

AMENDMENT TO THE STANDARD CONTRACT FOR NEW NUCLEAR POWER REACTORS

INTRODUCTORY PARAGRAPH

The introductory paragraph of the Contract is amended by striking “19” and inserting “20”.

ARTICLE I - DEFINITIONS

Article I.2. is amended by inserting “bare or canistered” after “for shipping” and by inserting “assemblies” after “spent nuclear fuel”.

Article I is further amended by inserting at the end the following:

“21. The term *acceptance* means the transfer of title to DOE and subsequent transportation to a DOE facility.

22. The term *bare fuel* means SNF that is not contained in a canister or other shielding.

23. The term *canister* means a sealed right-circular cylinder capable of holding multiple SNF assemblies that is designed and licensed for the storage and transport of SNF and may also be licensed for the aging and disposal of SNF.

24. The term *current avoided costs* means those costs not incurred by the Department for the acquisition of TAD-based canisters for transport of Purchaser’s SNF at the time DOE accepts Purchaser’s SNF in Purchaser-supplied TAD-based canisters.

25. The term *Procedures approved by DOE* means those procedures developed and approved by DOE to specify requirements for Purchaser compliance to implement the Commission’s receive and possess requirements.

26. The term *Purchaser’s adjusted acquisition cost* means the actual cost of the TAD-based canister to the Purchaser adjusted by the change in the Gross Domestic Product price deflator index from the time of the Purchaser’s acquisition of the TAD-based canister to the time of DOE’s acceptance of the TAD-based canister for transport.

27. The term *storage overpack* means a component of a canister-based storage system that provides physical protection of the canister and SNF as well as other functions such as radiation shielding and heat dissipation.

28. The term *storage system* means a canister and a storage overpack certified for dry storage of SNF under 10 CFR Part 72.

29. The term *Storage System Purchase Agreement* means a contractual agreement between Purchaser and a third party to provide SNF dry storage systems.
30. The term *TAD-based canisters* means Transportation, Aging, and Disposal canisters containing multiple SNF assemblies that can provide transport, aging and disposal of SNF.
31. The term *TAD-based Transportation Systems* means TAD-based canisters fitted with transportation overpacks.
32. The term *performance date* means the date that is ten (10) years after the expiration of the original term of the operating license, or the term of any license extension(s), granted by the Commission for the facility named in Appendix A of this contract.
33. The term *final schedule* means the date by which Purchaser shall have completed all activities required to allow for the DOE acceptance and transport of SNF and /or HLW specified by DOE.”

ARTICLE II – SCOPE

Article II is amended by striking all that follows “hereunder by DOE.” and inserting:

“Section 302(a) of the Nuclear Waste Policy Act of 1982, as amended, provides that DOE, beginning not later than January 31, 1998, will dispose of SNF and/or HLW as provided in the Act. DOE will begin the acceptance of any SNF and/or HLW from a nuclear power reactor covered by this contract no earlier than twenty (20) years from the initial discharge date of SNF from that nuclear power reactor. DOE will complete acceptance of all SNF and/or HLW generated by the nuclear power reactor covered by this contract no later than the performance date absent unavoidable delays or Purchaser-caused delays.”

ARTICLE IV - RESPONSIBILITIES OF THE PARTIES

Article IV.A.1. is amended by striking the existing subparagraph (a) and inserting:

“(a) Upon request by DOE, the Purchaser will provide DOE with SNF inventories and projections of discharges, SNF characteristics, and onsite SNF storage capacities. DOE will notify Purchaser of its intent to collect this information at least nine (9) months prior to the requested date of submittal. The required information will be collected on the then current version of the Form RW-859, or a mutually agreed replacement form.”

Article IV.A.1. is further amended by striking existing subparagraph (b) and designating existing subparagraph (c) as (b), and by striking “annual” before “forecast” in new subparagraph (b) and striking “any delivery commitment schedule then” and inserting “the final schedule”.

