review and copying any documents disclosable to the public under the Freedom of Information Act, 5 U.S.C. § 552, NRC regulations in 10 CFR Part 9, Public Records, and in 10 CFR Part 2.790, public inspections, exemptions, requests for withholding, and any other applicable Federal statute, regulation, or policy.

iii. Upon request, DEP will make available to the NRC for review and copying any documents disclosable to the public under the Public Right to Know Act, 65 P.S. § 66.1 *et seq.*, DEP's public information policy, and any other applicable Pennsylvania statute, regulation, or policy.

B. All documents exchanged by the agencies will be addressed to the designated coordinator for the SDMP site.

C. Nothing in this MOU shall be construed as compelling either agency to produce information or documents which the agency deems confidential or privileged. If such documents are exchanged, each agency will respect the confidentiality of the information and will make every attempt to avoid disclosure in accordance with administrative procedures.

11. *Disclosure of Information to the Public.* The right of access by the public to information under Federal and State law, regulation, or policy is not affected by this MOU.

12. *Review and Comment on Documents.*

A. Each agency should expeditiously forward drafts of documents it has prepared, or copies of documents

received from third persons which potentially impact remediation of hazards under the other agency's jurisdiction, to solicit the other agency's review and comments.

B. The agency requesting comments will specify the date by which a response is needed. The review and comments should be completed in a reasonable time (or approximately 30 days).

C. Comments will be returned within the specified response period. In cases where there are no comments, that information will be provided within the response period.

D. Requests for comments or responses will be addressed to the agency's site coordinator.

E. Final agency decisions and documents potentially impacting remediation of hazards under the other agency's jurisdiction will be transmitted by facsimile the same day these documents are sent to the facility management or released to the public.

13. *Modifications.* Any modifications or changes to this MOU shall only be effective if agreed to by the parties and set forth in writing as an amendment of this MOU.

14. *Reservation of Rights.* Nothing in this MOU shall affect the rights, duties and authority of either agency under the law. The agencies reserve their respective authority and rights to take any enforcement action which they deem necessary to fulfill their duties and responsibilities under the law.

15. *Non-binding Memorandum.* This memorandum is not intended to and does not create any contractual rights or obligations with respect to the NRC, DEP, or any other parties.

Dated: April 11, 1996.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission.

Dated: July 15, 1996

James W. Rue,

Deputy Secretary, Air, Recycling and Radiation Protection, Commonwealth of Pennsylvania, Department of Environmental Protection.

Appendix A—Site Decommissioning Management Plan Sites in the Commonwealth of Pennsylvania

Babcock & Wilcox; Apollo, PA
Babcock & Wilcox; Parks Township, PA
Cabot Corporation; Boyertown, PA
Cabot Corporation; Reading, PA
Cabot Corporation; Revere, PA
Molycorp, Inc.; Washington, PA
Molycorp, Inc.; York, PA
Permagrain Products; Media, PA
Pesses Company, METCOA Site; Pulaski, PA
Safety Light Corporation; Bloomsburg, PA
Schott Glass Technologies; Duryea, PA
Westinghouse Electric Corporation; Waltz Mill, PA
Whittaker Corporation; Greenville, PA

[FR Doc. 96-22614 Filed 9-4-96; 8:45 am]

BILLING CODE 7590-01-P

Draft Regulatory Guides; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment drafts of six guides planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

These draft guides, presently identified by their task numbers, endorse industry consensus standards of the Institute of Electrical and Electronics Engineers. The guides and the standards they endorse are DG-1054, "Verification, Validation, Reviews, and Audits for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 1012-1986, "IEEE Standard for Software Verification and Validation Plans," and IEEE Std 1028-1988, "IEEE Standard for Software Reviews and Audits"; DG-1055, "Configuration Management Plans for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 828-1990, "IEEE Standard for Software Configuration Management Plans," and ANSI/IEEE Std 1042-1987, "IEEE Guide to Software Configuration Management"; DG-1056, "Software Test Documentation for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses ANSI/IEEE Std 829-1983, "IEEE Standard for Software Test Documentation"; DG-1057, "Software Unit Testing for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses ANSI/IEEE Std 1008-1987, "IEEE Standard for Software Unit Testing"; DG-1058, "Software Requirements Specifications for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 830-1993, "IEEE Recommended Practice for Software Requirements Specifications"; and DG-1059, "Developing Software Life Cycle Processes for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 1074-1995, "IEEE Standard for Developing Software Life Cycle Processes." These guides will be in Division 1, "Power Reactors." These draft guides are being developed to provide current guidance on methods acceptable to the NRC staff for complying with the NRC's regulations for promoting high functional reliability and design quality in software used in safety systems of nuclear power plants.

The draft guides have not received complete staff review and do not represent official NRC staff positions. No backfitting is intended or approved in connection with the issuance of these proposed guides. Any backfitting that may result from application of this new guidance to operating plants will be justified in accordance with established NRC backfitting guidance and procedures. These draft guides have been released to encourage public participation in their development. Except in those cases in which an applicant proposes an acceptable alternative method for complying with specified portions of the NRC's regulations, the methods to be described in the active guide reflecting public comments will be used in the evaluation of submittals in connection with applications for construction permits, standard design certifications and design approvals, and combined operating licenses. The active guides will also be used to evaluate submittals from operating reactor licensees who propose modifications that go beyond the current licensing basis, if those modifications are voluntarily initiated by the licensee and there is a clear connection between the proposed modifications and this guidance. The final guides will be used in conjunction with, and will eventually be reflected in, the Standard Review Plan, which is currently under revision.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by October 31, 1996.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

COPY

Dr. Ronald R. Bellamy
U.S. NRC
475 Allendale Road
King of Prussia, PA 19406

SUBJECT: COORDINATION OF DECOMMISSIONING ACTIVITIES WITH THE NUCLEAR REGULATORY COMMISSION

Dear Dr. Bellamy:

This letter forwards information discussed in our teleconference on May 21, 1999 and states our understanding of the agreements that were reached during the teleconference. Consistent with our Memorandum of Understanding (Enclosure 1) with the Nuclear Regulatory Commission (NRC), we agreed to update our list of site coordinators for the Site Decommissioning Management Plan (SDMP) sites in the Commonwealth. The list of Pennsylvania Department of Environmental Protection (DEP) staff coordinators is enclosed (Enclosure 2). Included too is an updated list of our nuclear power station contacts. I would like to request that you update your list of site coordinators with their email addresses to allow us to make future information exchange as efficient as possible.

It is our understanding that DEP should use the NRC Site Coordinators for all information and documentation exchange between the two agencies. It will be the responsibility of the NRC Site Coordinators to disseminate the information to other members of the NRC as they feel appropriate.

It is our understanding that the DEP Central Office Coordinator identified on Enclosure 2 will receive all correspondence, and associated documentation and reports for each SDMP site along with the DEP Site Coordinator. The DEP Central Office Coordinator and the Site Coordinator will be promptly notified via email of any documentation that will be placed in the PDR, but not sent directly to them.

It is our understanding that a meeting between the NRC and DEP will be scheduled in early July to discuss the current status of SDMP sites in Pennsylvania.

Lastly, it will be the responsibility of the DEP Regional Radiation Protection Program Managers to coordinate the activities of other DEP Programs (i.e. Waste, Water, Air) that have the potential to affect activities at SDMP sites and to keep the NRC Site Coordinators informed of such activities.

I appreciate the time and effort expended by the NRC in working with DEP in regards to the SDMP sites located in Pennsylvania. I look forward to a continued good working relationship with you and your staff. If you need any additional information call me at 717-783-5403 or Robert Maiers at 717-783-8979.

Sincerely,

David J. Allard

c.c: David Hess, 16th Fl.
Denise Chamberlain, 16th Fl.
Terry Fabian, 16th Fl.
Charles Duritsa, SWRO
Michael Steiner, SCRO
Joseph Feola, SERO
Robert Maiers, 13th Fl.
Rich Janati, 13th Fl.
James Yusko, SWRO
Ivna Shanbaky, SERO
James Kopenhaver, SCRO
William Kirk, 13th Fl.

Bcc: Marjorie Hughes, 16th Fl.
Todd Wallace, 16th Fl.

Department of Environmental Protection
Bureau of Radiation Protection Site Coordinators

In addition to the Site Coordinators listed below, please send copies of correspondence to the Central Office Coordinator:

Robert Maiers
Bureau of Radiation Protection
Rachel Carson State Office Building
P.O. Box 8469
Harrisburg, PA 17105-8469
maiers.robert@dep.state.us

SITE	COORDINATOR	ADDRESS	TELEPHONE NUMBER	FACSIMILE NUMBER
BWXT Operating Facility, Parks Township	James Yusko	DEP –Radiation Protection 400 Waterfront Drive Pittsburgh, PA 15222-4745 yusko.james@dep.state.pa.us	412-442-4220	412-442-4303
BWXT Shallow Land Disposal Area, Parks Township	James Yusko	DEP –Radiation Protection 400 Waterfront Drive Pittsburgh, PA 15222-4745 yusko.james@dep.state.pa.us	412-442-4220	412-442-4303

Enclosure 2

SITE	COORDINATOR	ADDRESS	TELEPHONE NUMBER	FACSIMILE NUMBER
Cabot Corporation, Reading and Revere	Ivna Shanbaky	DEP –Radiation Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428-2233 shanbaky.ivna@dep.state.pa.us	610-832-6032	610-832-6260
Kiski Valley Water Pollution Control Authority, Leechburg *	James Yusko	DEP –Radiation Protection 400 Waterfront Drive Pittsburgh, PA 15222-4745 yusko.james@dep.state.pa.us	412-442-4220	412-442-4303
Molycorp, Washington	James Yusko	DEP –Radiation Protection 400 Waterfront Drive Pittsburgh, PA 15222-4745 yusko.james@dep.state.pa.us	412-442-4220	412-442-4303
Molycorp, York	James Kopenhaver	DEP –Radiation Protection 909 Elmerton Avenue Harrisburg, PA 17110-8200 kopenhaver.james@dep.state.pa.us	717-705-4891	717-705-4890

Enclosure 2

SITE	COORDINATOR	ADDRESS	TELEPHONE NUMBER	FACSIMILE NUMBER
Pesses Company/METCOA, Pulaski	James Yusko	DEP –Radiation Protection 400 Waterfront Drive Pittsburgh, PA 15222-4745 yusko.james@dep.state.pa.us	412-442-4220	412-442-4303
Safety Light Corporation, Bloomsburg	James Kopenhaver	DEP –Radiation Protection 909 Elmerton Avenue Harrisburg, PA 17110-8200 kopenhaver.james@dep.state.pa.us	717-705-4891	717-705-4890
Westinghouse Electric Corporation, Waltz Mills	James Yusko	DEP –Radiation Protection 400 Waterfront Drive Pittsburgh, PA 15222-4745 yusko.james@dep.state.pa.us	412-442-4220	412-442-4303
Whittaker Corporation, Greenville	James Yusko	DEP –Radiation Protection 400 Waterfront Drive Pittsburgh, PA 15222-4745 yusko.james@dep.state.pa.us	412-442-4220	412-442-4303

Enclosure 2

SITE	COORDINATOR	ADDRESS	TELEPHONE NUMBER	FACSIMILE NUMBER
Permagrain Products, Quehanna	William Kirk	Bureau of Radiation Protection P.O. Box 8469 Harrisburg, PA 17105-8469 kirk.william@dep.state.pa.us	717-783-9730	717-783-8965

* Not an SDMP site

Enclosure 2

Department of Environmental Protection
Bureau of Radiation Protection
Nuclear Power Plant Engineers

Central Office Coordinator:

Rich Janati
Bureau of Radiation Protection
Rachel Carson State Office Building
P.O. Box 8469
Harrisburg, PA 17105-8469
janati.rich@dep.state.pa.us

SITE	COORDINATOR	ADDRESS	TELEPHONE NUMBER	FACSIMILE NUMBER
TMI** Susquehanna**	Stan Maingi	Bureau of Radiation Protection P.O. Box 8469 Harrisburg, PA 17105-8469 maingi.stan@dep.state.pa.us	717-783-8549	717-783-8965
Beaver Valley**	Michael Murphy	Bureau of Radiation Protection P.O. Box 8469 Harrisburg, PA 17105-8469 murphy.michael@dep.state.pa.us	717-783-9734	717-783-8965

Enclosure 2

SITE	COORDINATOR	ADDRESS	TELEPHONE NUMBER	FACSIMILE NUMBER
Limerick** Peach Bottom**	David Ney	Bureau of Radiation Protection P.O. Box 8469 Harrisburg, PA 17105-8469 ney.david@dep.state.pa.us	717-783-9492	717-783-8965

** Pennsylvania Nuclear Power Stations

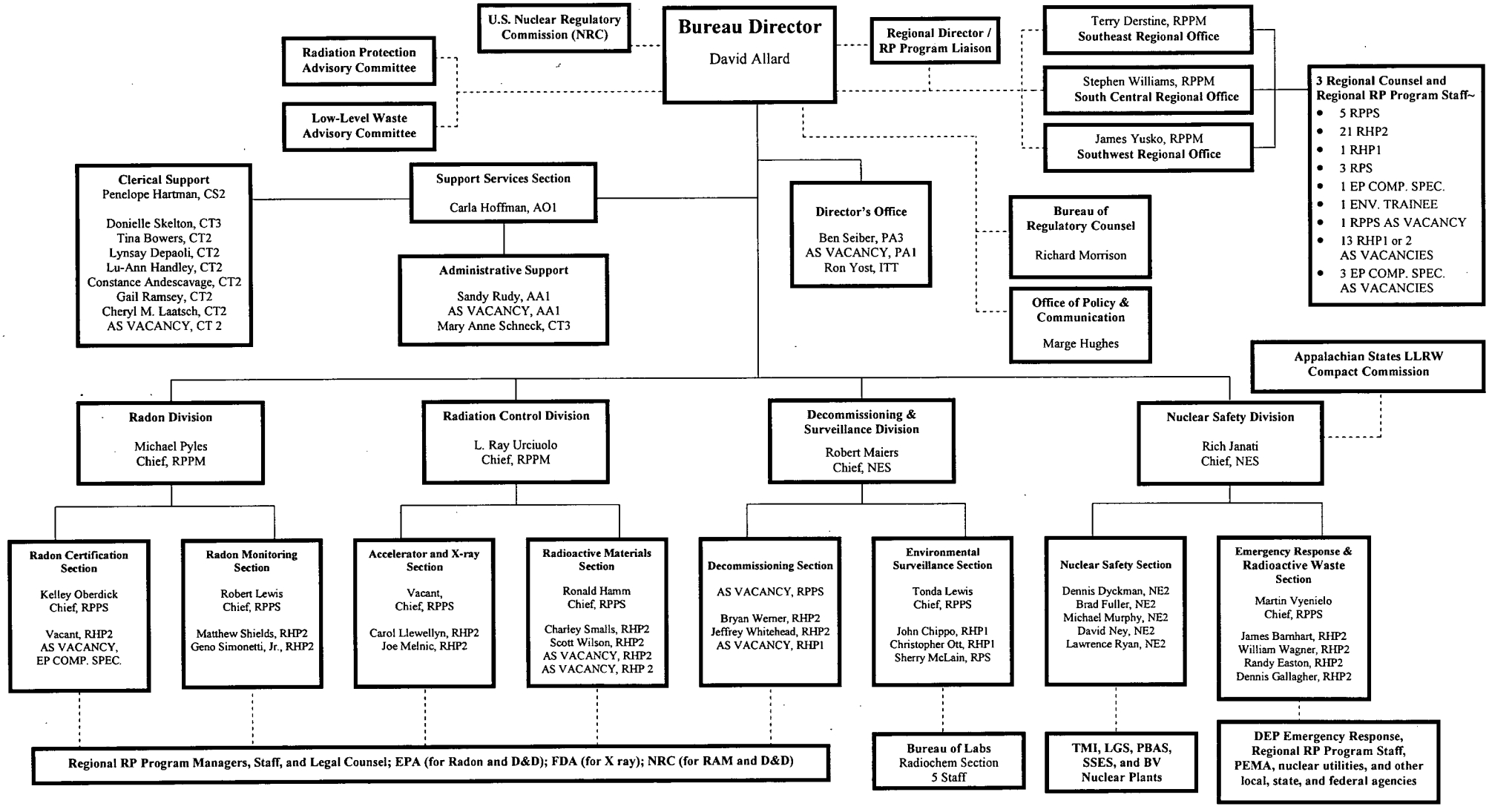
Enclosure 2

PA RADIATION PROTECTION PROGRAM

(INCLUDING CENTRAL OFFICE AND REGIONAL OFFICE STAFF)

Updated November 2006

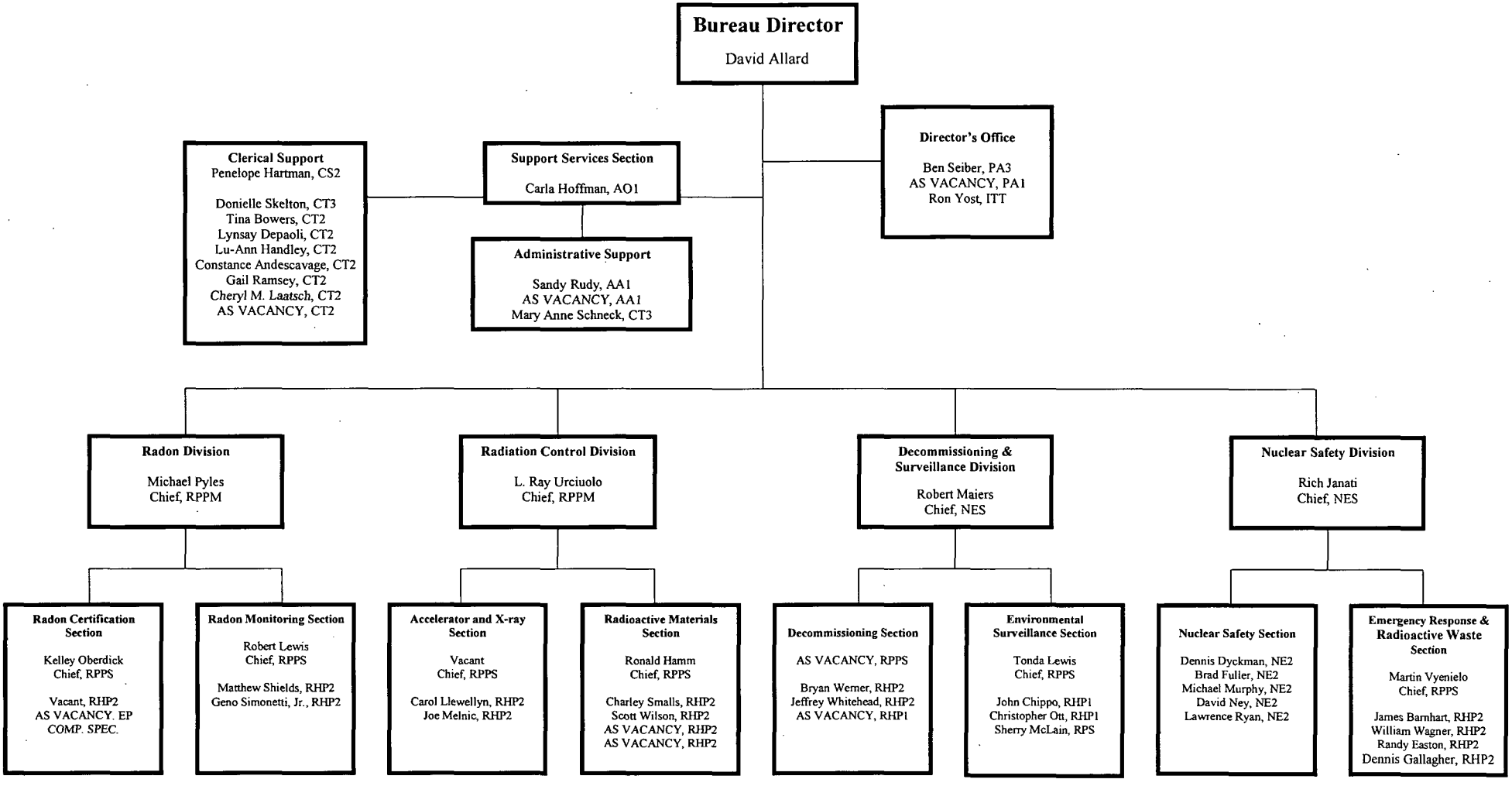
NOTE: A dotted line ---------- represents a major matrix liaison relationship.



