

DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

SUMMARY

Data Element	Data
Site	Paducah
Agreement Name	Federal Facility Agreement for the Paducah Gaseous Diffusion Plant
State	Kentucky
Agreement Type	Federal Facility Agreement
Legal Driver(s)	CERCLA/RCRA
Scope Summary	Ensure that the environmental impacts of activities at the Site are investigated and appropriate response actions are taken.
Parties	U.S. DOE; Kentucky Natural Resources and Environmental Protection Cabinet; U.S. EPA
Date	2/01/1998

SCOPE

- Ensure all releases of hazardous substances, pollutants, or contaminants are addressed to achieve comprehensive remediation of the site.
- Establish a procedural framework and schedule for developing, implementing, and monitoring response actions in accordance with CERCLA, RCRA, and Kentucky Law.
- Facilitate cooperation, exchange of information, and participation of the Parties and provide for effective public participation.

ESTABLISHING MILESTONES

- Milestones are established in the annual Site Management Plan (SMP). The currently effective annual Site Management Plan remains in effect until the next annual Site Management Plan is finalized.
- DOE must complete the first draft of the SMP by November 15 of each year.

- Milestones are established for the current Fiscal Year (FY), as well as FY+1, FY+2, and any enforceable outyear commitments.
- Projected ROD dates for FY+3 are nonenforceable and used for planning purposes only.
- FY, FY+1, FY+2, and outyear completion dates for surface and groundwater OUs are considered enforceable deadlines and will become current FY deadlines on October 1 of the following year.
- Extensions to deadlines can be obtained if a timely request is made (within 10 days) and good cause exists for an extension.

FUNDING

- DOE will take all necessary steps to obtain timely funding to meet DOE's obligations under this Compliance Agreement.
- DOE must include in its budget request to the President sufficient funds to support all the activities and requirements under the Agreement.
- Budget targets provided by OMB and DOE-HQ will be considered in establishing the requirements and schedule under this Agreement, but will not strictly drive the requirements or schedule.
- DOE may raise as a defense of any action to enforce the provisions of the agreement that failure was caused by the unavailability of appropriated funds. However, Kentucky explicitly disagrees that an Anti-Deficiency Act Defense or other defense based on the lack of appropriations or funding exists.
- DOE must consult with EPA and KNREPC in formulating its annual budget, including work scope, priorities, and compliance dates. A very detailed process for formulating the budget for FY, FY+1 and FY+2 is provided in Section XVIII of the Agreement.
- DOE must provide EPA and KNREPC with all necessary information and briefings on the budget formulation.
- To provide early input in the development of the annual SMP, the parties will evaluate the FY and FY+1 schedule, projected cost, and funding information between July and October of each year.
- Within 30 days of Congressional appropriation of the FY budget, DOE shall brief EPA

and KNREPC on the appropriation and proposed EM funding allocations.

- If DOE believes that adequate funds are not available to meet the FY obligations of the Agreement, DOE may request a change of the milestones within 45 days.
- DOE will provide EPA and KNREPC with information on the EM planning budget for FY+2 within 7 days of receiving such information. Before DOE submits its annual budget request to DOE HQ, DOE will meet with the parties to discuss work scope and funding levels, and DOE may revise its budget request in response to issues raised by EPA and KNREPC.
- IF adequate funds are not available, EPA and KNREPC may pursue any remedy they have under this Agreement or exercise any statutory or regulatory authority.

PENALTIES

- If DOE fails to submit a primary document (identified in Section XX) on schedule, or fails to comply with a term or condition of this Agreement, DOE may be assessed a stipulated penalty in an amount not to exceed \$5,000 for the first week and \$10,000 for each additional week.
- Failure of DOE to comply with the Budget Planning requirements shall not be subject to stipulated penalties.