Article IV.A.1. is further amended by inserting:

“(c) Purchaser shall notify DOE at least five years in advance of the Purchaser’s anticipated needs for onsite dry SNF storage. Within ninety (90) days after such notification, DOE will provide Purchaser with a list of canisters from which Purchaser must select a canister to procure and load for use in onsite dry SNF storage and transfer of such SNF to DOE. DOE agrees to reimburse the Purchaser to the extent the canister's use is consistent with the permissible uses of the Nuclear Waste Fund under the Nuclear Waste Policy Act of 1982, as amended. Purchaser shall procure, fabricate, load, store and maintain such canisters in accordance with any of the Commission’s Quality Assurance and licensing requirements imposed upon DOE or the Purchaser and procedures approved by DOE. Purchaser shall provide DOE with documented evidence that the canisters have been procured, fabricated, loaded, stored and maintained in accordance with these licensing and Quality Assurance requirements.”

Article IV.A.2.(a) is amended by inserting after the first sentence:

“The Purchaser shall utilize casks and other items identified and provided by DOE for transfer of all SNF and/or HLW from Purchaser to DOE.”

Article IV.A.2.(c) is amended in the first sentence by striking “shipping casks” and inserting “property”, and in the second sentence by striking “casks are” and inserting in its place “property is” and in the third sentence by striking “cask” and inserting in its place “property”.

Article IV.B. is amended by striking paragraphs 4 and 5.

ARTICLE V - DELIVERY OF SNF AND/OR HLW

Article V.B. is amended by striking paragraph “B” in its entirety and inserting:
“*B. Scheduling*”

1. DOE shall develop a proposed shipping schedule for the removal of SNF and/or HLW from Purchaser’s facility. Notice of such schedule, which shall include DOE’s proposed date for the Purchaser to complete activities necessary for shipment, as well as the quantity and specific characteristics of the SNF and/or HLW to be shipped, shall be provided to Purchaser by DOE no less than five years in advance of the proposed date. Purchaser shall, within 90 days of receipt of DOE’s proposed shipping schedule, either agree to DOE’s proposed shipping schedule or provide DOE with notice of a proposed alternative schedule. In the event that Purchaser proposes an alternative shipping schedule, DOE shall, within 45 days of receipt of such notice from Purchaser, notify Purchaser whether or not DOE accepts Purchaser’s proposed alternative schedule. In the event DOE does not accept Purchaser’s proposed alternative schedule, the DOE proposed shipping schedule shall prevail and become the final schedule.

2. DOE shall provide to Purchaser Procedures approved by DOE for the acquisition, loading, storage and maintenance of TAD-based canisters; such procedures shall be provided no later than x months prior to the Purchaser’s anticipated date of loading of the TAD-based canisters as identified in Article IV.A.1(c).

3. DOE shall compensate Purchaser at the time of DOE acceptance and transportation for the lesser of DOE's avoided costs, or Purchaser's adjusted acquisition cost, for any DOE-listed TAD-based canister utilized by the Purchaser for expanding onsite spent fuel storage capacity at the time. This provision will not be applicable to any DOE-listed TAD-based canister for which the Purchaser has previously received compensation under either a settlement with the Government or as a result of damages awarded by any Court.

(a) No less than six months prior to the year of DOE's acceptance and transportation of Purchaser's TAD-based canisters, DOE will notify the Purchaser of DOE's avoided costs used in this determination.

(b) In accordance with Article VIII, DOE will compensate Purchaser for its adjusted acquisition cost of its TAD-based canister(s) by authorizing a credit to Purchaser's next quarterly payment or payments to the Nuclear Waste Fund. In the event Purchaser owes no quarterly payment, DOE and the Purchaser will negotiate appropriate means for payment."

Article V. is further amended by striking existing sections V.C, V.D and V.E.

ARTICLE VI - CRITERIA FOR DISPOSAL

ARTICLE VI.A.1.(a) is amended by striking "only such" after "hereunder" and inserting "all Purchaser's" in its place, and inserting "all Purchaser's" before "HLW", and striking "such fuel and" before "waste".