BUREAU OF RADIATION PROTECTION

Updated November 2006

CENTRAL OFFICE STAFF



PA Department of Environmental Protection
Bureau of Radiation Protection Program Financial Summary
July 1, 2006, through June 30, 2007

Prepared 11/2006

REVENUE	DOLLARS	COMMENTS
FY05/06 Estimated Carry-over Funds to FY06/07	$3,813,000	From FY05/06
Nuclear Power Plant Fees	$2,000,000	Act 147 NS/EP fee; $400,000 per site/yr. (9 reactors on 5 sites)
Nuclear Power Plant Fees Increase	$1,250,000	Act 147 Amendment Will Increase Fee to $550K per site/yr.; Plus $0.5M Retroactive
X-ray Registration and Accelerator Licensing Fees	$2,900,000	~11,000 Registrants, ~250 Accelerators, and ~75 X-ray Vendors
NARM Licensing Fees	$420,000	460 Material Licenses
NRC Licensing Fees	$0	~750 "Specific" plus ~200 "General" Licenses; expect ~$2M/yr in FY07/08
General Fund	$550,000	Matching funds for Radon Division Salaries and Benefits
Radon Certification Fees	$99,000	~ 600 Radon Testers, Mitigators, and Labs
Radon EPA Grant	$370,000	EPA State Indoor Radon Grant
Decommissioning Fees	$143,000	EPA Grant for SLC, Army Corps of Engineers, Misc. Fees, and Charge-backs
DHS Grant	$200,000	ODP Grant Funds for Staff Salaries, Instrument Calibration and EP/ER Training
FDA MQSA Contract	$340,000	Annual FDA Mammography Inspections of ~390 Units, and Staff Training
General Fund	$75,000	Funds to Support BWM Solid Waste Radiation Monitoring Program
Fines and Penalties	$50,000	On NOVs in X-ray, Radon, and Radioactive Materials Programs

EXPENDITURES	DOLLARS	COMMENTS
Salaries + Benefits[1]	$6,045,000	Technical and Administrative Staff
Operational Expenses	$205,000	Includes Services, Supplies, Rents, Leases, Travel/Training
Bureau of Labs Fees	$370,000	Nuclear Plant Environmental Surveillance Sample Radchem Analysis
Services and Contracts	$335,000	TLDs, HP Instrument Calibration., and Internal IT Charges
Fixed Assets	$129,000	Vehicle replacement, etc.
Radon Outreach	$303,000	PSAs, Exhibits, Newborn Program, Hot Spot Surveys, etc.

[1]January 2007 - Salaries + Benefits will increase by 5.75%

RADIATION PROTECTION
SOUTHCENTRAL REGIONAL OFFICE

Radiation Protection Program Manager
Stephen Williams

Radiation Protection Program Supervisor
VACANT

Gerald Dworsak, RHP1

Michelle Dyarman, RHP2

Andrew Gardosik, RHP2

Roy Kitzer, RHP2

Frank Peffer, RHP2
Sunbury Office

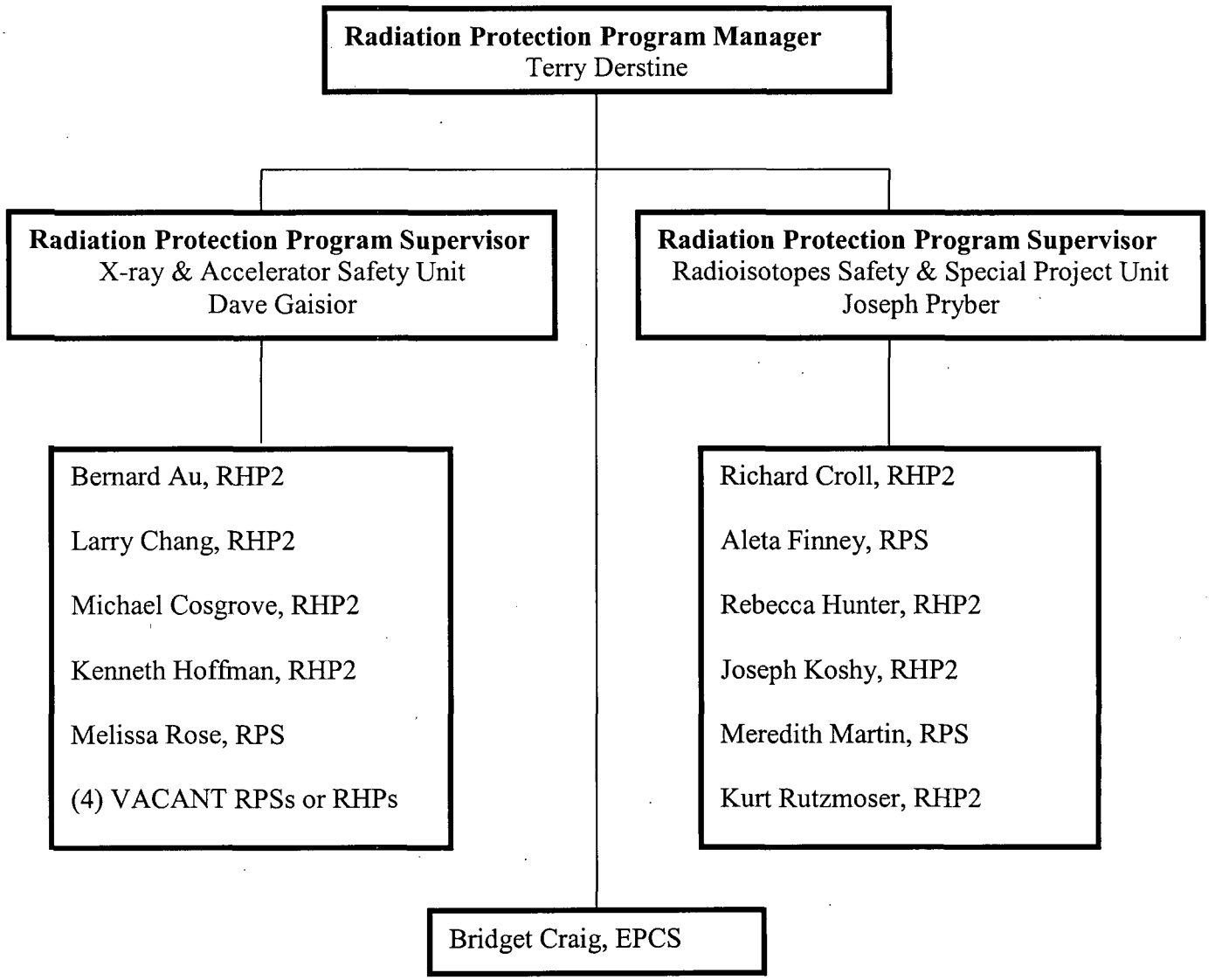
Howard Sher, RHP2

(2) VACANT RPSs or RHPs

(3) VACANT CT2s or CSs

November 2006

RADIATION PROTECTION
SOUTHEAST REGIONAL OFFICE



June 2006

RADIATION PROTECTION
SOUTHWEST REGIONAL OFFICE

Radiation Protection Program Manager
James G. Yusko, CHP

Radiation Protection Program Supervisor
X-ray & Accelerator Section
Dennis L. Angelo

- Michael J. Huskuliak, RHP2
- Paul J. Shuleski , RHP2
- Robert P. Scott, RHP2
- John P. Winston, RHP2
- Roy L. Huhn, RHP2
- (1) VACANT RPSs or RHPs

Radiation Protection Program Supervisor
Radioactive Materials Section
Dwight A. Shearer, P.E.

- Delvy J. McElwain, RHP2
- Chris L. Rittiger, RHP2
- Roy V. Woods, RHP2
- Gertrude M. Swab, RPS
- (3) VACANT RPSs or RHPs

June 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SECRETARY

Citizens Advisory Council

Office of General Counsel
Chief Counsel
- General Law Division
- Regional Offices (6)
- Bureau of Investigation
- Bureau of Regulatory Counsel

Office of the Budget
Comptroller

Boards/Commissions/Committees
- Agricultural Advisory Board
- Air Quality Technical Advisory Committee
- Cleanup Standards Scientific Advisory Board
- Coal and Clay Mine Subsidence Insurance Fund
- Coastal Zone Advisory Committee
- Diesel-Powered Equipment Technical Advisory Committee
- Environmental Quality Board
- Laboratory Accreditation Advisory Committee
- Low Level Waste Advisory Committee
- Mining and Reclamation Advisory Board
- Oil and Gas Technical Advisory Board
- Radiation Protection Advisory Committee
- Recycling Fund Advisory Committee
- Sewage Advisory Committee
- Small Business Compliance Advisory Committee
- Small Water Systems Technical Assistance Center Board
- Solid Waste Advisory Committee
- State Board for Certification of Sewage Enforcement Officers
- State Board for Certification of Sewage Treatment Plant and Waterworks Operators
- State Conservation Commission
- Storage Tank Advisory Committee

Special Deputy Secretary for Community Revitalization and Local Government Support
Land Recycling Program

Office of Environmental Advocate

Special Deputy Secretary

Executive Deputy Secretary
Office of Communications
Legislative Office

Governor's Policy Office
Policy Office

Deputy Secretary for Administration

DEP Grants Center

Bureau of Human Resources
Divisions:
- Position Management, Employee Relations and Safety
- Human Resource Systems and Employee Benefits
- Employee Development

Bureau of Fiscal Management

Bureau of Office Services
Divisions:
- Office Planning and Facility Support Services
- Contracts, Procurement and Bonding
- Document Management

Bureau of Information Technology
Project Management Office
Divisions:
- Applications Support
- Enterprise Infrastructure

Deputy Secretary for Waste, Air and Radiation Management

Bureau of Air Quality
Divisions:
- Permits
- Air Resources Management
- Air Quality Monitoring
- Source Testing and Monitoring
- Compliance and Enforcement
- Air Information

Bureau of Waste Management
Divisions:
- Municipal and Residual Waste
- Hazardous Waste Management
- Waste Minimization and Planning
- Remediation Services
- Reporting and Fee Collection
- Storage Tanks

Bureau of Radiation Protection
Divisions:
- Radiation Control
- Nuclear Safety
- Radon
- Decommissioning and Surveillance

Deputy Secretary for Water Management

Water Planning Office
Division:
- Program Planning and Effectiveness

Bureau of Waterways Engineering
Divisions:
- Dam Safety
- Project Development
- Project Inspection

Bureau of Watershed Management
Divisions:
- Conservation Districts and Nutrient Management
- Water Use Planning
- *Watershed Protection*
- Waterways, Wetlands and Stormwater Management

Bureau of Water Standards and Facility Regulation
Divisions:
- Data Systems and Analysis
- Operations Monitoring and Training
- Water Quality Standards
- Planning and Permits
- Technical and Financial Assistance

Deputy Secretary for Mineral Resources Management

Bureau of Mining and Reclamation
Divisions:
- Permits
- Environmental Analysis and Support
- Monitoring and Compliance

Bureau of Abandoned Mine Reclamation
Divisions:
- Acid Mine Drainage Abatement
- Mine Hazards
- Field Offices:
  - Cambria (Ebensburg)
  - Wilkes-Barre

Bureau of Mine Safety
Divisions:
- *Bituminous Mine Safety*
- Training, Emergency Response and Administrative Services
- Anthracite and Industrial Minerals Mine Safety
- Bituminous Electrical Safety

Bureau of Oil and Gas Management
Divisions:
- Resources Management and Well Development
- *Compliance, Administration and Plugging*

District Mining Operations
- Pottsville
- Moshannon (Philipsburg)
- Greensburg
- Cambria (Ebensburg)
- California
- Knox

Deputy Secretary for Energy and Technology Deployment

Governor's Green Goverment Council

Small Business Ombudsman

Bureau of Energy, Innovations and Technology Deployment
Divisions:
- Pollution Prevention and Energy Promotion
- Energy Policy and Technology Deployment

Deputy Secretary for Field Operations

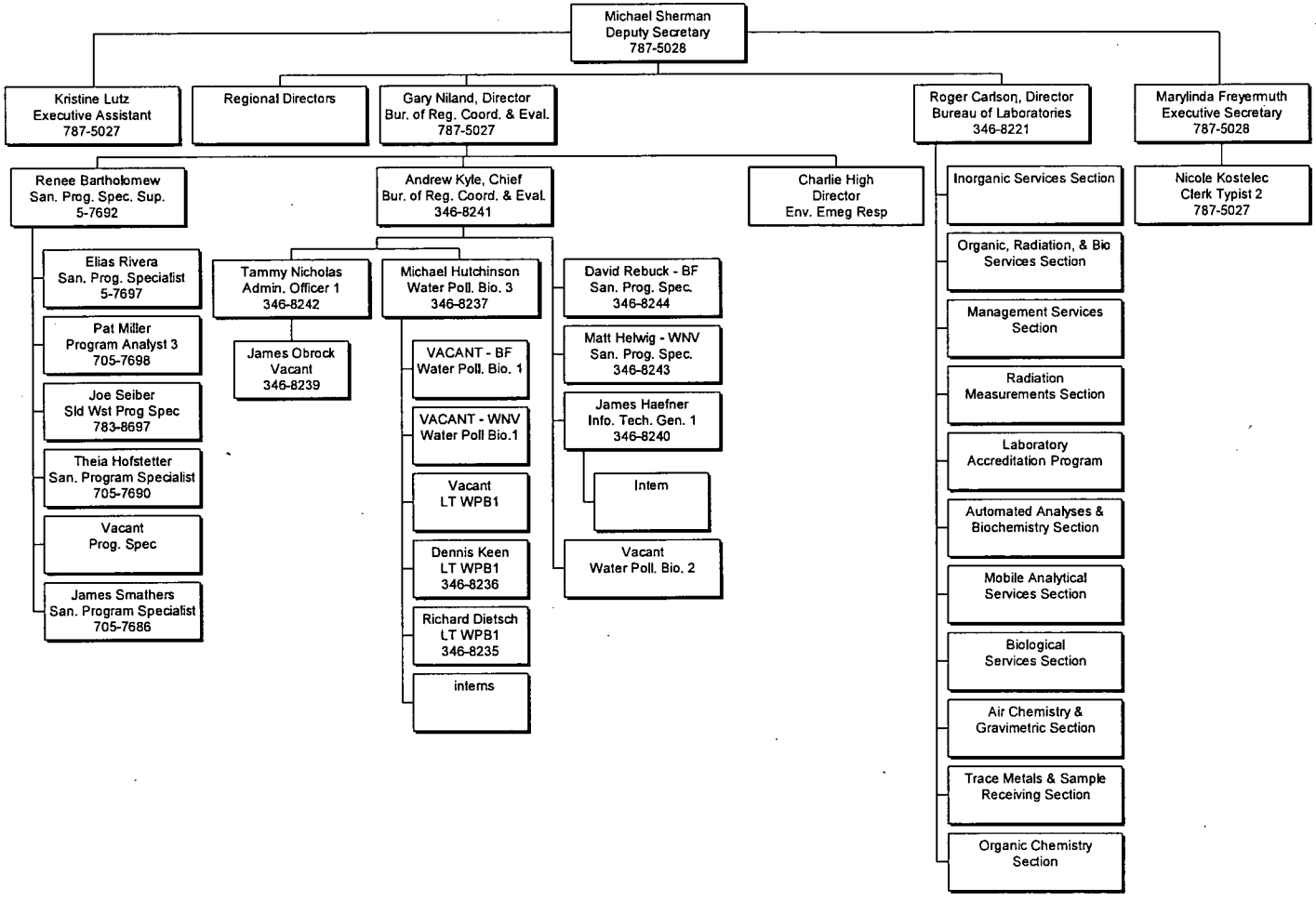
Regional Offices
- Southeast (Norristown)
- Northeast (Wilkes-Barre)
- Southcentral (Harrisburg)
- Northcentral (Williamsport)
- Southwest (Pittsburgh)
- Northwest (Meadville)

Bureau of Regional Coordination and Program Evaluation

Bureau of Laboratories
Divisions:
- Organic, Radiation and Biological Services
- Inorganic Services
- Technical Support Services

May 27, 2005
OR-05-137

DEP – Office of Field Operations



February 16, 2006

Edward G. Rendell, Governor

Cabinet Officials

The Governor's Cabinet comprises the directors of various state agencies. These directors --usually called Secretaries-- are appointed by the Governor and confirmed by the Senate. Each Secretary is responsible for the oversight of his or her agency. An equally important responsibility of all Cabinet members is advising the Governor on subjects related to their respective agencies. A list of the current Governor's Cabinet officials is below.

