

CONSTITUTION FOR THE CONSORTIUM FOR PREMIUM CARBON PRODUCTS FROM COAL

CONSTITUTION

Article I

Name and Purpose:

Sec. 1. The name of this organization shall be the Consortium for Premium Carbon Products from Coal (CPCPC).

Sec. 2. The purpose of this organization shall be the advancement of research in and development of premium carbon products from coal. Its functions shall pertain to coal and carbon science and engineering, and the dissemination of new information to the scientific community, industry and the general public. The organization shall serve its members by guiding, stimulating, and aiding their efforts to:

- i) formulate research, development, and technology assessment goals;
- ii) create a supporting infrastructure for the conduct of research and development that will increase knowledge of and expand the technological base for premium carbon products from coal; and
- iii) promote means to enhance the dissemination of research results and the transfer of technology to industry for the benefit of the nation.

Sec. 3 The CPCPC and members who are not participants in a project are not liable in any way for any activities under a given project.

Article II

Charter Members and Membership:

Sec. 1. The Charter members of the Consortium are PSU and WVU. Funding for the Consortium and Consortium Research is planned to be up to 50% from The United States Department of Energy (DOE), with matching funds provided by annual project proposals with appropriate cost sharing from members.

In accordance with 10 CFR 600.107 cost sharing will be required for all awards. A minimum cost share amount totaling 40% of the total budget period cost is required. The government desires a 50% cost share overall for the project period.

Whenever DOE negotiates the amount of cost sharing, DOE may take into account such factors as the use of program income (see 600.113), patent rights, and rights in data. Foregone fee or profit shall not be considered in establishing the extent of cost sharing. Cost sharing may be derived from any of the following:

- i) Costs incurred by the grantee (or subgrantee) whether or not they require a cash outlay;
- ii) Cash contributed to the grantee or subgrantee(s) by non-Federal public or private organizations and individuals; or
- iii) The value of goods, including the use of property, or services donated to the grantee or subgrantee(s) by non-Federal public or private organizations and individuals (third-party in-kind contributions).

To be allowable as cost sharing, a cash or in-kind contribution must:

- i) Be verifiable from the records of the grantee, subgrantees, or third parties, as applicable. Such records must show how the value placed on an in-kind contribution was determined (see valuation of in-kind contributions of this section):

- ii) Not be included as a cost or contribution for satisfying a cost sharing or matching requirement of another project or program receiving Federal Funding, whether as financial assistance, under a procurement contract, or otherwise;
- iii) Be allowable under the terms and conditions of the award and meet the applicable cost principle tests of allowability (see 600.113(b)); and
- iv) The source of the contribution may not be costs supported by another Federal assistance award unless such use is permitted by Federal Statute. This restriction does not apply to:
 - (A) General program income, as defined in 600.113, earned by a grantee or subgrantee under a contract under another Federal assistance award; and
 - (B) General revenue sharing funds under 31 U.S.C. 122 et seq. Or countercyclical revenue sharing funds under 42 U.S.C. 6721 et seq.

General program income may be used to meet a cost sharing requirement of the grant under which the income was earned only if such use is authorized by the award (see 600.113(e)).

Valuation of in-kind contributions. Any grantee or subgrantee shall determine the value of services or property donated by non-Federal third parties in accordance with OMB Circular A-110, Attachment E, Paragraph 5.

Sec. 2. Membership in the Consortium shall be of four (4) categories:

- (i) Charter members
- (ii) Affiliate members, such as any individual, firm, partnership, institution/university or corporation engaged in the production of coal or carbon products, engaged in research and development technologies

associated with coal or carbon products, or is a user of coal or carbon products. Only charter and affiliate members are eligible to receive research funding from the Consortium.

(iii) Associate members, such as associations and professional societies. Associate members are entitled to designate one (1) voting representative to the advisory committee, and to receive periodic communications. Associate members are eligible to have up to two (2) people in attendance at meetings. Associate members are not eligible to be elected to the Chair of the Advisory Committee nor are they eligible to be elected to the Council. Associate members are not eligible to receive technical reports from projects funded by Consortium. If, however, an associate member provides the cost share for a particular project then that member will receive the technical report for that particular project.