ARTICLE VI.A.2.(b) is amended by striking the subparagraph and inserting:

"(b) DOE's obligation for disposing of SNF and/or HLW under this contract also extends to other than standard HLW; however, for any HLW which has been designated by the Purchaser as other than standard HLW, as that term is defined in appendix E, the Purchaser shall obtain delivery and procedure confirmation from DOE prior to delivery. DOE shall determine the technical feasibility of disposing of such HLW on the current final schedule and shall inform the Purchaser of any schedule adjustment within sixty (60) days after receipt of such confirmation request."

Article VI.B. is amended by striking paragraph 1. and renumbering existing paragraphs 2. and 3. as 1. and 2. respectively. Renumbered paragraph 2.(b) is further amended by deleting "scheduled".

ARTICLE VII – TITLE

Article VII is amended by inserting ", and if applicable, any canisters provided by the Purchaser," after the "HLW" in the first sentence.

ARTICLE VIII - FEES AND TERMS OF PAYMENT

Article VIII.A.1. is amended by striking “Effective April 7, 1983,” and inserting “The” in its place.

Article VIII.A. is further amended by striking existing paragraphs 2 and 3 and renumbering existing paragraph 4 as paragraph 2. Renumbered paragraph 2 is further amended by striking “unless either House of Congress adopts a resolution disapproving the proposed adjustment”.

Article VIII.B.1. is amended in the first sentence by striking “on or after April 7, 1983” and striking the second and third sentences including the parentheses around the third sentence.

Article VIII.B. is further amended by striking existing paragraph 2 and renumbering existing paragraphs 3 and 4 as paragraphs 2 and 3, respectively. Renumbered subparagraph 2.(b) is amended by striking “as set forth in Appendix G,” and further amended by striking “Department of Energy, Office of Controller, Cash Management Division, Box 500, Room D-208, Germantown, Maryland 20874” and inserting in its place “DOE at an address to be provided by the Contracting Officer.”

Article VIII.C. is amended by striking subparagraph (1) and inserting in its place:

“1. Charges for late payments or underpayments will be based on the amount due and calculated to reflect DOE’s lost earnings on receipts not received in accordance within the time periods specified in paragraph B.1. of Article VIII. The amount of DOE’s lost earnings will be calculated from the date the payment was due to the actual date payment was received by DOE.”

Article VIII.C. is further amended by striking existing subparagraph (2) and redesignating existing paragraph (3) as subparagraph (2).

ARTICLE IX - DELAYS

Article IX.A. is amended by striking “to perform” in the first sentence and inserting “in performance or initiating performance of” after “failure”.

Article IX.B is amended in the caption by striking “or DOE” after “Purchaser” in both the heading and in the first sentence of the paragraph.

Article IX B is further amended by inserting in the first sentence after “delay in”, “performance or initiating performance of”.

Article IX is further amended by adding at the end a new paragraph “C”:

“C. Exclusive Remedy for Delays by DOE

Liquidated damages shall be the sole and exclusive remedy available to Purchaser with respect to the acceptance of any SNF and/or HLW covered by this contract or DOE’s noncompliance with

any provision relating directly or indirectly to the acceptance of SNF and/or HLW. Such damages shall be available only if DOE does not accept all SNF and/or HLW by the performance date, including any adjustment made pursuant to paragraph 3(b) of Article VI or Paragraph A or B of this Article or any suspension pursuant to Article X or as a result of Purchaser's failure to perform its obligations under this contract. Such damages shall be in the amount of \$5 million per year (in 2008 dollars adjusted for inflation based on the Consumer Price Index), for each year until DOE completes acceptance of all SNF and/or HLW from the nuclear power reactor covered by this contract. Payments pursuant to this Article IX shall be limited to the total amount of payments made by the Purchaser to the Government pursuant to Article VIII of this contract. Such payments shall be made to the Purchaser on an annual basis."