Barbara Adams	General Counsel
Jeffrey Beard	Secretary of Corrections
Allen D. Biehler	Secretary of Transportation
Donna Cooper	Secretary of Planning & Policy
Pedro Cortés	Secretary of the Commonwealth
Steve Crawford	Secretary of Legislative Affairs
James P. Creedon	Secretary of General Services
Michael DiBerardinis	Secretary of Conservation and Natural Resources
Nora Dowd Eisenhower	Secretary of Aging
Gregory Fajt	Secretary of Revenue
Rosemarie Greco	Director of Health Care Reform
Calvin Johnson	Secretary of Health
James Joseph	Pennsylvania Emergency Management Agency Director
Catherine Baker Knoll	Lieutenant Governor
Diane Koken	Insurance Commissioner
Joe Martz	Secretary of Administration
Michael Masch	Secretary of the Budget
Kathleen McGinty	Secretary of Environmental Protection
Col. Jeffrey Miller	State Police Commissioner
Donald Patterson	Inspector General
Estelle Richman	Secretary of Public Welfare
William Schenck	Secretary of Banking
Stephen Schmerin	Secretary of Labor and Industry
Dennis Wolff	Secretary of Agriculture
General Jessica Wright	Adjutant General of Military and Veterans Affairs
Dennis Yablonsky	Secretary of Community and Economic Development
Gerald Zahorchak	Secretary of Education

Content Last Modified on 2/7/2006 7:06:23 PM

1.0 INTRODUCTION 3

1.1 RADIATION PROTECTION PROGRAM OBJECTIVES 4
1.2 STATUTORY AUTHORITY 5
1.3 REGULATORY AUTHORITY 8
1.3.1 Rulemaking Authority *9*
1.3.2 EQB Authority and Relationship to the Department *10*
1.3.3 EQB Legislative Authority *10*
1.4 SUMMARY 11

2.0 ORGANIZATION AND DUTIES OF THE BUREAU OF RADIATION PROTECTION 11

2.1 DIVISION OF NUCLEAR SAFETY 12
2.1.1 Nuclear Reactor Oversight Program (Nuclear Safety Section) *13*
2.1.2 Appalachian States LLRW Disposal Program (Emergency Response and Radioactive Waste Section, in part) *13*
2.1.3 Emergency Response Program (Emergency Response and Radioactive Waste Section, in part) *14*
2.2 DIVISION OF RADIATION CONTROL 16
2.2.1 Licensing of Radioactive Materials *16*
2.2.2 Regulated Facilities under Division of Radiation Control *19*
2.2.3 Inspection and Compliance *20*
2.2.4 Special Projects and Professional Activities *21*
2.2.5 Routine Regional Emergency Response *22*
2.3 Decommissioning and Surveillance Division *22*
2.4 RADON DIVISION 29

3.0 IMPLEMENTATION OF THE AGREEMENT STATE PROGRAM FOR MATERIALS LICENSEES 30

3.1 OVERVIEW 30
3.2 LICENSING 30
3.3 ACCOMPLISHMENTS TOWARDS AGREEMENT STATE 33

4.0 LICENSING OF LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY 35

4.1 APPALACHIAN STATE LOW-LEVEL RADIOACTIVE WASTE COMMISSION 36

5.0 LABORATORY SUPPORT 37

6.0 RADIATION PROTECTION PROGRAM EQUIPMENT 39

7.0 TECHNICAL ASSISTANCE 39

7.1 INTRA-AGENCY TECHNICAL ASSISTANCE 39
7.2 INTERAGENCY TECHNICAL ASSISTANCE 40
7.3 TECHNICAL ASSISTANCE FROM OUTSIDE AGENCY 40
7.4 ACQUISITION OF CONTRACTOR SERVICES 40

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8.0 LEGAL ASSISTANCE & SUPPORT 41

9.0 DEP ADVISORY COMMITTEES 42

9.1 RADIATION PROTECTION ADVISORY COMMITTEE 42

9.2 LOW-LEVEL WASTE ADVISORY COMMITTEE 42

10.0 EMERGENCY RESPONSE MANAGEMENT 43

10.1 PRIMARY RESPONSIBILITY 43

10.2 EMERGENCY PLANNING RESPONSIBILITIES 44

11.0 SUMMARY 44

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1.0 INTRODUCTION

The Commonwealth of Pennsylvania has established itself as a regulatory leader in the area of radiation protection and nuclear safety. This has resulted from an active state-level Radiation Protection (RP) Program and numerous significant events and initiatives that have contributed to the Commonwealth attaining this leadership role. A summary of the major areas of regulatory investigations and initiatives applicable to this application and other significant programmatic radiation protection experience include: radium worker protection in the 1940s and 1950s; investigation of the Gulf Accelerator accident in 1967; fallout monitoring from the 1960s; early x-ray protection efforts beginning in the 1970s related to diffraction units and mammography; nuclear and energy research and subsequent decommissioning at Quehanna, Shippingport, Saxton, Peach Bottom Unit 1 reactors; the response and recovery with the Three Mile Island Unit-2 reactor accident; the discovery of high radon levels in residential homes in 1984; the low-level radioactive waste disposal site development efforts in the 1990s; the plethora of complex decommissioning and decontamination projects of state and U.S. Nuclear Regulatory Commission (NRC) licensed facilities in the late 1990s to present; and, other prominent radiation protection projects in recent years (e.g., healing arts screening with x-rays, solid waste radiation monitoring, tritium monitoring at landfills and power plants, etc.)

Section 274 of the Atomic Energy Act (42 U.S.C 2021) (AEA) authorizes states to assume certain regulatory functions that would otherwise be the responsibility of the NRC. This originally included the licensing of byproduct material, source material and small quantities of special nuclear material. The mechanism by which a state assumes such responsibilities, is an official "Agreement" between the NRC and the Governor of the state. Before a state can become an "Agreement State," the Governor must certify that the state has a program for the control of radioactive material and respective radiological hazards, and the state's program is adequate to protect the public health and safety. In addition, the NRC must determine that the state's program is in accord with the requirements of Subsection (o) of Section 274; and is in all other respects compatible with the NRC's program for the regulation of the materials covered by the proposed agreement, and is adequate to protect the public health and safety with respect to such materials. In the summer of 2005, the AEA was amended to allow the NRC regulatory authority over naturally occurring and accelerator produced materials (NARM), which the Commonwealth currently regulates. Thus, the Pennsylvania Agreement will cover the continued control of NARM. To become an Agreement State, there must also be state legislation authorizing the Governor to enter into such an Agreement. That authority is contained in the Commonwealth's Radiation Protection Act, Act 1984-147. This Act instructs the Commonwealth to 'enter into agreement with the federal government for the licensing of radioactive materials.' Therefore, Pennsylvania has a statutory obligation to become an Agreement State.

As formally outlined in a 1995 letter from Governor Ridge to the NRC, the Commonwealth of Pennsylvania intends to assume responsibility for regulating

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byproduct material, source material, special nuclear material in quantities not sufficient to form a critical mass, and if needed in the future, the licensing of a low-level radioactive waste (LLRW) disposal facility – and thus become an Agreement State (AS). In this application (AKA, Formal Request) the Commonwealth has included the statutes, regulations, a state RP Program description and other information needed to demonstrate that the Pennsylvania satisfies all federal requirements and guidance for becoming an Agreement State, and is prepared and qualified to assume regulatory authority for byproduct material as defined in 42 U.S.C. 2014 (e)(1), any future redefinition of byproduct material to include NARM, source material, special nuclear material in quantities not sufficient to form a critical mass, and any permanent disposal of LLRW containing any of these materials. At this time, there is no intent to license sealed source manufacturers or uranium processing facilities. The application consists of the Governor's certification, and copies of all current statutes and regulations under which the Commonwealth will administer its radioactive materials regulatory program. This narrative is intended to satisfy, in part, section 4.1.2 of the Handbook for Processing and Agreement in SA-700. It presents a description of the state RP Program organization, management, current practices, capabilities, procedures, and proposed activities of the Commonwealth relative to a complete radiation protection program and AS activities. It is important to note that the NRC will retain the regulatory authority over all nuclear power plants, research reactors, sealed source and device manufacturers, uranium recovery operations, all federal facilities, and any facilities with special nuclear materials in quantities sufficient to form a critical mass.

1.1 Radiation Protection Program Objectives

The Commonwealth's RP Program is mature, and has had full authority over NARM and other equally, if not more, hazardous sources of radiation for decades. For example, the Bureau of Radiation Protection (BRP) has licensed radium-226 and positron emitting (PET) radionuclides since the 1970s, and more recently, has begun licensing high-energy medical and industrial accelerators. For decades these licensing and inspection programs have regulated medical and industrial uses of these radioactive material and x-ray sources, and effectively protected the public and environment. As the Agreement State program is implemented, the primary objective of the program will be to continue the high degree of protection for public health, safety and welfare of the citizens of Pennsylvania, as well as the environment. To accomplish these objectives, certain essential features have been built into the regulatory program. As has been the case for decades, BRP has been designated, within the Department of Environmental Protection (DEP or Department), to implement a regulatory program so that radioactive materials are used in a safe and acceptable manner in order to protect the health and safety of the citizens (workers and public) of Pennsylvania from excessive or harmful radiation exposure. In the development of the documentation for an acceptable Agreement State program BRP reviewed the NRC's Handbook for Processing an Agreement (i.e., SA-700), which considers the following elements to be essential:

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1. Necessary Statutory Authority: The Commonwealth must have the statutory authority necessary to fulfill its responsibilities to protect citizens and the environment.
2. Compatible Regulations: Regulations must be developed which describe the requirements necessary to protect public health and safety and be compatible with NRC with respect to radioactive materials.
3. Technically Capable Staff: The quality of any technical program is determined by the capabilities of its staff. The Agreement State program, therefore, must have a well trained and qualified staff of technical and scientific capability, in sufficient numbers to implement the RPP effectively.
4. Technical Resources: The Agreement State program must be able to utilize technical resources available within the DEP, and if needed, external consultants and support agencies. Advisory committees have and will continue to be used to provide guidance to the RPP.
5. Procedures: Technically correct and compatible procedures for licensing, inspection, and enforcement must be in place in order to administer an effective program.
6. Adequate Emergency Response Capabilities: The RPP must be capable of effectively responding to and mitigating any radiological emergencies that may arise.
7. Equipment: The RPP must have the necessary radiation measuring instrumentation and laboratory facilities.
8. Adequate Funding: The Agreement State program must be adequately funded in order implement the RPP, to recruit and retain quality staff, purchase instrumentation and equipment, and administer all aspects of the program effectively.
9. Administrative Support: The Agreement State program must have the necessary administrative support to function effectively and efficiently. In addition, the necessary procedures and equipment to communicate and analyze data must be available, e.g., administrative, accounting, legal, information technology, data processing, word processing capabilities, etc.
10. Consistency and Quality Control: Personnel in the Agreement State program must be adequately trained in Pennsylvania and NRC regulations, guidance, standards and procedures for uniform administration of the licensing and inspection program.
11. Implementation Approach: Although strict enforcement action must be taken when necessary, the RPP must portray a positive and cooperative service attitude to licensees and the general public, be proactive in outreach, and take the necessary steps to assure that the needs of Pennsylvania citizens and licensees are met. BRP has the cooperation of other state and federal organizations involved with radioactive materials to assure effective use of resources and to share information and knowledge.

1.2 Statutory Authority

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The Pennsylvania General Assembly has enacted a number of laws over the years to enable the Commonwealth to regulate sources of radiation, LLRW, and provide adequate oversight, environmental surveillance and emergency response for the state's nuclear power plants (see RP Program statutes). In 1984, as a result of the TMI accident, a new and comprehensive radiation protection statute was drafted and enacted. This statute, Radiation Protection Act 1984-147, also dictated the Commonwealth enter into an agreement with the federal government to fulfill its responsibilities as an AS. Thus, the state's General Assembly has designated the Pennsylvania DEP as the agency responsible for administering the Commonwealth's radiation protection and enforcement programs for radioactive materials and all other radiation sources. The BRP within DEP has been designated as the bureau to carry out the duties and responsibilities under the Department's AS program. A brief description of the significant statutes governing radiation protection and LLRW disposal programs in the Commonwealth is provided below.

The Radiation Protection Act 1984-147 (Act 147), empowered the Department to establish, implement and maintain a comprehensive statewide radiation protection program. Some of the powers and duties given to the Department under this Act are as follows:

1. Provide for the licensing and regulation, in cooperation with the federal government, of other state agencies and private entities possessing radioactive material and radiation generating equipment / sources.
2. Assume licensing and regulatory responsibility from the federal government for certain radioactive materials.
3. Maintain a comprehensive environmental radiation surveillance and monitoring program around nuclear power plants and at other locations in the Commonwealth.
4. Establish an independent nuclear safety reactor oversight program to evaluate all nuclear power plants in the Commonwealth.
5. Establish and maintain a comprehensive emergency radiation response capability in conjunction with the Pennsylvania Emergency Management Agency.
6. Establish plans and procedures for notification of spent nuclear fuel shipments.

With the exception in the area of low-level radioactive waste, Act 147 provides BRP the full programmatic authority in all needed powers, duties, and enforcement to implement an AS program. This includes the ability to establish regulations, fees and a fiscal Radiation Protection Fund where the self-supporting fees may be obligated for these programs.

Subsequent to the enactment of Act 147, additional legislation affecting some of the state's radiation protection programs has been enacted by the Pennsylvania General Assembly and approved by the Governor. Specifically, in 1985, the General Assembly and the Governor approved the formation of an Appalachian States Low-Level Radioactive Waste Compact. An Act established the Appalachian States Low-Level Radioactive Waste Commission, and provided for Pennsylvania to enter into a

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compact with the states of Maryland, Delaware and West Virginia. In 1988, the Pennsylvania Low-Level Radioactive Waste Disposal Act, Act 1988-12 (Act 12), was enacted and approved.

Act 12 provides for the management and disposal of low-level radioactive waste (LLRW), siting of a LLRW disposal facility, and for the licensing of its operator. Act 12 further provides for powers and duties of the Department and the Environmental Quality Board (EQB).

Some of the powers and duties given to the Department under this Act 12 are as follows:

1. Develop and implement a comprehensive program for the regulation of the generation, storage, handling, transportation, processing, minimization, separation, management and disposal of low-level radioactive waste to the extent allowable under Federal law or State law, whichever is more stringent.
2. Implement a regulatory, inspection, enforcement and monitoring program consistent with the terms of an Agreement between the United States Nuclear Regulatory Commission (NRC) and the Commonwealth, as provided for in Section 201 of the Act 147, and this Act 12.
3. Enter into a contract with an operator-licensee designate to screen the state to locate potentially suitable sites, to study the sites in detail, and to submit a license application to operate the regional LLRW disposal facility.
4. License a regional facility operator in accordance with Section 308 and regulations promulgated thereunder.
5. Issue permits to generators, brokers and carriers of low-level radioactive waste for access to the regional facility in accordance with provisions of Act 12 and with the specific regulations promulgated under this Act.
6. Implement Pennsylvania's duties and responsibilities arising under the Appalachian States LLRW Compact.

In addition to Act 12, in 1990, the Low-Level Radioactive Waste Regional Facility Act, Act 1990-107 (Act 107), was enacted to create a fee system to cover the costs related to the establishment of an LLRW disposal facility in Pennsylvania. It should also be noted that in 1998, the Commonwealth suspended its activities and process to site a LLRW disposal facility within the state. Nonetheless, BRP actively maintains the administrative and operational aspects of the Compact Commission, the LLRW generator disposal reporting requirements, reporting responsibility to the General Assembly, and stands ready to re-start the LLRW programs if needed in the future. The Commonwealth is committed to providing oversight for safe and effective management of LLRW within the state.

A copy of Acts 1984-147, 1988-12, 1985-120 and 1990-107 are included with this AS application package. Though not applicable to this application, it should be noted that other statutory and regulatory authority rests with BRP for the certification of radon testers, mitigators and laboratories. The staff involved with this radon

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certification program provide additional expertise in monitoring of radon, and are an integral part of the emergency response capability of the RP Program. Again, the Department is a national leader in the area of radon testing, mitigation, research, certification, and related regulatory oversight.

It is the Commonwealth's understanding that the NRC staff have completed their review of all applicable RP Program Acts with respect to radioactive material licensing, radiation protection, LLRW disposal, and have found these statutes comprehensive and sufficient to the needs of a potential AS. And, no amendments to any Acts are needed to implement an AS program.

1.3 Regulatory Authority

Act 147 and other related Acts noted above provide the Department authorization to promulgate comprehensive regulations governing its radiation protection programs. These regulations are comprehensive and allow Pennsylvania to implement an Agreement State program in all areas being applied for in this application. The Pennsylvania Act 1984-147, section 201; and Act 1988-12, section 301 [2]; authorizes the Governor of Pennsylvania, on behalf of the Commonwealth, to enter into agreements with the NRC to assume authority to regulate the use and the disposal of certain radioactive materials. In the December 1995 letter to the NRC, former Governor Ridge stated Pennsylvania's formal intent to assume full Agreement State authorization from NRC, including the authority to regulate the disposal of low-level radioactive waste. See the current and any proposed regulations appended to this application. A list of chapters of the Pennsylvania regulations in the Department's Article V on Radiological Health is as follows:

Commonwealth of Pennsylvania
Pennsylvania Code

Title 25. Environmental Protection
Department of Environmental Protection

Article V. Radiological Health

Chapter	**Title**
215.	General Provisions
216.	Registration of Radiation-Producing Machines and Radiation Producing Machine Service Providers
217.	Licensing of Radioactive Material
218.	Fees
219.	Standards for Protection Against Radiation
220.	Notices, Instructions and Reports to Workers; Inspections and Investigations

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221. X-rays in the Healing Arts
222. [Reserved]
223. Veterinary Medicine
224. Medical Use of Radioactive Material
225. Radiation Safety Requirements for Industrial Radiographic Operations
226. Radiation Safety Requirements for Well Logging
227. Radiation Safety Requirements for Analytical X-ray Equipment, X-ray Gauging Equipment, Electron Microscopes and X-ray Calibration Systems
228. Radiation Safety Requirements for Particle Accelerators
229. [Reserved]
230. Packaging and Transportation of Radioactive Material
231. [Reserved]
232 Licenses And Radiation Safety Requirements For Irradiators
233. [Reserved]
235. [Reserved]
236. Low Level Radioactive Waste Management and Disposal
237. Rebuttable Presumption of Liability of the Operator of the Regional Low-Level Waste Facility
240. Radon Certification

1.3.1 Rulemaking Authority

The Department and BRP have the authority to promulgate regulations under Act 147, however, this is done in conjunction with the Environmental Quality Board (EQB) and Independent Regulatory Review Commission (IRRC). The EQB and IRRC are comprised of cabinet-level officials or their alternate, members of the Citizen's Advisory Council, and members of the General Assembly and respective appointees. The EQB is chaired by the Secretary of the Department. Formal policies and procedures for the promulgation of regulations in the Department and BRP are established by the Department's Policy Office. See the enclosed Department guidance for approval and development of regulations.

