

## DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

### SUMMARY

Data Element	Data
Site	Paducah
Agreement Name	Agreed Order File No. NWM-30039-042
State	Kentucky
Agreement Type	Consent Order
Legal Driver(s)	FFCAct
Scope Summary	Require compliance with an approved Site Treatment Plan and settle all relevant civil claims
Parties	DOE; Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet
Date	9/10/1997

### SCOPE

- Require compliance with an approved Site Treatment Plan (STP).
- Settle all civil claims and controversies raised by DOE's petition for hearing and settle all civil claims for DOE's violation of the hazardous waste storage prohibition.

### ESTABLISHING MILESTONES

- On or before March 31, 1996 and each year thereafter, DOE shall submit to the Cabinet an update of the approved STP for review, comment and approval. The update shall include identification of additional or new compliance dates.
- The annual update shall include the STP Annual Report which summarizes the work conducted in implementing the approved STP during the previous year.
- DOE shall submit fiscal year quarterly written progress reports on or before the thirtieth day following the end of each fiscal quarter.

- The Cabinet may require revisions and/or amendments to the approved STP. DOE may propose revisions and/or amendments to the approved STP, which will be subject to the Cabinet's review and approval.
- Beginning in February, 1999 and every three years thereafter, DOE and the Cabinet shall meet and evaluate the compliance dates of the approved STP and determine whether compliance dates should be modified.
- Delay in performance shall be excused and no civil penalty assessed when performance is prevented or delayed solely by events which constitute a force majeure.

## **FUNDING**

- DOE shall use its best efforts to obtain sufficient and timely funding.
- DOE shall consult with the Cabinet in formulating its annual budget for PGDP. DOE shall provide the Cabinet with all necessary information and briefings on the budget formulation.
- DOE-PGDP shall provide the Cabinet with information on the EM planning budget for fiscal year + two within seven days of DOE-PGDP receiving such information.
- Within twenty-one days of DOE-PGDP receiving target funding guidance, DOE-PGDP shall provide the Cabinet with a preliminary assessment of its impacts at PGDP.
- DOE shall also provide a copy of PGDP's initial contractor budget guidance to the Cabinet within two weeks after its issuance.
- Within 10 days of the President's submission of the FY + 1 budget to Congress, DOE shall submit to the Cabinet a summary of the budget request forwarded to DOE-HQ and the DOE-PGDP budget request contained in the President's budget. Within 30 days, DOE shall brief the Cabinet on the President's budget request as it relates to PGDP.
- Within 30 days after Congressional appropriation of the FY budget, DOE shall brief the Cabinet on the budget appropriation and proposed EM funding allocations for the new FY.
- If DOE believes that adequate funds or appropriations are not available to comply

with the FY obligations of the approved STP and this Agreed Order, DOE shall nonetheless make a good faith effort to comply with the obligations for FY.

- The STP Annual Report shall include a description of DOE's funding for approved STP activities and any funding issue that is likely to significantly impact compliance dates.
- The Cabinet disagrees with DOE that an Anti-Deficiency Act Defense or any other defense based on the lack of appropriations or funding exists.

## **PENALTIES**

- No specific monetary penalties are set forth in this Agreed Order.
- The Cabinet expressly reserves its right at any time to issue administrative orders and to take any other enforcement action it deems necessary, including the right to order all necessary remedial measures, assess penalties for violations, or recover all response costs incurred.
- Parties shall first attempt to resolve informally all good faith disputes at the project manager level. If the formal dispute resolution process fails, either party may submit a written statement of the dispute to the Cabinet's Commissioner of the Department for Environmental Protection for final resolution.