ARTICLE X - SUSPENSION

Article X.B. is amended by striking the last two sentences.

ARTICLE XIV - ASSIGNMENT

Article XIV is amended by striking the existing Article and inserting:

"The rights, duties and any claims of the Purchaser arising under this contract may be assigned if all of the Purchaser's rights, duties and claims are assigned, are assigned in their entirety, and are assigned with respect to all SNF and/or HLW covered under this Contract. The Purchaser shall provide notice of any such assignment to DOE within ninety (90) days of the assignment."

ARTICLE XVI – DISPUTES

Article XVI.A. is amended by striking in the first sentence "any dispute concerning a question of fact arising under this contract which is", and inserting "all disputes arising under, or relating to, this contract including those related to delays by the Purchaser which are".

Article XVI.A. is further amended by striking "DOE Board of Contract Appeals (Board)" and inserting "Office of Hearings and Appeals", and striking "Board" and substituting "OHA" in the next sentence.

Article XVI.B is amended by striking "of more than \$50,000".

Article XVI. is further amended by striking section C and redesignating section D as C.

ARTICLE XXI - RIGHTS IN TECHNICAL DATA

Article XXI.B.2. is amended by striking the period at the end of subparagraph (c) and inserting:

“; or (d) This "proprietary data" may be disclosed to Federal, State or local regulatory bodies as may be necessary for regulatory certifications, permits or the like, and under the restriction that the "proprietary data" be retained in confidence and not be further disclosed.”

NEW ARTICLE XXII – QUALITY ASSURANCE

The Contract is further amended by redesignating existing “Article XXII” as “Article XXIII” and by inserting the following new Article XXII:

“ARTICLE XXII – QUALITY ASSURANCE

The Purchaser shall:

1. Fabricate, load, store, and maintain nuclear fuel and canisters in accordance with the Purchaser’s Commission approved quality assurance program and DOE performance requirements design.
2. Provide DOE or its authorized representative with documentation or access to quality assurance records that demonstrate that nuclear fuel and canisters have been fabricated, inspected, tested, loaded, stored, and maintained in accordance with DOE performance requirements and Purchaser’s Commission approved quality assurance procedures.
3. Provide DOE or its authorized representative access to facilities for the purpose of verifying compliance with an approved quality assurance program, procedures, and DOE performance requirements.
4. Maintain quality assurance records associated with the fabrication, inspection, testing, loading, storage, and maintenance of the canisters in accordance with the Commission approved quality assurance program and DOE performance requirements.
5. Submit quality assurance records to DOE at time of waste acceptance or title transfer to DOE.
6. Pass down the requirements of this contract to any subcontractors or private storage facilities.
7. HOLD POINT - Notify DOE of the intent to load the first TAD canister at least 30 days prior to actual loading, at which time DOE will notify waste generator or title holder of DOE or its authorized representative’s intent to witness this activity. DOE reserves the right to waive this hold point. Any waiver of a hold point will be in writing.”

REDESIGNATED ARTICLE XXIII – ENTIRE CONTRACT

Redesignated Article XXIII. is further amended by striking “XXII” and inserting in its place “XXIII” and by striking paragraph C and inserting:

“C. APPENDICES

- A. Nuclear Power Reactor(s) or Other Facilities Covered

- B. Discharge Information (Ten Year; Annual) (Not Utilized)
- C. Delivery Commitment Schedule (Not Utilized)
- D. Final Delivery Schedule (Not Utilized)
- E. Amended
- F. Amended
- G. Standard Remittance Advice for Payment of Fees”

SIGNATURE PARAGRAPH

The signature paragraph at the end of the Contract is amended by striking the date “1983” and inserting in its place “20--”.

APPENDIX B

Appendix B is amended by striking all that follows “Appendix B” and inserting in its place: “(Appendix B is not utilized for reactors licensed by the Nuclear Regulatory Commission after January 1, 2007.)”