Briefly, draft regulations are developed by a program area (e.g., Radiation Protection, Air Quality, Waste Management, Water Quality, etc.), concurred upon by the appropriate Deputy Secretary, most often evaluated in conjunction with an Advisory Committee, then presented to the EQB, voted on, and if acceptable, forwarded to IRRC for possible comment and response, returned to the specific Department program (i.e., in the area of Radiation Protection, the BRP), and then published in the Pennsylvania Bulletin for public comment. Once comment period has ended, and all comments are received and responses developed, the same process is repeated with the ultimate goal of publishing final regulations. These final regulations may or may not be the same as

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originally proposed. However, when published, there is a full comment and response document included, if any are received. The Department does have the authority to truncate this process, and publish regulations on an emergency basis if needed. It has been the experience of BRP, that the Department, BRP's Advisory Committees, EQB and IRRC have been very supportive in the development of the regulations and fees needed to implement an AS program. Only minor revisions are needed to have all RPP regulations compatible with NRC's for AS status, and this effort should be completed by the end of 2006.

Over the past several years, BRP has continued to provide NRC with copies of draft and final regulations as they relate to the Commonwealth's AS application. A December 2005 NRC letter outlining the NRC staff's tracking of our regulation updates, noted several areas staff required an explanation of our regulations, or the regulations be updated to reflect recent changes made by NRC to their regulations prior to becoming an AS. With minor exception, it is our belief that our Commonwealth regulations are presently (as of June 2006) fully compatible with NRC's regulations. BRP has incorporated the needed NRC regulations by reference, however due to NRC's renumbering of 10CFR71, a few minor changes are needed in the Department's Article V, e.g., Chapter 230. As of November 2006 these changes have been published for public comment and are moving through the regulatory review process as planned. The Commonwealth's regulations will be fully compatible with NRC's in Title 10 by October 1, 2007. Specifically, BRP has presented the needed proposed minor changes to the Department's Radiation Protection Advisory Committee, and they should be through EQB, IRRC and in the PA Bulletin the summer of 2006. These revisions should be complete by the fall or winter of 2006. Again, the NRC staff have formally reviewed all of the applicable regulations as they relate to licensing of radioactive materials and LLRW disposal, and it is BRP's understanding that they are fully compatible with NRC's regulations.

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1.3.2 EQB Authority and Relationship to the Department

The Environmental Quality Board, established pursuant to the Commonwealth's Administrative Code, has the power and duty to formulate, adopt and promulgate rules and regulations under the various Acts implemented by the Department. This includes those rules and regulations developed by the Department to carry out the provisions of the Radiation Protection Act and the Low-Level Radioactive Waste Disposal Act as outlined above. They have effectively implemented this authority over the past several years as BRP has moved forward in amending its regulations for AS status.

1.3.3 EQB Legislative Authority

Under Section 302 of the Radiation Protection Act, the EQB has the power and duty to adopt and promulgate the rules and regulations of the Department to carry out the provisions of the Radiation Protection Act. Section 302 of the Low-Level

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Radioactive Waste Disposal Act specifies the powers and duties of the EQB with regard to regulation of low-level radioactive waste. It directs the EQB to adopt and promulgate regulations developed by the Department for the implementation of the Act and any other regulatory requirements the Department finds necessary or appropriate for the protection of public health and the environment from low-level radioactive waste.

1.4 Summary

The legislative statutes and regulations summarized above and included with the state's application, provides Pennsylvania with consolidated and complete authority to regulate and enforce a complete radiation protection program as an AS. Provisions of two separate laws (Radiation Protection Act, and the Low Level Radioactive Waste Disposal Act) explicitly authorize the Governor to execute the necessary Agreements with the NRC.

2.0 ORGANIZATION AND DUTIES OF THE BUREAU OF RADIATION PROTECTION

The Department is comprised of several Deputates: Waste, Air, and Radiation Management; Field Operations; Administration; Water Management; Mineral Resources Management; Policy and Communications, etc. As noted above, the Department is the sole state agency responsible for the regulation and implementation of Radiation Protection Programs in the Commonwealth. The Bureau of Radiation Protection is within the Department's Deputate for Waste Air, and Radiation Management (WARM), and under the upper management oversight of a Deputy Secretary. BRP is headed by a Bureau Director (BD) in the Department's Central Office (CO). The BD position requires certification by the American Board of Health Physics (ABHP), and for the past several decades has been staffed by individuals with a broad range of operation and applied health physics experience. BRP's Bureau Director is ultimately responsible for the programmatic aspects of the state's radiation protection program. The BRP Bureau Director reports directly to the Deputy Secretary as shown in the attached organization charts. The Deputy Secretary reports to the Secretary of the Department on programmatic issues, but functionally on operational matters, the reporting is through an Executive Deputy Secretary. The Executive Deputy Secretary reports directly to the Department Secretary. As agency head, the Secretary is in the Governor's cabinet.

The Department has a Field Operations organization (Deputate) that, similar to NRC and other federal agencies, operates in a matrix manner, with the six Regional Offices (RO), and as many respective Regional Directors (RD) reporting to a Deputy Secretary for Field Operations. The RP Program personnel in both CO and ROs carry out the Department's radiation protection program duties and responsibilities as required by the laws of the Commonwealth and applicable internal policies and

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procedures. RPP staff in the ROs have the primary responsibility to inspect radiation source users.

The BRP has been organized into four divisions to carry out the various radiation protection programs it has been empowered or authorized to perform under various Pennsylvania statutes and regulations. The four divisions are – Decommissioning & Surveillance, Radiation Control, Nuclear Safety, and Radon. Each division is managed by a Division Chief, who reports directly to the BD. The Department and BRP organizational charts are included in this application.

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The Radiation Protection Program is currently responsible for implementing the following broad program areas:

1. Licensing and inspection of radioactive materials not regulated by the federal government,
2. Decommissioning oversight of radioactive material licensees,
3. Registration and inspection of medical and industrial x-ray equipment,
4. Nuclear reactor oversight,
5. Environmental surveillance around nuclear power plant sites,
6. Siting and licensing of a regional LLRW disposal facility,
7. Nuclear emergency response, and,
8. Radon monitoring and certification.

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A full description of the duties performed by each Division of the BRP is provided below.

2.1 Division of Nuclear Safety

The Division of Nuclear Safety (DNS) is comprised of Nuclear Safety, Low-Level Radioactive Waste and Emergency Response sections as shown in the organization chart. The DNS has been assigned the following three major responsibilities:

1. Provide comprehensive Nuclear Reactor Oversight and professional nuclear expertise to the Commonwealth.
2. Site, license and regulate the Appalachian States Low-Level Radioactive Waste (LLRW) disposal facility.
3. Develop and maintain an effective emergency response program, and provide assistance to the Pennsylvania Emergency Management Agency (PEMA) during a nuclear event or emergency.
4. Interface with PEMA and other state agencies on the transport of spent nuclear fuel and other large quantities of radioactive material through the Commonwealth.

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2.1.1 Nuclear Reactor Oversight Program (Nuclear Safety Section)

The DNS has developed and implemented a comprehensive statewide nuclear reactor oversight review and inspection program as mandated by the Pennsylvania Radiation Protection Act, 1984-147.

The Nuclear Reactor Oversight Program employs several experienced Nuclear Safety Specialists (NSS) who are assigned to various nuclear power plant sites in the Commonwealth. The BRP NSS staff conduct nuclear plant evaluations and participate in inspections with the NRC resident inspectors at these facilities. The NSS staff also review and evaluate all licensee-proposed license amendments and provide input into the NRC review process to determine whether the proposed license amendments constitute a significant safety hazard.

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NSS staff are also responsible for conducting periodic inspections of low-level radioactive waste (LLRW) packaging and transportation activities at nuclear power plants. The Department has a Memorandum of Understanding (MOU) with the NRC to conduct such inspections. (Note: enclosed with this application are all BRP inter-agency / organization MOUs.) The purpose of these inspections is to ensure compliance with the applicable federal regulations. Although the NRC retains the ultimate enforcement power under this MOU, the BRP NSS staff also provide support to the NRC during any hearings or meetings pertaining to these inspections.

The Radiation Protection Act 1984-147, also established a fee system which requires the nuclear utilities in Pennsylvania to pay for the costs associated with the implementation of this program. Each nuclear utility pays to the Department an annual fee per reactor site. There are currently nine operating nuclear power plants at five sites in Pennsylvania.

2.1.2 Appalachian States LLRW Disposal Program (Emergency Response and Radioactive Waste Section, in part)

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The DNS has also established a comprehensive Low-Level Radioactive Waste Disposal Program. This program is mandated by the Pennsylvania Low-Level Radioactive Waste Disposal Act, Act 1988-12, and is responsible for the licensing of the regional LLRW Disposal Facility in Pennsylvania.

In 1980, Congress enacted the federal Low-Level Radioactive Waste Policy Act which made each state responsible for the disposal of LLRW generated within its borders and encouraged the states to enter into compacts. States that belong to compacts must provide for regional management of LLRW and can legally exclude waste from outside their compacts. In 1985, Congress amended the Low-Level Radioactive Waste Policy Act to reaffirm the regional compact concept and set deadlines, along with a series of financial incentives and penalties, to encourage states to meet the deadlines for disposal facility development.

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The Pennsylvania General Assembly responded to the federal laws by enacting the Appalachian States Low-Level Waste Compact Act, Act 1985-120. This Act committed Pennsylvania to find a regional LLRW disposal site for the Appalachian States Compact. The member states of this compact are Delaware, Maryland, West Virginia and Pennsylvania. Pennsylvania was selected as the initial host state because it generated the largest amount of the waste within the compact. As noted above, in 1988, the General Assembly enacted the Low-Level Radioactive Waste Disposal Act, Act 1988-12. This Act designated and authorized the Department to select a site operator and to develop a comprehensive program to license and regulate the siting, operation, decommissioning and long-term care of the regional disposal facility. Act 1988-12 also authorized the Department to permit all generators, brokers and carriers that would use the regional facility.

DEP selected a contractor through an open public process to site, develop and operate the regional facility. Further, the General Assembly enacted the Low-Level Radioactive Waste Regional Facility Act in 1990, Act 1990-107, to establish a fee system to cover the costs related to the development of the Appalachian States LLRW disposal facility in Pennsylvania. The nuclear utilities in Pennsylvania and one utility in Maryland have contributed approximately $33 million to this LLRW Fund. During the 1990s, the Department paid contract costs from the LLRW Fund. In 1998, the Department suspended the LLRW siting program in that they were unable to identify a voluntary municipality to host a LLRW disposal site. The Department and BRP stands ready to re-activate that process should it be needed. However, at this time Pennsylvania and Compact generators have access to the LLRW disposal site in Barnwell, SC. Thus, the RPP and DNS have the authority, regulations, procedures and financial resources to implement LLRW disposal licensing if needed.

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Required activities related to the licensing of the LLRW Disposal Facility are presented in this application. Note, as stated above, the LLRW siting and licensing programs are currently inactive, and as such, there is limited staff devoted to the maintenance of this program. This staff member currently directly reports to the Emergency Response Section Chief. If needed, this LLRW Section may be re-activated by the BRP Director.

2.1.3 Emergency Response Program (Emergency Response and Radioactive Waste Section, in part)

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The DNS has developed and implemented an effective nuclear power plant and radiological emergency response program. This program is mandated primarily by the Pennsylvania Radiation Protection Act, Act 1984-147, but Act 1988-12 also has similar provisions with respect to LLRW disposal operations. A fee system has been established which requires the nuclear utilities in Pennsylvania to pay for the costs associated with the implementation of this program, as well as other independent nuclear safety oversight.

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Over one half-million individuals live within the Emergency Planning Zone (EPZ) of the five nuclear power plants sites in Pennsylvania. In the event of a nuclear power plant accident, it is essential that effective, timely protective action recommendations (PAR) and decisions are made to protect the public. These decisions depend on the continued viability of a comprehensive radiation emergency plan; up-to-date monitoring techniques; radiation detection equipment; ongoing staff training; coordination with nuclear utilities, federal agencies and other state agencies; and active participation in drills and exercises.

The Division of Nuclear Safety has a major responsibility in providing technical support and assistance to the Pennsylvania Emergency Management Agency (PEMA) during a nuclear event or emergency. Its Nuclear Safety Specialists act as on-site representatives for the Commonwealth during nuclear emergencies. Their information gathering abilities and independent assessment when working in collaboration with RPP management, radiological health physics and other nuclear safety staff are vital to the Commonwealth's decision making process. This collaborative environment has lead to significant lessons learned from the March 1979 accident at Three Mile Island (TMI) Nuclear Unit-2, the 1993 security event at TMI Nuclear Unit 1, October 2001 security threat against TMI Unit-1, and many other classified Unusual Events and Alerts.

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Besides the three major activities described above, the Division of Nuclear Safety is also involved in the independent oversight of decommissioning nuclear power plants (e.g., Saxton plant), and for establishing plans, and procedures for notification of spent nuclear fuel shipments and other large quantity shipments of radioactive material (e.g., highway route control) through the Commonwealth. Specifically, these emergency plans and procedures involve potential transportation (e.g., spent nuclear fuel shipments) and other fixed facility (e.g., the Navy's Bettis Atomic Lab) events. Traditionally, the BRP emergency plan has been focused on the nuclear power plant accident scenario, however, since the tragic events of 9/11, this focus has shifted to other homeland security scenarios (e.g., radiological dispersion device or weapon of mass destruction).

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The BRP's DNS has been extremely successful in obtaining federal homeland security grant funds for the RPP nuclear / radiological emergency response program. These funds have allowed the acquisition of significant health physics instrumentation (i.e., G-M survey meters, portable sodium iodide, cadmium telluride and germanium radioisotope identifiers, neutron probes, multiple "matrix" satellite linked gamma monitoring probes, etc.), and communications assets (satellite phones, Blackberry e-mail units, etc.) above the routine call-out pagers and cell phones used by the RP Program. *See the enclosed listing of instrumentation available to the RP Program staff* for emergency response and routine operations, many of which are in dedicated response vehicles.

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Lastly, given the new National Response Plan, and the need to be National Incident Management System (NIMS) compliant with all state emergency plans and

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procedures, the RPP emergency plan is being re-written to incorporate all the major nuclear installation (i.e., nuclear power plant), radioactive materials licensee or other fixed facility, transportation, and related terrorist type event. Those detailed emergency plans and procedures will be completed by July 2007. Regardless, the RPP routinely responds to transportation accidents involving radioactive materials, and facility (e.g., metal recycling and solid waste) events involving lost or orphan sources. For example, recently two 20 mCi Am-241 static eliminator bars were discovered at a Pennsylvania landfill. A report and catalog of lost or abandoned sources the RP Program has recently responded to is enclosed, and, can be found on the BRP web site.

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2.2 Division of Radiation Control

The Division of Radiation Control (DRC) is comprised of the radioactive materials licensing section, and the x-ray equipment registration / accelerator licensing section. The Radioactive Materials Licensing Section is responsible for licensing users of naturally occurring and accelerator produced radioactive material in the Commonwealth, and it is this section that will have the lead role in licensing the byproduct, source material and small quantity special nuclear material licensees current under NRC's authority.

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The x-ray registration program consists of registering machine type equipment that produce ionizing radiation. Recently the DRC converted about 140 accelerator registrations (with a total of 250 units) to specific accelerator licenses. These license authorizations included general and site-specific conditions related to operation staff qualifications, machine calibration, authorized users, radiation safety officer, etc. Much of this was patterned after the NRC's cobalt-60 teletherapy licensing protocols.

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There are six Department Regional Offices (RO) that implement the various programs such as, radiation protection, air, waste, water quality, etc. Given the demographics of the state's population, industry and radiation source users, the RPP has the majority of its staff in the southern three ROs. These ROs primarily carry out the inspection and compliance function of the materials and x-ray portion of the RPP. The three main ROs with RPP staff are located in Harrisburg, Norristown and Pittsburgh, however, once Agreement State status is obtained, the intent is to place new x-ray and materials inspectors in the northern ROs. Programmatic policies and issues relative to the RPP in regional offices fall within the purview of the Bureau Director of BRP. Administrative policies and functions in the ROs are the responsibility of the Regional Director, who reports to the Deputy Secretary for Field Operations, who in turn reports directly to the Secretary and Executive Deputy Secretary of the Department.

2.2.1 Licensing of Radioactive Materials

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In 1971, the Commonwealth of Pennsylvania began licensing persons to use radioactive materials which were not under the jurisdiction of the federal government, e.g., users of discrete radium sources. Licensing procedures were designed to coincide as closely as possible with the licensing policies and procedures used by the Atomic Energy Commission (predecessor to the NRC) and Agreement States. With the more recent expanded use of accelerator produced positron emission radioactive materials, the DRC's licensing has also greatly expanded into traditional nuclear medicine scanning. Licensing guides and forms, Department policies, application forms, and other administrative tools have been developed in conjunction with other Agreement States and the NRC. Thus current policies and procedures used in licensing naturally occurring and accelerator produced radioactive materials (NARM) are very similar to those used by the NRC in licensing byproduct materials. In fact, where applicable, it is the intent of BRP to utilize the NRC's actual licensing guidance in the 20-volume Consolidated Guidance About Materials Licenses NUREG 1556 series for material license applications. The NUREG 1556 guidance series currently includes for following:

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1. Program-Specific Guidance About Portable Gauge Licenses
2. Program-Specific Guidance About Industrial Radiography Licenses
3. Applications for Sealed Source and Device Evaluation and Registration
4. Program-Specific Guidance About Fixed Gauge Licenses
5. Program-Specific Guidance About Self-Shielded Irradiator Licenses
6. Program-Specific Guidance About 10 CFR Part 36 Irradiator Licenses
7. Program-Specific Guidance About Academic, Research and Development, and Other Licenses of Limited Scope Including Gas Chromatographs and X-Ray Fluorescence Analyzers
8. Program-Specific Guidance About Exempt Distribution Licenses
9. Program-Specific Guidance About Medical Use Licenses
10. Program-Specific Guidance About Master Materials Licenses
11. Program-Specific Guidance About Licenses of Broad Scope
12. Program-Specific Guidance About Possession Licenses for Manufacturing and Distribution
13. Program-Specific Guidance About Commercial Radiopharmacy Licenses
14. Program-Specific Guidance About Well Logging, Tracer, and Field Flood Study Licenses
15. Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses
16. Program-Specific Guidance About Licenses Authorizing Distribution to General Licensees
17. Program-Specific Guidance About Licenses for Special Nuclear Material of Less than Critical Mass
18. Program-Specific Guidance About Service Provider Licenses
19. Guidance for Agreement State Licensees About NRC Form 241 Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters and Guidance for NRC Licensees Proposing To Work in Agreement State Jurisdiction (Reciprocity)
20. Guidance About Administrative Licensing Procedures

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The actual application forms will be Pennsylvania forms, but the informational content will mirror NRC's application. In all current licensing applications (i.e., NARM or accelerator), they are reviewed by the DRC, and when applicable, these reviews are coordinated with the appropriate RO staff. Pre-licensing facility inspections and walk-downs are conducted as necessary. Similar to the NRC and other states, licenses are generally issued and renewed for five year periods. Prior to termination of a license, BRP requires documentation that all radioactive material has been transferred to an authorized recipient. If needed, final close-out radiological surveys are performed by the licensee, and BRP and/or a RO, or third party consult contractor will assess the licensee's transfer of material and/or site / facility(s) clean-up (see Decommissioning and Surveillance section below). Upon verification of the site being cleared of radioactive materials to NRC's decommissioning / license termination criteria, an approval of license termination is made by BRP's DRC. As of 2006, BRP had approximately 460 NARM licenses in force.

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As noted above, the inspection and compliance of licensees is performed by the ROs. This is a major portion of the current RP Program, i.e., NARM and accelerator licensees, and x-ray equipment users. The comprehensive inspection and compliance program for these radiation source users falls to ROs. During inspections, RP Program inspectors and other staff evaluate regulatory compliance and examine radiation source user's safety performance. At times when there are only minor findings, staff may assist the licensee with compliance problems and recommend actions that can be performed for a better radiation safety program. Serious health and safety issues are handled immediately onsite by the inspector. Any situation of non-compliance requires a series of steps that are outlined in the RP Program Compliance and Enforcement Policy (enclosed). The inspection of x-ray equipment and NARM users has been performed since the RP Program formally began in early 1960. Informally, the Commonwealth has been involved with x-ray and radium users since the early 1940s. Inspections of state NARM licensees have been conducted since 1971.

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The NARM inspection program is very similar to the NRC's materials inspection program. And again, the Commonwealth has utilized the NRC Inspection Manual to tailor Department desk manuals and specific byproduct material and other inspections procedures. Thus, these procedures are very similar to NRC's, but adjusted for Department and state "business" practices. Functionally, at the completion of each inspection, the inspector confers with licensee representatives and verbally reviews the results and findings of the inspection. The inspector submits a comprehensive written report to RPP supervisory staff. The report describes inspection findings and lists all items of noncompliance found during the inspection. Following review by supervisory personnel, a letter is prepared and sent to the licensee's radiation safety officer (RSO) and/or management outlining the facility's compliance status. The licensee is typically required to notify the RPP within 20 days concerning actions proposed to correct deficiencies. Should the licensee not bring the radiation program into compliance with license requirements and regulations, the Department may initiate enforcement procedures (i.e., issue a Notice of Violation (NOV)) and possibly impose a civil penalty,

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or issue an immediate Order to abate the violation or radiological hazard. This authority is clearly given in the Radiation Protection Act, Act 1984-147. The BRP has recently updated its Compliance and Enforcement Policy (enclosed with this application), and published it in the Pennsylvania Bulletin (a state government publication analogous to the Federal Register).

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Legally, licensees have a right to a hearing before the Environmental Hearing Board unless a situation constitutes an imminent threat to public health. Again, in this case the RP Program may issue an emergency Order summarily requiring the radiation source owner or operator to modify or halt an activity. This Order may carry administrative sanctions. In a scenario that may involve criminal acts, BRP may also direct the Commonwealth's Attorney General (AG) to obtain an injunction against the violator, and pursue criminal action. Also, a person who is found in violation of any of the provisions of the Radiation Protection Act may be found guilty of a misdemeanor by action of the AG. A preliminary notification (PN) and/or press release may also be issued by BRP if deemed appropriate.

Follow-up inspections are conducted routinely in cases involving willful or flagrant violations, repeated poor performance in an area of concern, or serious breakdown in management or radiological controls. Follow-up inspections are usually conducted if more than two significant violations were found during the most recent routine inspection of a licensee. The supervisory personnel review each enforcement action on a case-by-case basis to decide if a follow-up inspection is indicated. All items of non-compliance are given special attention by the inspector during the next inspection of the facility.

BRP also conducts special inspections or investigations as needed to evaluate such items such as allegations, complaints, exposures to personnel in excess of regulatory limits, medical events, reported release of radioactive materials, major failure of safety equipment, and other incidents involving radioactive material. Senior RPP staff supervise such investigations to assure they are conducted promptly, professionally, and thoroughly.

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All inspections are recorded in the Department's eFACTS compliance database, and, all special inspections or investigations are also reported to the BRP Bureau Director, Regional Director and Chief of the DRC. The eFACTS database is an administrative tool used by most Department programs for uniform "permitting" (e.g., licensing and registration of radiation sources) of facilities and tracking inspections and compliance. This eFACTS data warehouse allows all information to be shared between the Central Office and Regional staff, and more importantly, allow all Department permitting functions (e.g., RP, air, water, waste, mining, etc.) to be in one database. Enclosed is an overview of the eFACTS database.

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2.2.2 Regulated Facilities under Division of Radiation Control

As described above, as of 2006, BRP's DRC had approximately 460 NARM licenses. With Agreement State status, the Commonwealth expects to have another

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850 byproduct material, source material, and small quantity special nuclear material licenses. There is some overlap among these BRP and NRC licensees, and we anticipate some 1,000 total licenses once Agreement State status is achieved. Licensing, inspections and termination procedures for these facilities are described throughout this application. This division also registered about 11,000 x-ray facilities which included some 30,000 radiation producing systems. The DRC also maintains an annual update of types of x-ray systems used, e.g., dental, panoramic, radiographic, fluoroscopic, CT, cabinet, analytical, etc. The following is a listing of facilities by type that the DRC tracks in the eFACTS database: dentists, medical doctors, osteopathic physicians, chiropractors, podiatrists, hospitals, medical clinics, veterinarians, retirement homes, universities/schools, industries, prisons, other medical and non-medical registrants.

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Approximately 140 accelerator facilities with about 250 medical and non-medical high energy accelerators are now licensed by DRC, and tracked in eFACTS. These are complex and potentially very dangerous machines, which have the potential to cause grave harm to operators and patients if safety and/or radiation therapy treatments are not planned and execute without error.

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Lastly, over the past several years, the DRC has also assisted the Department's Bureau of Waste Management (BWM) perform "major modifications" to approximately 170 solid waste facility (i.e., landfill, transfer facility, incinerator, etc.) permits, requiring a radiation monitoring Action Plan be put in place. Similar to traditional materials licensing, these permits have proscriptive operational conditions. Effective the beginning of 2001, all such solid waste facilities had to perform active gamma radiation monitoring, and implement a radiation Action Plan for proper surveys and source characterization. BRP actively led and assisted BWM develop their regulations and guidance, and, reviewed all 170 major modifications.

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The DRC staff are fully qualified and ready to take over the NRC's licensing aspects.

2.2.3 Inspection and Compliance

There is a large inspection and compliance function within the RPP for regulated radiation producing equipment and radioactive materials. At this time, approximately 2,500 radiation producing machines and materials licensees are inspected annually. Over the past several years, hundreds of other decommissioning inspections have been (and continue to be) performed on NARM and NRC licensees, often in conjunction with NRC. These inspections are conducted by the three ROs and Central Office BRP staff. The RP Program staff conduct inspections according to the schedule internally prescribed, but in general, depending on the hazard potential of the sources used, inspection frequencies range from two to four year intervals. With AS status, the RP Program will inspect the material licensees to the same frequency as does NRC based on priority class. During inspections DEP will evaluate the material licensees and

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registrants with respect to compliance problems, performance of the radiation protection program, and, management oversight of the program. If minor non-compliance issues are noted, the RP Program staff may note actions that can be implemented immediately, or performed in the future to better the radiation safety program. Inspectors also have the authority to immediately alert the licensee or registrant to a grave hazard that threatens public health and safety. If there are non-radiological hazards noted, they may be referred to the state Department of Labor and Industries. Similar to the radioactive materials program, follow-up letters are prepared and sent to operators of radiation producing machines outlining the facility's compliance status. Should the operator not bring the radiation program into compliance with the regulations, BRP may initiate enforcement actions as described previously in the case of materials license or other facility violations.

The entire inspection and compliance aspect of the program is designed to use the Departments global eFACTS electronic data warehouse system. This use of data processing assures linkages between license application information, license conditions, past compliance history, administrative efficiency, and provides BRP a strong compliance database for determining program effectiveness, trending of violations, and future program direction. A procedure is in place and staff are trained, and presently providing information to the NRC's national materials event database, i.e., NMED. The Commonwealth's RP Program staff are also currently performing joint inspections of NRC licensees, will continue to do so leading up to signing the proposed Agreement, and will bewell on their way to being fully qualified, and ready to take over NRC's inspection functions when we become an Agreement State. The inspectors will be documenting training and inspections experience in individual qualification journals. In addition to significant NARM inspection experience, the Commonwealth's inspectors' experience will involve jointly inspecting several NRC licensees of varying degree of complexity. Once Agreement State status is achieved, RP Program supervisors will perform 1 to 3 "Field Audits" annually, and join the inspectors during actual licensee inspections.

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2.2.4 Special Projects and Professional Activities

Many RPP staff members have pursued various special radiation protection projects and other professional activities. Often these can be characterized as studies, facility / operation walk-downs or surveys to better assess and understand newer equipment, radiation therapy modalities, decontamination techniques, etc. in use by licensees and registrants. Some of these projects have been presented and published in the proceedings of various meetings, such as the National Conference on Radiation Control Program Directors (CRCPD), or committee reports. Additionally, many RPP staff are active on national health physics, emergency response, and nuclear safety committees.

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DEP management has supported such involvement by RP Program staff for the advancement of the public perception of the high quality of radiation protection and the

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overall protection of the citizens of the Commonwealth. In some instances RP Program management has even taken the lead. For example, the BRP Director and several RP Program Managers and staff are active on national RP committees. They often present and publish on emergency response, environmental surveillance, decommissioning, low-level radioactive waste, reduction of patient x-ray exposure, radioactivity in solid waste and the incidence of radioactive materials in the scrap metal recycling stream.

2.2.5 Routine Regional Emergency Response

As noted above, a significant level of effort in the RPP is dedicated to radiological emergency response. This has been the case for decades, and since the TMI Unit-2 accident, has become much more formalized and expanded to encompass potential terrorist type events. Clearly when any radiological event unfolds, it is the local and state first responders that have to handle the full events that are small in scope, and regardless, will have to manage larger events during the first 24-48 hours. This has been the case in the Commonwealth for decades, and it is a matter of fact that the RPP staff are most often first to respond to offsite events involving NRC licensees within the state. There are several call-out notification systems in place through BRP, the Department, or PEMA, where RPP Central and Regional Office staff are made available for response to radioactive material incidents such as lost or damaged sources, contamination of facilities, or transportation mishaps. RPP personnel respond to an average of 20 to 40 incidents per year. As described in our emergency procedures, the equipment available for response and communication structure is such that it includes personnel pagers, cell phones, Blackberry e-mail, satellite phones, two-way radio communication, the full range of field health physics survey instrumentation (air sampling, gamma spec, alpha/beta/gamma meters, etc.) command and support vehicles. Operational coordination may be performed onsite, or if other agencies support is needed, via the state EOC. However, most events are small in scale, and response is handled at the regional level, with reporting to Central Office. Depending on the nature and scope of the event, information details may be entered into the NRC's NMED reporting database and eFACTS.

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2.3 Decommissioning and Surveillance Division

The Environmental Surveillance Section within the Decommissioning and Surveillance Division is responsible for carrying out a comprehensive environmental radiation monitoring program throughout the Commonwealth including five nuclear power stations and certain other nuclear facilities. This section performs the routine monitoring, sampling, and analysis of environmental parameters to determine levels of radiation and radioactivity in the general environment around nuclear power reactors and other fixed facilities that utilize radioactive material. The Section is housed at the DEP Bureau of Laboratories (BOL) facility, as they operationally feed routine samples

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and chain-of-custody sample tracking sheets to the Radiochemistry Group within the BOL. They have also interfaced for decades with the U.S. Environmental Protection Agency (EPA), as BRP has had the lead for Commonwealth with our participation in the EPA's Environmental Radiation Ambient Monitoring System (ERAMS) program. This ERAMS program has monitored radioactivity in air, surface water and precipitation via state collection stations, several of which are in Pennsylvania. EPA is in the process of converting these ERAMS stations to active radiation monitoring locations, and this Section has the lead interface role with this new RadNet program. The Environmental Surveillance Section will be responsible for evaluating environmental monitoring around any Commonwealth low-level radioactive waste disposal facility, and would support the preparation of emergency response plans for any such facility.

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The Decommissioning Section within the Decommissioning and Surveillance Division is responsible for carrying out a comprehensive decontamination and decommissioning (D&D) oversight program throughout the Commonwealth. The Commonwealth has had numerous sites that required decommissioning over the years. Many of these sites are still undergoing D&D, and the regulatory oversight of these sites will represent a significant commitment for PA as Agreement State. BRP has structured its Decommissioning Section and programmatic oversight to meet this commitment, taking advantage of the expertise and experience of its staff in both Central Office and three Regional Offices. The RPP staff have worked with NRC in close cooperation, in accordance with an official NRC / PA Memorandum of Understanding, effective July 15, 1996. As a consequence of this close cooperation, the RPP are intimately familiar with the status of each of the seven complex sites and the bases upon which NRC regulatory actions have been taken.

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The Commonwealth's decommissioning program has been established to ensure adequate protection of the public health and safety, and is fully compatible with the NRC's Program. Through incorporation of NRC regulations by reference, the requirements for decommissioning established in Title 25 PA Code, Article V, are identical to the NRC regulations and provide highly compatible criteria for license termination. Consistent with NRC practice, decommissioning in the Commonwealth means to safely remove from service a site that is contaminated with radioactive materials and reduce the residual radioactivity to levels that permits termination of the site license. PA follows the NRC usage of the term "site" to include land areas, buildings, equipment and contents, and any other facilities involved in the use of radioactive materials. The overall management of the license termination and decommissioning program for sites in the Commonwealth contaminated with radioactive materials will be the responsibility of BRP in the Central Office, with coordination and concurrence with the respective DEP Region where the site may be located.

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These sites include those previously included in the NRC's Site Decommissioning Management Plan (SDMP), or locations identified in the NRC / Oak Ridge National Laboratory reviews of terminated license sites that have been found to have residual radioactive contamination at levels exceeding regulatory limits for

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unrestricted access. It may also include any location that have never been licensed by either NRC (or predecessor agencies), nor the Commonwealth, but is contaminated with licensable amounts of residual radioactivity.
Additionally, it will include any location licensed by BRP for which license termination is requested in the future, and any licensed locations with residual radioactive contamination found to be abandoned, or activities terminated, without informing BRP.

Table 1 below lists all of the currently identified major sites in categories the above, and provides the status of decommissioning activities. Table 2 provides a listing of major PA sites that have been successfully remediated in the past and applicable licenses have been terminated to allow unrestricted access. In addition to the major sites, each year there are numerous site licensees with small quantities of radioactive materials, such as sealed sources, that request license terminations. On average, there are about six to ten of these each year in the Commonwealth that require regulatory action to confirm that materials have been disposed of, transferred, and D&D meets license termination criteria. Finally, there are four known major decommissioning sites in the Commonwealth that will not transfer to the Commonwealth when Agreement State status is approved. The sites that will remain under NRC authority are: the NRC TR-2 reactor site; the two Canonsburg and Burrell uranium mill tailings disposal cell sites, they remain DOE responsibility under NRC General License (10 CFR 40.27); and, the BWXT Shallow Land Disposal Area (SLDA), which will remain under NRC License SNM-2001 and is currently being evaluated for D&D by the Army Corps of Engineers under the FUSRAP program. The unlicensed Kiski Valley POTW Authority has been evaluated by NRC under the license termination process, however, due to the total quantity of enriched uranium (i.e., uranium enriched in U-235 is considered special nuclear material or SNM) in the ash lagoon, this contaminated site can not be regulated by the Commonwealth with respect to the SNM. Similarly, any other sites with SNM licenses that are active or inactive, that exceed the "small quantity" SNM limits – will remain with NRC. Lastly, BRP took over the byproduct material license in early 2003 for a site the Commonwealth (i.e., DCNR) owns in the Quehanna Wild Area. We anticipate license termination with this site in early, mid-2007, just prior to becoming an Agreement State. The site has undergone a full 30 million dollar D&D, and a revised Decommissioning Plan has been approved by NRC. Should it be needed to preclude a conflict of interest, the Commonwealth is prepared to request the license be transferred to DCNR.

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The organization and responsibilities of the RPP decommissioning program is as follows. The BRP Director has overall regulatory responsibility for the PA Decommissioning Program. Direct support is provided to the BRP Director by the CO management and staff, as well as inspector staff in the three ROs. More specifically, BRP has the responsibility for all complex decommissioning projects in the Commonwealth, as currently listed in Table 1 and as may be identified in the future, and for implementing regulatory decisions and actions. Each RO has the responsibility for onsite inspections for regulatory oversight of decommissioning at all licensees within their respective geographical areas. In addition, the ROs provide support to BRP for inspections and surveys at complex decommissioning sites in their areas. However,

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BRP establishes overall decommissioning policies and generally provides the interface with other agencies (i.e., NRC, EPA, etc.), as required. Within BRP, responsibility for policy implementation, routine regulation and oversight of the PA Decommissioning Program has been assigned to the Chief, Decommissioning and Surveillance Division. This Division is devoted exclusively to the Decommissioning Program and the Environmental Surveillance Program. Relational organization charts are provided in this application. But to be clear, within the RPP the CO Decommissioning staff in BRP performs a majority of the inspections and site surveys on the more complex sites. Responsibilities within the Decommissioning Program include:

1. Effecting a smooth transfer of responsibility from NRC to the Commonwealth,
2. Ensuring that NRC approved Decommissioning Plans and regulatory requirements are implemented for each of the transferred sites,
3. Coordination as necessary with federal agencies (e.g. NRC, EPA), and other PA organizations,
4. Maintaining cognizance of technical advances in the decommissioning field,
5. As needed, development and implementation of decommissioning regulations, guidance, and procedures for the RPP that are consistent with NRC practices,
6. Review and approval of licensee submitted and technical documents in conjunction with the Materials Licensing Section of the Radiation Control Division,
7. Preparation of any required Safety Evaluation Reports,
8. Posting notices of major regulatory actions in the PA Bulletin,
9. Participation in any public and adjudicatory hearings,
10. Inspection of decommissioning sites,
11. Response to any site incidents or emergencies,
12. Surveys of sites, including confirmatory surveys,
13. Enforcement actions against decommissioning licensees,
14. Recruitment, training, and qualification of required program staff, and
15. Qualification and selection of any contractor support for confirmatory surveys.