APPENDIX C

Appendix C is amended by striking all that follows “Appendix C” and inserting: “(Appendix C is not utilized for reactors licensed by the Nuclear Regulatory Commission after January 1, 2007.)”

APPENDIX D

Appendix D is amended by striking all that follows “Appendix D” and inserting in its place: “(Appendix D is not utilized for reactors licensed by the Nuclear Regulatory Commission after January 1, 2007.)”

APPENDIX E

Appendix E is amended by striking all that follows “Appendix E” and inserting in its place:

“General Specifications

DOE shall accept all HLW covered by this contract that meets DOE’s general specifications. Detailed acceptance criteria and general specifications for such HLW will be issued by DOE no later than ten (10) years prior to the first delivery under this contract.”

APPENDIX F

Appendix F is amended by striking all that follows “Appendix F” and inserting in its place:

*“Detailed Description of Purchaser’s Fuel and Canister(s)
For Delivery under Final Delivery Schedule Number ----*

A. Purchaser’s Fuel

This information shall be provided by Purchaser for each distinct fuel type within a Shipping Lot not later than sixty (60) days prior to the final schedule date.

Purchaser:

Contract Number/Date:

Reactor/Facility Name:

I. Drawings included in generic dossier:

1. Fuel Assembly DWG:
2. Upper & Lower end fittings DWG:

Dossier Number:

DOE Shipping Lot:

Assemblies Described:

- BWR:
- PWR:
- Other:

II. Design Material Descriptions.

Fuel Element:

1. Element type (rod, plate, etc.):
2. Total length (in.):
3. Active length (in.):
4. Cladding material (Zr, s.s., Zirlo, etc.):

Assembly Description:

1. Number of Elements:

2. Overall dimensions: (length) _____ (cross section) _____ (in.)

3. Overall weight:

III. SNF Classification in accordance with Appendix E. Describe any distortions, cladding damage or other damage to the SNF, or nonfuel components within this Shipping Lot which will require special handling procedures. (Attach additional pages if needed.)

IV. Assembly Number:

Shipping Lot:

	Irradiation History Cycle No.				
	1	2	3	4	5
Startup Date (mo/day/yr)					
Shutdown Date(mo/day/yr)					
Cumulative fuel exposure (Mwd/Mtu)					
Average Reactor Power (Mwth)					
Total heat output/assembly (watts) using an approved calculational method:____ as of Date____					

B. Canister(s)

Canister Make and Model:

Canister Serial number:

Data package containing sufficient documentation of canister fabrication quality control records including but not limited to travelers, documentation of inspections during manufacturing including non-destructive examination results for welds, and documentation of material quality and properties, including mechanical and compositional properties such as yield strength and toughness. (Not required for DOE-supplied canisters.)

Data package containing sufficient documentation of operations at Purchaser's site, including but not limited to canister receipt inspections, storage prior to loading, preparation for loading, and operations to load the canister and prepare it for storage or transportation (draining, drying, backfilling, welding, sealing, leak testing, and placement in storage, as applicable) including QA hold-points and approvals. Provide details concerning any anomalies encountered during loading, preparations for storage, and periods of storage (including but not limited to overheating, temperature alarms, and loss or reduction of air flow).

Data package containing sufficient documentation of canister retrieval from storage (as appropriate) and preparation for transport including but not limited to results of any visual inspections including QA hold-points and approvals, and radiological non-fixed contamination survey results.

Data Package containing sufficient documentation on the loaded transportation overpack including but not limited to contact direct gamma and neutron radiation levels.

Any false, fictitious or fraudulent statement may be punishable by fine or imprisonment (U.S. Code, Title 18, Section 1001).

By Purchaser:

Signature:"

APPENDIX G

Appendix G is amended by striking all that follows “Annex B” and inserting in its place:
“(Annex B is not utilized for reactors licensed by the Nuclear Regulatory Commission after January 1, 2007.)”