Sufficient staff for the PA Decommissioning Program is currently provided for by the full-time personnel in the Division of Decommissioning and Surveillance. This includes a Division Chief, Section Chief for Environmental Surveillance, three RP technical staff in the Environmental Surveillance Section, and two RHP's within the Decommissioning Section, with provisions for an additional Section Chief and RHPs (to be hired just prior or after implementation of the Agreement State Program). Due to the sporadic natural of D&D work and need for independent confirmatory surveys, the staff will be supplemented as necessary by consultant(s) experienced in D&D programs. Additional staff support to BRP for the complex sites will be provided by the full-time RP Managers and RHP's from the ROs. The actual number of staff FTE's assigned to the PA Decommissioning Program will be determined by review of the number of NRC staff that has been assigned to these same complex decommissioning projects as we approach the transfer of these licensees. Presently (November 2006) we anticipate one additional technical and one administrative staff person needed to support the CO Decommissioning Division. The final workload analysis will also assume that an

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average of six to ten licensees with small quantities of radioactive material will also request license termination each year. Legal assistance is provided, as necessary, by DEP attorneys. In addition, specialized technical staff, such as hydrologists and geologists, are available from other offices in DEP. Within the Department's organization there is a dedicated radiochem laboratory in the BOLs that provides analytical support to the Decommissioning Program for sample analyses.

The training and qualification of Decommissioning Program staff will follow the procedures outlined in this application. All technical staff assigned to the PA Decommissioning Program will have successfully completed training in a program that has been developed to be consistent with the NRC Guidance given in NUREG-1757. Most training is sponsored by NRC for state employees in the Agreement State programs. RP Program staff have taken advantage of such NRC courses, and have completed other related formal training courses (e.g., ANL's RESRAD code course). Job descriptions have been developed and assignees' training is recorded on standardized training forms. Refresher training is scheduled on a periodic basis (e.g., HAZMAT), and management reviews / sign-offs are performed to ensure that each staff member's training is current and appropriate for their assignments. In reviewing Table 1 and 2, it is apparent that perhaps no other state in the U.S.A. has had the variety and number of complex D&D sites. Current BRP staff have experience related to the decommissioning of TMI Unit-2, the Shippingport and Saxton reactors, complete oversight of major radium site cleanups, direct technical and project management for a 30 million dollar D&D of the Quehanna hot cell facility, and the daily involvement of all other NRC complex decommissioning sites in the state. This involvement includes licensing document review, analysis and comments, and most importantly, the hands-on onsite oversight and survey work. The PA D & D staff are qualified and ready to take over D&D regulatory responsibilities from NRC.

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The procedures for reviewing Decommissioning Plans, evaluating licensee surveys, and terminating licenses are completely compatible with the NRC's approach to license termination. The Commonwealth will also commit to accepting any licensee's decommissioning plan approved NRC prior to PA Agreement State status, which has BRP concurrence. The BRP Decommissioning Program will follow the NRC guidance and procedures provided in three volume NUREG-1757 series, "Consolidated NMSS Decommissioning Guidance." The NRC's NUREG-1575 (rev 1) Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) will also be utilized to perform confirmatory surveys. The MARSSIM approach provides for detailed site investigations through surveys and final status surveys, where one must consider the planning and design, radiological classification of areas, statistics, instruments, field methods, sampling, chain of custody, laboratory methods, data evaluation, etc. These detailed procedures were developed by the Oak Ridge Institute of Science and Education (ORISE) environmental survey and site assessment program staff and have been adopted by NRC, EPA and other federal agencies as an appropriate survey methods manual.

Table 1. PA Complex Decommissioning Sites

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NAME	LOCATION	LICENSE NUMBER(S)[1]	PRINCIPLE RADIONUCLIDES	STATUS
Safety Light Corporation (former US Radium) (SDMP)	5 mi. East of Bloomsburg, PA	NRC 37-00030-02 NRC 37-00030-08 PA-0166	Ra-226, Cs-137, Sr-90, Am-241, Co-60, H-3	Inadequate decommissioning funds; EPA emergency removal action pending. Listed on NPL 5/27/05.
Molycorp Washington Site (SDMP)	Outskirts of Washington, PA	NRC SMB-1393	Uranium, Thorium, Radium and decay products	Active decommissioning underway to permit unrestricted use.
Cabot Corp. Reading Site (SDMP)	Within city limits of Reading, PA	NRC SMC-1562	Uranium, Thorium, Radium and decay products	1988 Decommissioning Plan and 2005 Supplement submitted for NRC approval and PA review. DP under review.
PA DEP (former Permagrain Products) (SDMP)	Quehanna Wild Area, 10 mi. NW of Karthaus, PA	NRC 37-17860-02	Sr-90, Co-60	Active decommissioning underway to permit unrestricted use. PA anticipates license termination prior to becoming an Agreement State.
Whittaker (SDMP)	3.7 mi. South of Greenville, PA	NRC SMA-1018	U, Th, Ra-226	Decommissioning Plan approved; decommissioning underway.
Westinghouse Electric – Waltz Mill Site (SDMP)	3 mi. West of New Stanton, PA	NRC SNM-770 (Not to be terminated, active operating site); NRC TR-2	Transuranics, Cs-137, Co-60, Sr-90	Soil remediation complete. Ground water pump and treat to continue for at least the next 30 years and SNM-770 license to be

[1] PA License Numbers to be assigned when Agreement State status is approved by NRC.

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		(possession only) stays with NRC		maintained.
Superbolt (Formerly Superior Steel) (Non-SDMP, ORNL Identified)	Carnegie, PA	NRC License (Terminated 1958)	U	Site conditions under investigation by NRC, DOE and PA. May be added to ACE FUSRAP list

Table 2. Major PA Remediated Sites

NAME	LOCATION	LICENSE NUMBER(S)	PRINCIPLE RADIONUCLIDES
Molycorp York Site (SDMP)	Outskirts of York, PA	NRC SMB-1408 (Terminated)	U, Th
Cabot Revere (SDMP)	0.5 mi. SE Revere, PA	NRC SMC-1562 (Terminated)	U, Th
Cabot Boyertown (SDMP)	1.6 mi. NE of Boyertown Borough, PA	NRC SMB-920 (Active)	U, Th
BWXT Parks Fuel and Source Fabrication (SDMP)	Parks Township, PA	NRC SNM-414 (Will be terminated prior to Agreement State approval)	U, Am-241, Pu-241, Co-60, Cs-137
Babcock & Wilcox (SDMP)	Apollo, PA	NRC SNM-145 (Terminated)	U (enriched, natural, depleted), Th
Presses / METCOA (SDMP)	1 mi. N of Pulaski, PA	NRC STB-1254 (Terminated)	Th
Schott Glass (SDMP)	Duryea, PA	NRC STB-988 (Terminated)	Th
Flannery Building / Parkvale Bank (Non-SDMP) circa 1915 radium production	Pittsburgh, PA	PA-0821 (Terminated)	Ra
ICN	West Mifflin,	NRC 37-00345-30, SNM-	Cs-137, Co-60

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Radiochemicals (Non-SDMP, ORNL Identified)	PA	00716 (Terminated 1969)	
Sellersville Landfill; old c1914 Radium Company of America (non-SDMP)	Sellersville, PA	No PA License (removed from state HSCA list in 1997	Ra
Kiski Valley Water Pollution Control Authority (Non-SDMP)	Leechburg, PA	No NRC or PA Licenses (NRC did an EA)	Enriched U
Royersford Wastewater Treatment Facility (Non-SDMP)	Royersford, PA	No NRC or PA Licenses	Co-60, Cs-137, other mixed fission products
Frankford Arsenal (Non-SDMP)	Philadelphia, PA	NRC SUB-459, NRC SUB-1339 (Both terminated 1981)	None above unrestricted release limits
Nuclear Laundry (Non-SDMP, ORNL Identified)	Jeanette, PA	NRC (Terminated 1973)	Various
Westinghouse Fuel Facility	Blairsville, PA	NRC (Terminated 1961)	U
Lansdowne Site (Non-SDMP, non-licensed)	Lansdowne, PA	Deleted from EPA's NPL in 1991	Ra

2.4 Radon Division

The Radon Division, comprised of the Certification Section and the Radon Monitoring Section, is responsible for providing awareness and education to the public and to certify radon testing, mitigation and laboratory facilities in Pennsylvania. The Certification Section employs RHPs who administer the certification program including policy development, application review, fee collection, enforcement of certification regulations, maintenance of certification lists and associated administrative functions. The Radon Monitoring Section employs RHPs who carry out a comprehensive inspection program of certified testers, mitigators, and laboratories. They also perform

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specialized studies (i.e., area "hot spot" surveys, mitigation techniques, etc.) In addition, all Radon Division staff participate in public outreach, and often have public lecture engagements, and implement various projects funded by EPA and their State Indoor Radon Grant (SIRG) moneys.

3.0 IMPLEMENTATION OF THE AGREEMENT STATE PROGRAM FOR MATERIALS LICENSEES

3.1 Overview.

Under Pennsylvania's proposed Agreement State program, the Division of Radiation Control will be the Division that has primary responsibility for licensing byproduct material, source material, and special nuclear material in quantities not sufficient to form a critical mass. The Decommissioning and Surveillance Division will have primary responsibility for D&D related work, including reviews for financial assurance and license terminations.
The Division of Nuclear Safety will be responsible for the licensing of LLRW disposal site.

3.2 Licensing.

As of October 2006, the NRC had approximately 850 active specific licenses issued to "persons" within Pennsylvania. Therefore, factoring in the approximate 460 existing State NARM specific licenses with about 50 percent overlap, a total workload of about 1000 specific licenses is anticipated. To handle this additional regulatory load, BRP has expanded and enhance the basic licensing procedures that it has developed during the past 27 years of issuing NARM licenses. The Department's policies and procedures will continue to be consistent with NRC guidelines, and will utilize NRC's licensing guidance. New BRP inspection procedures recently developed are adapted from those of the NRC. Standards and procedures for license application, review, and approval will continue to be compatible with NRC practice.

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The inspection and enforcement aspects of the RPP will be the primary responsibility of the DEP regional offices, who will conduct routine inspections of activities authorized by Agreement State licenses. Inspection schedules will, at a minimum, be modeled after the NRC's inspection priority system. Inspections will be conducted from the three regional offices Pittsburgh, Harrisburg and Norristown. Again, the intent is to place additional RP Program staff in the northern DEP Regions as positions are filled once an Agreement is in place. The purpose of the PA Agreement State program is to provide state control of radioactive materials, and promote and protect the radiological health and safety of the public, employees' health and safety, and the environment by:

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1. Ensuring compliance with Department and NRC regulations and license conditions,
2. Obtaining prompt correction of violations and adverse quality conditions which may affect safety,
3. Deterring future violations and occurrences of conditions adverse to quality, and
4. Encouraging improvement of licensee performance, including the prompt identification and reporting of potential safety problems.

Consistent with the purpose of this program, prompt and vigorous enforcement action will be taken when dealing with licensees who do not achieve the necessary attention to detail and the high standard of compliance which the Department and RP Program expects, and, the regulations require. The specific enforcement action taken will depend on the circumstances of each case. In no case, however, will licensees who cannot achieve and maintain adequate levels of protection be permitted to conduct licensed activities. Following each inspection, the inspector will confer with licensee representatives to inform them of preliminary inspection results. Each inspection report will be reviewed by the Regional RP Program Manager prior to formal transmittal to the licensee. The inspector or manager will send a comprehensive written report describing inspection findings and detailing any apparent violations. In the event that BRP discovers any deficiency(ies) during an inspection, the Department will send the licensee a written notice itemizing the area(s) of deficiency(ies) and will require the licensee to submit within 20 days of the date of the notice a written response including:

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1. Corrective steps which have been taken by the licensee and the results achieved,
2. Corrective steps which will be taken, and
3. The date when full compliance will be achieved.

If the licensee fails to provide an adequate response to the written notice, the Department will normally hold a management conference with the licensee prior to taking enforcement action. The Department may also elect to hold a conference for other violations. The purpose of these conferences will be to: discuss items of deficiency or noncompliance, their significance and causes, and the licensee's corrective actions; determine whether there are any aggravating or mitigating circumstances; and obtain other information which will help determine the appropriate enforcement action. If compliance cannot be achieved through these informal conferences, the Department's RP Program will take more formal enforcement action. However, for conditions which create an imminent threat to public health and safety, we will take immediate action in accordance with Pennsylvania law. Pennsylvania law (i.e., Radiation Protection Act 1984-147) provides that if the Department finds that a condition exists which constitutes an immediate threat to health due to the violation of any provisions of the Act or any code, rule, regulation or order promulgated under the Act and requiring immediate action to protect the public health or welfare, it may issue an Order asserting the existence of such an immediate threat and the findings of the

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Department pertaining thereto. The Department may summarily cause the abatement of such violation or may direct the Attorney General to obtain an injunction against such violator. An abatement order will be effective immediately but will include notice of the time and place of a public hearing before the Department to be held within 20 days of the date of such order to assure the justification of such order. Potential remedial actions which can be ordered by BRP include civil penalties, orders to modify, suspend, or revoke a license, or impound a radiation' source. A license may be modified, suspended or revoked in the following instances: to remove a threat to the public health and safety or environment; to stop facility construction when further work could preclude or significantly hinder the identification or correction of an improperly constructed safety-related system or component, or when implementation of the licensee's quality assurance program is not adequate to provide confidence that construction activities are being properly carried out; when the licensee has not responded adequately to other enforcement action; when the licensee interferes with the conduct of an inspection or investigation; or for any reason not mentioned above for which license revocation is legally authorized; when a licensee is unable or unwilling to comply with BRP's requirements; or, when a licensee refuses to correct a violation. The PA Radiation Protection Act is very well written, and provides the RPP full authority to protect the public health and safety, and provide for material security.

Follow-up inspections will be conducted as necessary by RP Program staff to verify compliance with Department rules and enforcement orders and to determine willful or flagrant violations, repeated poor performance in an area of concern, or serious breakdown in management controls. The Regional RP Program Managers will review each case individually to decide if a follow-up inspection is necessary. All previous areas of deficiency will also be given special attention by the inspector during the next routine inspection of the facility.

The anticipated NRC licenses will be technically complicated in nature. The Division of Radiation Control will be responsible for all NRC licenses transferred to DEP with the exception of the sites noted above. Thus, responsibility for the possession of byproduct, source or special nuclear materials in quantities not sufficient to form a critical mass will be assumed by the Division of Radiation Control within the Bureau of Radiation Protection. **The Commonwealth of Pennsylvania will not request the authority to perform sealed source and device reviews and approvals, nor will we license uranium milling operations (of which there are none in the state at this time).**

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The RPP staff requirements have been analyzed. Many different skills will be needed to adequately administer a regulatory program. For example, in depth training and experience in health physics is needed, with other areas such as industrial hygiene, nuclear medicine technology, engineering, physics, pharmacy, chemistry, and biology are all necessary to some extent. In addition, expertise in various types of facilities (e.g., hospitals, universities, industries, research institutions, laboratories) is also desirable. BRP, recognizing these needs, evaluated the training and experience of its current staff and have recruited individuals who would supplement and complement the

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skills already available within BRP. Resumes of current staff positions are included in this application. The job specifications for these individuals are also included. Staff members of the Division of Radiation Control, Decommissioning and Surveillance Division, Division of Nuclear Safety, and Regional Offices all have the technical background needed to administer and support an Agreement State program. This includes administrative staff.

As an indication of the Bureau's practical experience, during the past ten years the Bureau has conducted literally thousands of inspections of NARM licensees and D&D sites. To gain even greater experience in inspection procedures, RO staff will routinely accompanied NRC inspectors on their inspections in 2006 and 2007. All applicable CO and RO staff will continue to accompany NRC inspectors to gain additional experience on D&D sites. This being the case, regardless of current training and experience of staff cited to participate in NRC activities to be transferred to the Commonwealth, the BRP Director will ensure through the RP Program Managers, all staff attain at least interim qualification at the time the Agreement is signed.

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BRP has evaluated NRC's staffing levels in NRC Region I and Headquarters that are involved with PA licensees. The Department believes it has the staff in place, trained and capable to implement an effective AS program. BRP performed a workload analysis, requested, and was recently authorized by the Governor's Office of Administration to increase the RP Program staffing level by 24 positions to cover the additional level of work with the new NRC licensees. These new staff positions will be technical RHP series and administrative, and will be trained to perform the x-ray program related work that existing RP Program staff will not be able to perform, due to their shift to and increased materials licensing and inspection workload. Some new administrative staff will be primarily working on AS tasks, e.g., clerical staff for NRC records integration and organization, compliance specialist, etc. The staffing of the DEP RP Program for the Agreement State program is adequate in scope and appropriate in depth. See RP Program organization charts for Central Office and Regions, with the anticipated immediate vacancies that will be filled shortly prior to and after signing the Agreement.

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3.3 Accomplishments towards Agreement State.

BRP has progressed steadily toward accomplishing the Agreement State program objectives described below. The following discussion describes specific steps that have been taken.

a) Technically Capable Staff: Beginning in 1995, the Department has continued to hire additional technical personnel to meet its staffing requirements. The excellent professional credentials of these personnel are described in the resumes provided with this application. Additional training has been provided for appropriate BRP technical

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staff as detailed in the AS training summaries also provided. Steps have been initiated to enter all appropriate BRP staff training records into qualification journals. When an individual has demonstrated competency in a particular area to management, the journal will be completed and the Department's training database will be updated by management. The routinely updated qualification journal will be used to assure that technical staff maintain the appropriate depth and breadth of training. Competency will be demonstrated to management before an inspector or license reviewer is allowed to independently perform an inspection (or issue a license) at a NRC licensed facility. As noted above, BRP has the necessary statutory authority to administer an effective Agreement State program.

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b) Adequate Emergency Response Capabilities: BRP has well over 25 years experience with response to incidents involving loss, theft, fire and/or damage involving radioactive material. The Regions routinely respond to approximately 40 - 50 incidents per year. The command structure is also available for personnel paging, two-way radio communication, supplementary vehicles and survey instruments and administrative coordination. BRP has always worked closely with the NRC in responding to emergencies. The combination of the Department's Regional Offices located in Pittsburgh, Harrisburg and the Norristown will enable the Department to provide prompt on-site emergency response services throughout the State.

c) Necessary Radiation Measuring Instrumentation / Laboratory Support: As described in this application and narrative, BRP has acquired adequate instrumentation and laboratory support for the Agreement State program. The Emergency Response Section has developed an administrative system to ensure that equipment is properly maintained, calibrated, inspected, controlled, and replaced as necessary. In fact, the Commonwealth may be the best equipped state for radiological events.

d) Adequate Funding: BRP has an approximate 6 million dollar annual budget for salaries, training and equipment. Fees are placed in "restricted funds" and provide an adequate financial base for its programs. And, a realistic license fee structure is in place to support Agreement State operations. We anticipate about 2 million dollars a year in additional revenue once we become an Agreement State. Enclosed with this application is a summary showing the broad overview of these RP Program fiscal provisions.

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e) The Bureau of Office Systems and Services manages the Department's procurement, Central Office advancement account, contract compliance, warehousing, general fixed asset accountability, surplus property management, fleet management, commercial real estate leasing, commercial property management, Commonwealth-owned land and building inventory, Commonwealth-owned surplus land and building report, voice communications systems, radio-communications systems, new Department headquarters building, records management, publications management, forms management, word processing, DEP Central Office Duplicating, office systems, DEP mail and messenger services, Commonwealth copier program, state insurance fund, Pennsylvania Bulletin control and submission, and DEP Administrative Manual.

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These services are provided to the BRP on a routine basis by written and verbal request.

f) Clerical Support - DEP provides one clerical support person to each of the three Regions. Central Office BRP employs several administrative support staff. Additional clerical staff will be assigned as necessary to support program workload.

g) Data Processing - All of the personnel in the Bureau of Radiation Protection have personal computers that contain adequate software capabilities including: word processing, spreadsheet, data base management, and telecommunications.

h) Public Information - The Department has dedicated a considerable amount of time and effort to informing the citizens of Pennsylvania about the Commonwealth's radon, low-level radioactive waste, and radiation protection programs, and opportunities for the public to participate at key decision points. DEP also has a web site for public information and press office staff assigned to each Program and Region.

i) Confidential Information - The release of medical or proprietary information related to site personnel is afforded maximum protection consistent with the requirements of 25 Pa. Code § 215.14 (relating to availability of records for public inspection). Unless the Department determines that disclosure is in the public interest, or is necessary for the Department to carry out its duties under the Radiation Protection Act, the following records are not available for public inspection:

(1) Trade secrets or secret industrial processes customarily held in confidence;
(2) A report of investigation or inspection, not pertaining to safety and health in industrial plants, which would disclose the institution, progress or results of an investigation undertaken by the Department;
(3) Personnel, medical and similar files, the disclosure of which would operate to the prejudice or impairment of a person's reputation or personal safety.

4.0 LICENSING OF LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY

The authority for licensing and regulation of the use and disposal of radioactive materials at the federal level is vested in the NRC. However, under the terms of Section 2746 of the Atomic Energy Act of 1954, as amended, a state that can demonstrate a regulatory program that is compatible with the federal program may receive NRC authorization to regulate the use and disposal of radioactive materials within that state.

The Pennsylvania Act 1984-147, Section 201; and Act 1988-12, Section 301(2); authorize the Governor of Pennsylvania, on behalf of the Commonwealth, to enter into agreements with the NRC to assume authority to regulate the use and disposal of certain radioactive materials. In his December 1995 letter to the NRC, Governor Ridge formally announced Pennsylvania's intent to assume full Agreement State authorization

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from NRC, including the authority to regulate the disposal of low-level radioactive waste. However, we will not license sealed source and device manufacturers, nor will we license uranium mills.

Since Pennsylvania has been selected as the host state for the LLRW Disposal Facility for the Appalachian States LLRW Compact, it has enacted laws, described earlier under Statutory Authority, that authorize it to promulgate and implement a comprehensive program to regulate the LLRW disposal facility. Act 1988-12 in Section 301(2) empowers the Department to implement a regulatory, inspection, enforcement and monitoring program consistent with the terms of an agreement between the United States Nuclear Regulatory Commission and the Commonwealth, as provided for in Section 201 of Act 1984-147, and this Act (1988-12). Section 301(4) of Act 1988-12, authorizes the Department to license the regional LLRW facility operator in accordance with Section 308 of that Act. Act 1988-12 also authorizes promulgation of appropriate and relevant regulations for licensing the regional facility and its operator.

The required regulations for licensing the LLRW disposal facility are established in Title 25 of the Pennsylvania Code, Chapter 236, Low-Level Radioactive Waste Management and Disposal. The requirements for licensing the regional facility operator and the license review procedures and standards are described in Subchapter C of Chapter 236. Requirements for the content of the license application are specified in Section 236.204 through 236.211. Review procedures and standards are presented in Sections 236.221 through 236.227, and amendments/changes to the license are contained in Sections 236.241 through 236.247. In its February 4, 1993 letter to the Department, NRC found that the Chapter 236 regulations were compatible with the applicable federal regulations.

Details regarding the LLRW disposal facility licensing program is included in with this application.

4.1 Appalachian State Low-Level Radioactive Waste Commission

The Appalachian States Low-Level Radioactive Waste Commission (Commission) was created by the Pennsylvania General Assembly in 1985, under a compact entered into by the states of Pennsylvania, Delaware, Maryland and West Virginia. The Congress of the United States consented to the Compact in May 1988. The main purpose for the establishment of the Compact was to provide for the regional management and disposal of LLRW in response to the Federal laws. Pennsylvania has been designated as the initial host state for the regional LLRW disposal facility because it generates much more LLRW than the other three party states. The Commission provides for representation of various states of the Compact, in addition to other duties and powers assigned to it by the Pennsylvania Act 1985-120. A copy of this Act is included in with this application.

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The Commission consists of two voting members from each party state, appointed according to the laws of each party state. The host state is entitled to appoint two additional voting members to the Commission, and thus Pennsylvania has four voting members out of ten. An additional voting member shall be appointed to the Commission who shall be a resident of the host county or municipality where the disposal facility is to be located. Alternate members are designated by each party state to vote and act in the member's absence.

The powers and duties of the Commission are listed under Article 2(B) of Act 1985-120. Most of its powers are administrative in nature and forbid it to license, regulate or otherwise develop the regional LLRW disposal facility. Salient features of some of its powers and duties are as follows:

1. Conduct research and establish regulations to promote a reasonable reduction of volume and curie content of LLRW generated in the region. However, the Commission has not established any regulations so far.
2. Assemble and make available, to the party states and to the public, information concerning LLRW management and disposal needs, technologies and problems.
3. Keep current and annual inventories of all generators within the region, based on information provided by the party states.
4. Keep an inventory of all regional facilities and specialized facilities.
5. Shall publish an annual report to the governors of the signatory party states.

5.0 LABORATORY SUPPORT

When the BRP is required to independently establish engineering properties of waste and to perform independent environmental monitoring, such studies will be performed by the DEP Bureau of Laboratories (BOL). In the event that the BOL lacks the capability to perform the requisite analyses, DEP is authorized pursuant to Section 501 (relating to coordination of work) and Section 502 (relating to cooperative duties) of the Administrative Code of 1929, as amended, to request such services from other agencies within the Commonwealth. When necessary, the Department will enter into a memorandum of understanding or cooperative agreement with Pennsylvania's Department of Transportation (PennDOT) Materials and Testing Laboratory. Tests performed by PennDOT's Materials and Testing Laboratory include classification tests using gradation, liquid limit, and plastic limit; moisture density; and foundation testing through shear and consolidation testing. The BOL consisting of Analytical and Support Divisions "A" and "B" is a component of the Filed Operations Deputate. These laboratories conduct bacteriological, biological, chemical, microbiological, physical and radiological testing. The BOL provides analytical services to environmental, regulatory, planning and advisory programs including, but not limited to, testing of water, wastewater, milk, air contaminants, fuel, toxic materials and chemicals, soils, aquatic life and insects.

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Analytical and Support Division "A" consists of the following four sections: Sample Receiving and Computer Operations Section; Air Chemistry and Gravimetric Chemistry Section, Trace Metals Analyses Section and Automated Analyses Section. The Sample Receiving and Computer Operator section is responsible for the receipt of samples, computer log-on, preparation and tracking of samples. Additional responsibilities of this section include receipt, storage, and inventory control of chemicals, gases and supplies utilized by the BOL. Physical, wet chemistry and gravimetric analyses on high volume air filters, source emission tests and freezing point depression measurements, are representative of the type of analyses performed in the Air Chemistry and Gravimetric Analysis Section of the BOL. The Sections of Trace Metals Analyses and Automated Analyses are responsible for measurement of metals using various automated instrumentation (i.e., atomic absorption and ICP spectrophotometers) and the measurement of ions and other compounds utilizing automated wet chemistry systems and ion chromatographs, respectively. The Analytical and Support Division "B" of the BOL consists of the following sections: Radiation Measurements; Organic Chemistry; Mobile Analytical Services; Biological Services; and Laboratory Accreditation and Quality Assurance.

The Radiation Measurements Section (RMS) is responsible for the measurement of ionizing radiation and the identification and quantification of radionuclides in such environmental media as water, sediments, wastes, air, milk and vegetation. Methodologies utilized in the RMS include very low-level gamma spectroscopy using intrinsic germanium detectors on an ND 6700 system, soft beta by liquid scintillation, alpha and beta by thin window proportional counting, Strontium 89-90 by ion exchange with beta counting, and Radium-226 by radon emanation. With the exception of Iodine-131 in milk, the analytical sensitivities used equal or exceed the criteria of the NRC Cooperative Agreement between the Department and the Commission. This agreement is more fully explained below.

BRP and the RMS interact on a day to day basis, with RMS analyzing nearly two thousand samples annually for the BRP. Most of these samples are generated in response to the BRP's program to carry out independent multimedia environmental radiation monitoring and ambient gamma radiation monitoring with thermoluminescent dosimeters (TLDs) at the following NRC licensed sites: Beaver Valley, Peach Bottom, Three Mile Island, Susquehanna and Limerick Nuclear Power Reactor, and selected other NRC licensed sites. The Department's BOL conducts a quality assurance program which will include BOL's participation in the United States Environmental Protection Agency's Environmental Radioactivity Laboratory Intercomparison Studies or an equivalent program. During aberrations in the demand for laboratory analyses, the BRP, following consultation with RMS staff, establishes priority for radioanalytic activities. When necessary, the BRP and the RMS jointly establish scheduling, detection limits and analytical priorities.

The Organic Chemistry Section of the BOL is responsible for the analysis of water, sediments, fuels, wastes, air and fish flesh for organic contaminants. The Mobile Analytical Services Section provides on-site analyses of organic and inorganic

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parameters for specified projects such as emergency analytical responses to environmental incidents. The Biological Services Section of the BOL is responsible for identification of microbiological indicators of pollution and the conduct of bioassays and chlorophyll analysis. Implementation and monitoring of the BOL's quality assurance program and maintaining laboratory procedures is carried out in the Laboratory Accreditation and Quality Assurance Section of the Department's Bureau of Laboratories.

6.0 RADIATION PROTECTION PROGRAM EQUIPMENT

The Central Office and the three Regional Offices maintain an inventory of radiation survey, testing, and analysis equipment. Again, the PA RPP has extensive inventories of equipment, some mounted in vehicles, but mainly, the equipment is battery operated and portable. Each office has equipment capable of detecting alpha, beta and gamma radiation. Some of the equipment is committed to emergency response kits to be used in response to incidents at nuclear power plants. Each region is responsible for the maintenance and calibration of the equipment. Actual equipment varies by region, and some is still under procurement with DHS grant funds. A detailed list of the equipment maintained by each region is attached to this formal request.

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7.0 TECHNICAL ASSISTANCE

Technical assistance is available to BRP from a variety of sources; a partial list of which can be found in this narrative.

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7.1 Intra-agency Technical Assistance

Technical assistance in the review of a license application for the low-level radioactive waste disposal facility is available within DEP. The organizational structure of the Department is such that the Director of the Bureau of Radiation Protection can request technical assistance from any other bureau within DEP. The following areas of expertise within DEP are available to the RP Program, and could be utilized for LLRW disposal program for the licensing and regulation of the regional LLRW disposal facility, or any other licensing activity:

Deputate for Air, Waste and Radiation Management
- Biological, chemical, environmental sampling and testing

Deputate for Water Management
- Water resources evaluation, flood control, biotic evaluation, erosion

Deputate for Management and Technical Services
- Civil engineering, construction management

Deputate for Mineral Resources Management

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Mineral resources evaluation
Deputate for Field Operations
Bureau of Laboratories

7.2 Interagency Technical Assistance

The Department is authorized under Section 501 (relating to coordination of work) and Section 502 (relating to cooperative duties) of the Administrative Code of 1929, as amended, to request such services from other agencies within the Commonwealth. For example, the Department of Transportation (PennDOT) can provide technical assistance in areas of materials engineering, soils engineering and construction materials testing. Additionally, the Department of Conservation and Natural Resources (DCNR) can provide support in the areas of geology, seismology, geochemistry, geography and endangered species.

7.3 Technical Assistance From Outside Agency

The Pennsylvania LLRW Disposal Program has received considerable technical assistance in development and licensing of LLRW disposal facility from the National Low-Level Waste Management Program at Idaho National Engineering and Environmental Laboratory (INEEL). The National program is funded by the Department of Energy (DOE), and its objective is to provide technical expertise, information, and other resources to states and compacts in developing LLRW facilities. This is a valuable resource that has provided very significant help and information to the Pennsylvania program and will continue to do so if needed in the future.

7.4 Acquisition of Contractor Services

Procedures and mechanisms for the timely procurement of contractual assistance are set forth in the Commonwealth's Field Procurement Manual (M215.3, as amended), published by the Governor's Office of the Budget, Bureau of Financial Management pursuant to 4 PA. Code sec. 1.331. This manual approved by the Office of General Counsel and the Office of Attorney General and utilized by all agencies under the Governor's jurisdiction, provides a standard approach to the procurement of contractual services and serves as a comprehensive guide for individuals involved in the contracting process.

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Part III, ch. 6 of the Field Procurement Manual authorizes the procurement of services for emergency situations. The emergency purchase of service provision is intended to allow agencies to immediately obtain the required services without following the standard contracting procedures. BRP fully expects to obtain contract services and consultant to assist in implementing certain aspects of the Agreement State program, e.g., final status surveys at D&D sites, physicians and physicists to assist in special investigations of overexposures to radiation, etc.

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8.0 LEGAL ASSISTANCE & SUPPORT

Section 204 of the Commonwealth Attorney's Act, Act of October 15, 1980 (P.L. 950, No. 164) (71 P S. §732-204), provides that the Attorney General, upon the request of the Governor or head of any Commonwealth Agency, shall furnish legal advice concerning any matter or issue arising in connection with the exercise of powers or the performance of duties of the Governor or agency of the Commonwealth.

As set forth in Section 301 of the Commonwealth Attorney's Act, General Counsel who serves at the pleasure of the Governor, appoints to Executive agencies including the Department of Environmental Protection a chief counsel and the necessary assistant counsel. In addition, the Office of General Counsel which provides legal services to the Governor, supervises, coordinates and administers legal services provided by the Department's chief counsel.

The Office of Attorney General has delegated to the Office of General Counsel all administrative and civil matters related to the enforcement of the Commonwealth's environmental statutes and regulations. However, criminal matters are referred to the Office of Attorney General's Environmental Crimes Unit.

The Office of Chief Counsel provides legal advice and litigation support to every program in the Department on any matter or issue related to the exercise of the official duties and responsibilities of the Department. Under Section 401 of the Commonwealth's Attorney's Act, the Department's Chief Counsel may request the assistance of the General Counsel, the Attorney General or both in any legal action involving the Department. The Department's Office of Chief Counsel employs eighty (80) attorneys in offices located in Norristown, Harrisburg, Meadville, Pittsburgh and Wilkes-Barre, PA. The Office of Chief Counsel consists of the following bureaus: Legal Services, Litigation (five offices), Superfund, and Regulatory Counsel.

The Bureau of Regulatory Counsel located in Harrisburg serves as counsel to the Department and assigns an attorney to serve as counsel to each principal regulatory program. Within this Bureau, an attorney is assigned to advise the BRP on all regulatory and statutory matters of the Commonwealth's radiation protection program. In addition, counsel assigned to the BRP is required to:

1. Review and comment on proposed legislation.
2. Review and comment on proposed regulations, policies and procedures.
3. Initiate on behalf of the Department or defend against legal actions which involve Department officials or unusual questions of law and policy.
4. Assist the Bureau of Litigation in the development and implementation of the department's overall enforcement strategy.

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The Bureau of Litigation has the primary responsibility for initiation of all enforcement action, and supervising Department personnel when conducting investigations pertinent to enforcement actions. In addition, the Bureau of Litigation has primary responsibility for providing counsel to the Regional Offices of the Department on enforcement, inspection, and legal interpretation questions to assure statewide uniformity of action.

9.0 DEP ADVISORY COMMITTEES

DEP encourages public participation in implementing its many programs. To that end, DEP under the Radiation Protection Act may establish special advisory committees as may be necessary to assist the department in drafting rules and regulations and to advise the department regarding implementation of specific portions of the regulations or specific programs of the department . The Secretary appoints advisory committees whose members represent various professional, governmental, academic, business, and other citizen groups that can provide useful advice to the programs. At present, the following advisory committees are actively involved in assisting the BRP programs.

9.1 Radiation Protection Advisory Committee

The Radiation Protection Advisory Committee (RPAC) reviews draft and proposed regulations and provides advice to the Department. The Committee consists of at least 11 members selected by the Secretary of the Department.

9.2 Low-Level Waste Advisory Committee

As required under Section 317 of the Low-Level Radioactive Waste Disposal Act, the Secretary of the Department has appointed a Low-Level Waste Advisory Committee (LLWAC) that consists of 23 members, 19 of which represent local government, environmental, health, engineering, business, academic, and other public interest groups. The other four members of the Committee represent the Pennsylvania General Assembly. In addition, the committee also has a representative of the Department who is a nonvoting member. Following receipt of the license application for the regional low-level radioactive waste disposal facility, the potential host municipality and host county will each nominate one additional member to the LLWAC.

The LLWAC reviews and comments on draft regulations necessary for the implementation of the Low-Level Radioactive Waste Disposal Act. The LLWAC may also advise the Department regarding policies and issues related to the implementation of the Act when requested to do so by the Department.

9.3 Citizens Advisory Council

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The Citizens Advisory Council (CAC) reviews all environmental laws of the Commonwealth and makes appropriate recommendations for revision, modification and codification. The CAC considers, studies and reviews the work of the Department and, upon request makes recommendations for improvement to the Department. The CAC reports annually and on an interim basis (when necessary) to both the Governor and the General Assembly. The CAC includes persons knowledgeable in ecology, toxicology, pharmacology, and industrial technology. The Council is comprised of 19 members, the Secretary of the Department of Environmental Resources, six members appointed by the Governor, 6 appointments by the President Pro Tempore of the Senate, and 6 members appointed by the Speaker of the House of Representatives.

10.0 EMERGENCY RESPONSE MANAGEMENT

10.1 Primary Responsibility

The Pennsylvania Emergency Management Agency (PEMA) is primarily responsible for the overall policy and direction of the State-wide civil defense and disaster program in this Commonwealth. In accordance with 35 P.S. §7313, PEMA prepares and maintains a current Pennsylvania Emergency Management Plan for the prevention and minimization of injury and damage caused by disaster, prompt and effective response to disaster and disaster emergency relief and recovery. PEMA is empowered to coordinate Federal, Commonwealth and local disaster emergency management activities and to provide technical advice and assistance to Commonwealth agencies and political subdivisions in the preparation of disaster emergency management plans. PEMA is required to respond to disaster relating to atomic energy operations or radioactive materials or objects or materials possessing a radiation-producing capacity. A Radiological Emergency Response Preparedness, Planning and Recovery Program (REP) is maintained in PEMA consistent with the Commonwealth's Emergency Management Plan, and applicable Federal and State laws. Specific functions of PEMA under the REP include, but are not limited to:

1. Serving as the point of contact for interface between affected facilities and other Commonwealth agencies, departments, counties, municipalities and school districts;
2. Annual review and revision, as necessary, of Annex E, "Radiological Emergency Response to Nuclear Power Plants," of the Commonwealth's Emergency Management plan and annual review of the onsite emergency response plan of each utility to ensure consistency with the annex; and
3. Developing planning and preparedness procedures for emergency response within the ingestion exposure pathway zone. The statewide plan for radiological emergency response to nuclear power plant incidents is found in Annex E of the Commonwealth Emergency Operations Plan.

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10.2 Emergency Planning Responsibilities

Under the Commonwealth's Emergency Operations Plan, the Department's Bureau of Radiation Protection is responsible for technical assessment of accident situations and making protective action recommendations, as necessary, to PEMA. PEMA implements the recommendations through county and local government emergency management agencies. BRP regional staff respond to radioactive materials transportation incidents anywhere in the Commonwealth. Additional assistance is also available from regional DEP emergency response staff. BRP participates in biennial exercises scored by NRC and/or the Federal Emergency Management Agency at each of the five nuclear power stations in the Commonwealth. BRP also participates in many practice drills throughout the year. Staff training for response to incidents and accidents includes several curricula offered by Federal Emergency Management Agency (FEMA) at the Emmitsburg, MD facility, and at Las Vegas. In-house refresher training is provided prior to exercises. The BRP technical staff also participate in dose assessment training offered by nuclear utilities.

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11.0 SUMMARY

The Commonwealth of Pennsylvania and DEP are committed to administering a high quality Agreement State program that will be effective in protecting the public health, safety, welfare and the environment. The commitment to this goal is evidenced by the achievements described in this document. BRP has the authority and has assumed the initiatives necessary for Agreement State status, including:

- The Department has the necessary statutory authority to assume the responsibilities required of an Agreement State; copies of the applicable statutes are included in this application.
- The State Public Official and Employee Ethics Laws were passed to strengthen the faith and confidence of the people of the Commonwealth in their government. The applicable statues are provided.
- Regulations compatible with those of the NRC have been developed, adapted, or adopted. A set of applicable regulations are included.
- BRP has gained extensive experience in licensing radioactive material. The Licensing and Inspection and Enforcement Programs for NARM have been in place for the past 25+ years.
- Emergency response capabilities have been frequently demonstrated in the past. NRC Region I and BRP have cooperated in responses to materials incidents for many years. Required fiscal support has been provided to fund the Agreement State program. Assuring availability of resources to administer an effective regulatory program.
- Additional professional staff have been hired to both supplement and complement the BRP technical staff who have managed a major NARM regulatory program for 25+ years. The staffing level for the Agreement State program is appropriate for the new NRC licensees, per recommendations in current NRC guidelines for Agreement

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State programs. Approvals are in place to allow up to an additional 24 positions to back-fill x-ray related workload; that is, as RP Program shift to NRC material licensee work.

- Staff members have attended numerous training courses on a variety of topics related to the regulation of radioactive material. A record of training attended by the staff members, or equivalent experience, is included in this application.
- BRP has sufficient instrumentation to detect and measure radiation, including sophisticated fixed and mobile radiochemistry laboratories. A list of various instruments in each RO is available.
- The Commonwealth of Pennsylvania, Department of Environmental Protection and Radiation Protection Program have committed sufficient technical and administrative support to the Agreement State program.
- Pennsylvania has demonstrated its competence in the control of radiation hazards and, during the past ten years, aggressively prepared for Agreement State responsibilities.
- The Commonwealth of Pennsylvania is prepared and qualified to assume regulatory responsibility for byproduct material, source material, special nuclear material in quantities not sufficient to form a critical mass, and the licensing of a low-level radioactive waste disposal facility.

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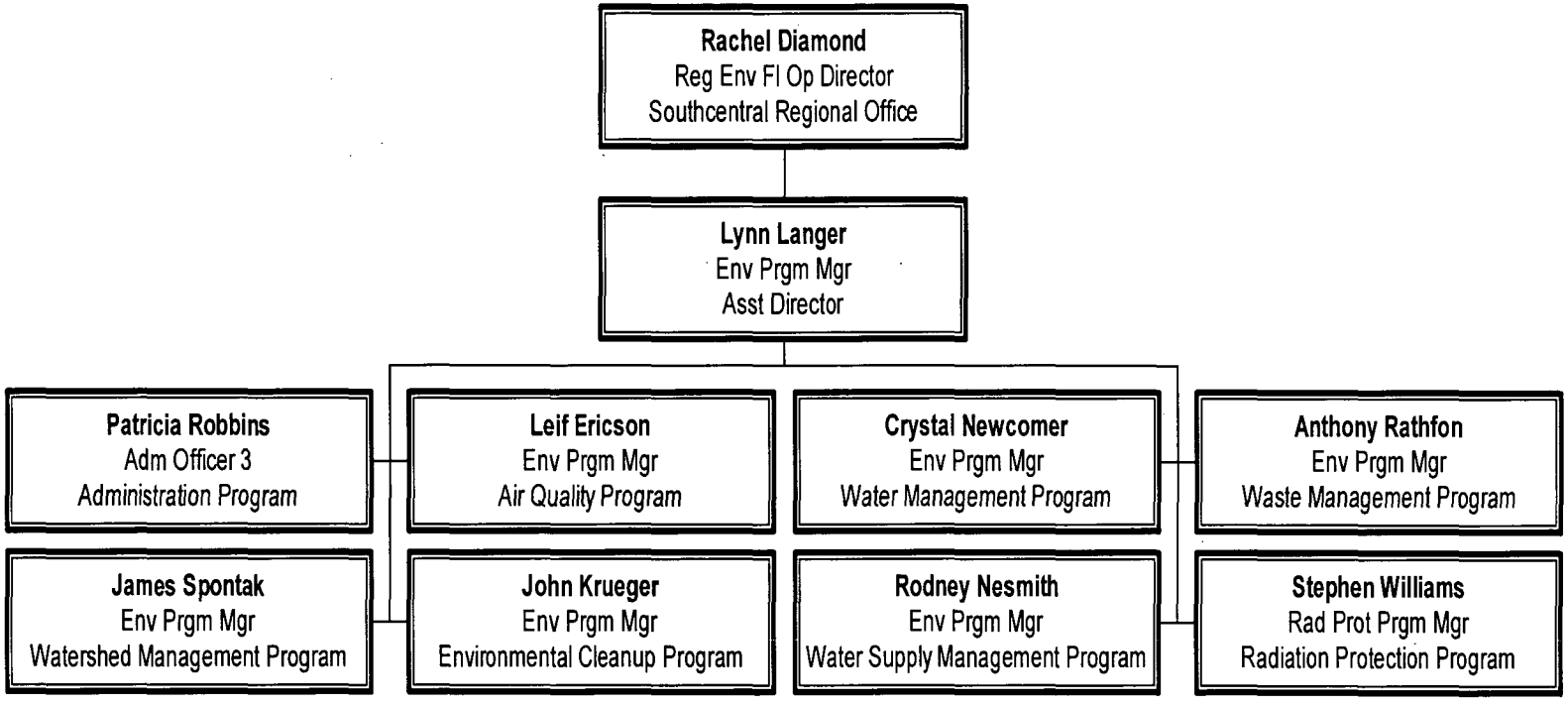
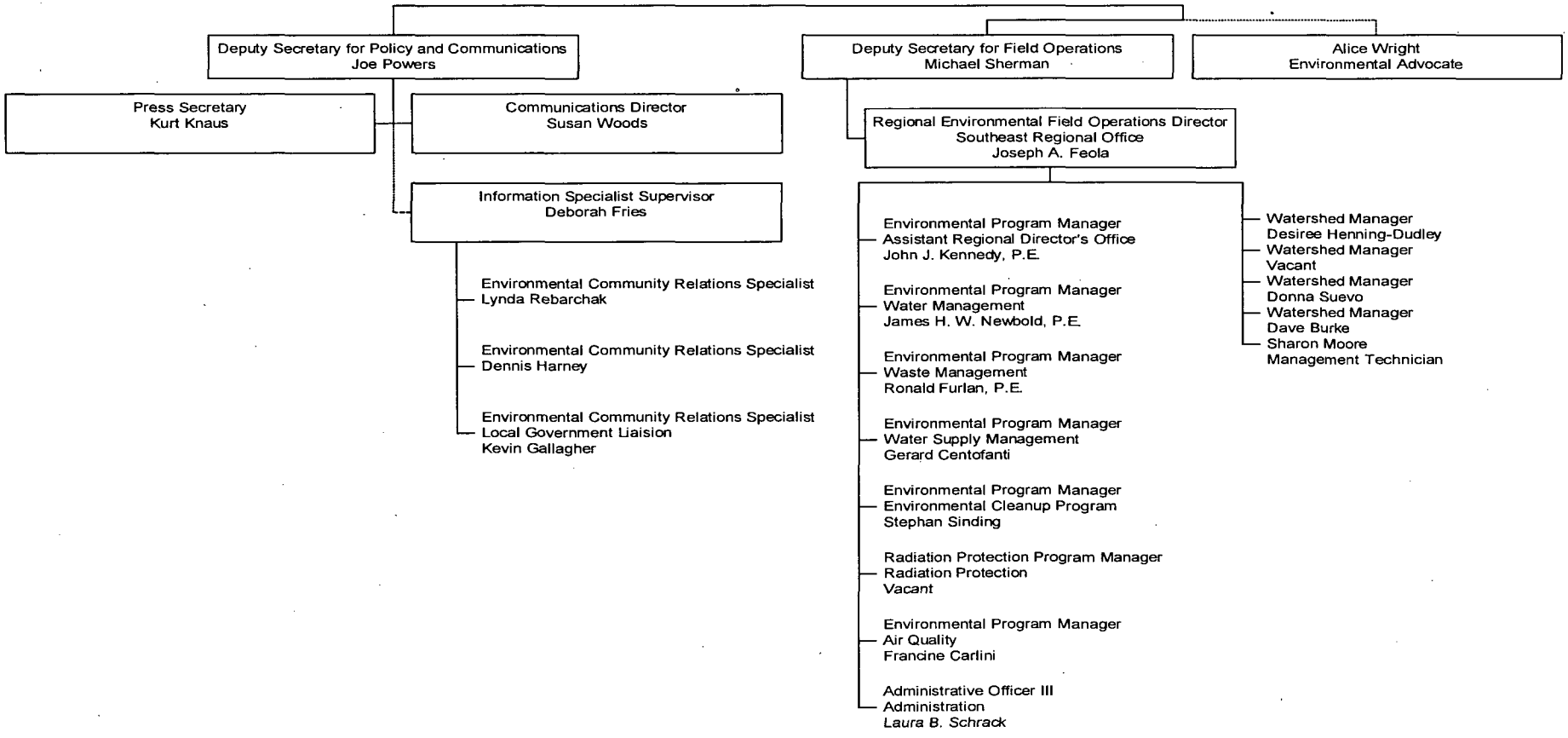
Application

November 2006

REGIONAL DIRECTOR STAFF
SOUTHCENTRAL REGIONAL OFFICE



SOUTHEAST REGIONAL OFFICE
ORGANIZATIONAL CHART
May 2, 2005



DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ENVIRONMENTAL PROTECTION
SOUTHWEST REGION - FIELD OPERATIONS
ORGANIZATIONAL CHART
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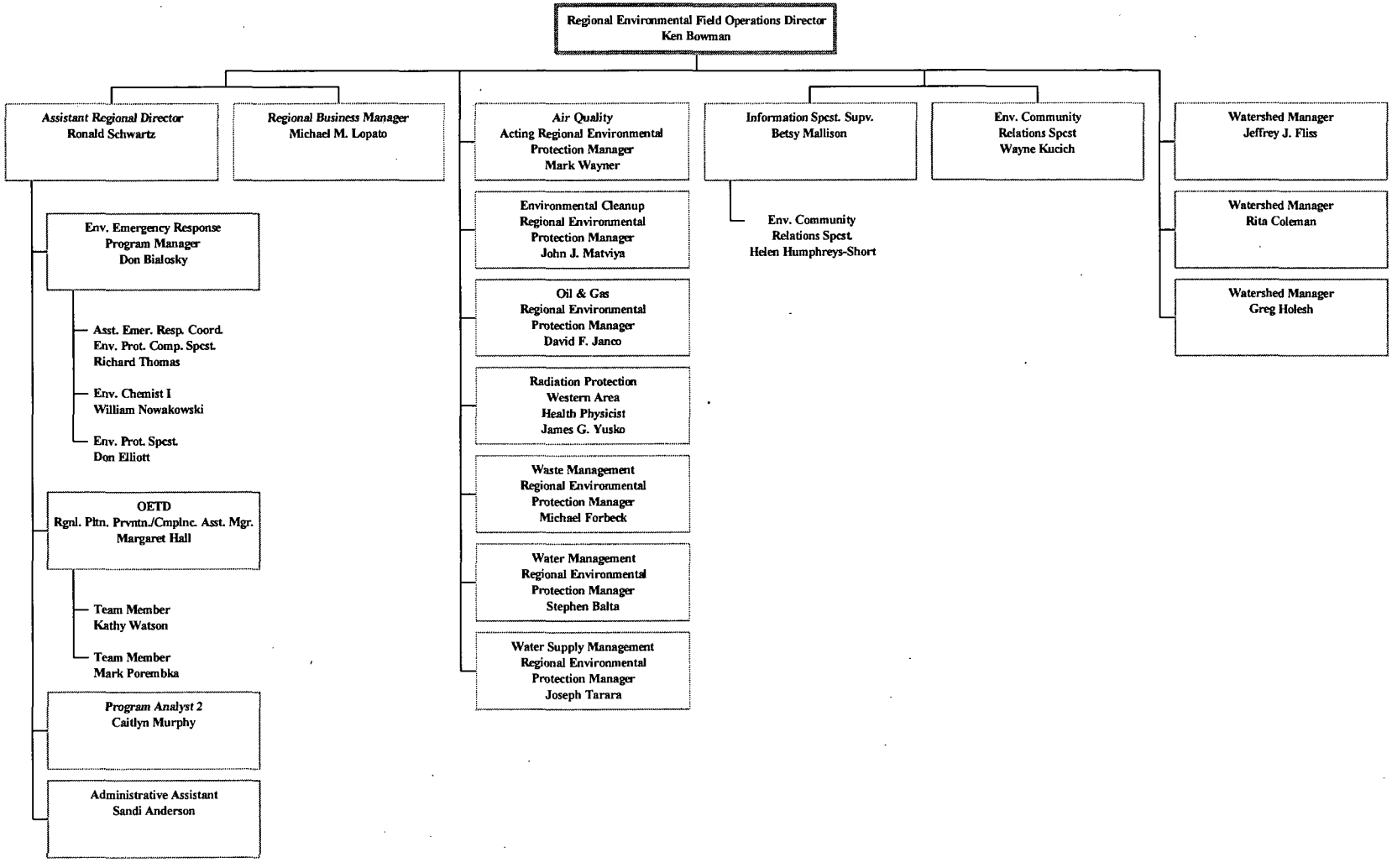

AN AGREEMENT
BETWEEN
THE UNITED STATES NUCLEAR REGULATORY COMMISSION
AND
THE COMMONWEALTH OF PENNSYLVANIA
FOR THE
DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY
AND
RESPONSIBILITY WITHIN THE COMMONWEALTH PURSUANT TO
SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

WHEREAS, The United States Nuclear Regulatory Commission (the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 *et seq.* (the Act), to enter into agreements with the Governor of any State/Commonwealth providing for discontinuance of the regulatory authority of the Commission within the Commonwealth under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Sections 11e.(1), (3), and (4) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

WHEREAS, The Governor of the Commonwealth of Pennsylvania is authorized under the Pennsylvania Radiation Protection Act, Act of July 10, 1984, P.L. 688, No. 147, *as amended*, 35 P.S. § 7110.101 *et seq.*, to enter into this Agreement with the Commission; and,

WHEREAS, The Governor of the Commonwealth of Pennsylvania certified on November 8, 2006, that the Commonwealth of Pennsylvania (the Commonwealth) has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the Commonwealth covered by this Agreement, and that the Commonwealth desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on [date] that the program of the Commonwealth for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and,

WHEREAS, The Commonwealth and the Commission recognize the desirability and importance of cooperation between the Commission and the Commonwealth in the formulation of standards for protection against hazards of radiation and in assuring that Commonwealth and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

WHEREAS, The Commission and the Commonwealth recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

WHEREAS, This Agreement is entered into pursuant to the provisions of the Act ;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of the Commonwealth acting on behalf of the Commonwealth as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the Commonwealth under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

1. Byproduct materials as defined in Section 11e.(1) of the Act;

2. Byproduct materials as defined in Section 11e.(3) of the Act;

3. Byproduct materials as defined in Section 11e.(4) of the Act;

4. Source materials;

5. Special nuclear materials in quantities not sufficient to form a critical mass.

6. The regulation of the land disposal of all waste byproduct, source, and special nuclear materials covered by this Agreement;

ARTICLE II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to:

1. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;

2. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

3. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear materials waste as defined in the regulations or orders of the Commission;

4. The regulation of the disposal of such other byproduct, source, or special nuclear materials waste as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be disposed without a license from the Commission;

5. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of

the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

ARTICLE III

With the exception of those activities identified in Article II.A.1 through 4, this Agreement may be amended, upon application by the Commonwealth and approval by the Commission, to include one or more of the additional activities specified in Article II, whereby the Commonwealth may then exert regulatory authority and responsibility with respect to those activities.

ARTICLE IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE V

This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

ARTICLE VI

The Commission will cooperate with the Commonwealth and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that Commission and Commonwealth programs for protection against hazards of radiation will be coordinated and compatible. The Commonwealth agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the Commonwealth and the Commission for protection against hazards of radiation and to assure that the Commonwealth's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The Commonwealth and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The Commonwealth and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

ARTICLE VII

The Commission and the Commonwealth agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the Commonwealth agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the Commonwealth, or upon request of the Governor of the Commonwealth, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the Commonwealth has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the Commonwealth has failed to take necessary steps. The Commission shall periodically review actions taken by the Commonwealth under this Agreement to ensure compliance with Section 274 of the Act which requires a Commonwealth program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

ARTICLE IX

This Agreement shall become effective on [date], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [City, State] this [date] day of [month], [year].

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

_____, Chairman

FOR THE COMMONWEALTH OF PENNSYLVANIA

_____, Governor