(iv) Endorsing Members are defined as those members from federal entities. Endorsing members may send up to two (2) representatives to meetings upon payment of a meeting registration fee. Endorsing membership will be considered for those federal entities, which provide a letter of endorsement to the Consortium that outlines the in-kind services the entity will provide to the Consortium. Endorsing members do not have any voting rights. Endorsing membership is subject to Council approval.

2a. Charter, affiliate and associate members will contribute an annual fee per calendar year during the existence of the CPCPC to maintain membership. The sponsoring agency is invited to become an ex-officio non-voting affiliate member of the Advisory Committee and Council, paying no annual fee.

- 2b. Any affiliate, associate or endorsing member may withdraw from the Consortium upon 30 days written notice to the Consortium Director and Chair of the Advisory Committee. Membership fees are nonrefundable.
- 2c. Application for affiliate, associate or endorsing membership shall be addressed to the Director of the Consortium in the form attached hereto as Appendix D.

Article III

Organization and Officers:

The Consortium shall be governed and managed by a Council, an Advisory Committee and a Director.

Sec. 1. The Council must approve all changes to the Consortium Constitution by a two-thirds majority vote. The Council shall be the policy-making body of the Consortium. The Council shall establish an overall research and development plan for the Consortium; approve and issue requests for proposals from members to fulfill research and development priorities; establish review procedures for research proposals; and select proposals to be funded from Consortium funds based upon the relevance to the established goals and objectives of the Consortium. The Director and various committees derived from the Council membership shall be utilized as deemed necessary by the Council to achieve these and other Council goals.

Sec. 1a. The Council shall be composed of:

- i) seven (7) affiliate industrial members elected from the Advisory Committee
- ii) one (1) representative from each charter member institution, PSU and WVU
- iii) the Consortium Director, who shall be a non-voting member presiding over the Council, appointed by a charter member institution (see paragraph 3[b])

- iv) the Chair of the Advisory Committee, who shall be a non-voting, ex-officio member of the Council, and
- v) a DOE non-voting member.
- vi) Council representation shall be such that a broad range of industries is represented. Examples are:
 - anthracite,
 - bituminous coal,
 - coal tar pitch,
 - coke,
 - fibers and composites,
 - carbon and graphite.

Sec. 1b. With the advice and consent of the Council representatives, the Consortium Director shall set the time, place and agenda of the Council meetings and shall preside over these meetings. Whenever possible, telephone conferencing will be scheduled to conduct meetings and shall preside over these meetings. Whenever possible, telephone conferencing will be scheduled to conduct meetings or to allow Council members who cannot travel to the meeting to participate. Council members shall be responsible for their own travel and other expenses associated with the performance of their responsibilities.

Sec. 1c. Representatives of the Council who will be unable to attend a Council meeting shall notify the Director as far in advance as possible.

Sec. 2. The Advisory Committee shall provide research ideas, and aid the Council in developing and implementing technology transfer plans for Consortium research results. The Advisory Committee shall advise both the Council and the Director regarding the relevance and the scientific merit of the Consortium research and development programs.

Sec. 2a. The Advisory Committee shall be composed of one (1) voting representative from each charter, affiliate and associate member.

Sec. 2b. Representatives to the Advisory Committee shall elect a Chair from among the affiliate members. The Chair shall preside over Advisory Committee meetings and be responsible for maintaining communication and cooperation between the Advisory Committee and the Consortium Council. The term of office for the Chair shall be two years, after which the Advisory Committee shall choose a new Chair. If the Chair is unable to finish his or her term, the Committee shall elect a new Chair, who shall serve for the remainder of the term and for an additional one-year term. The Consortium Director shall be a non-voting, ex-officio member of the Advisory Committee.

Sec. 2c. The Advisory Committee shall elect seven (7) affiliate industrial member representatives to serve on the Council. In the initial year, the Advisory Committee shall elect four (4) representatives who shall serve a two-year term and three (3) who shall serve a one-year term. Thereafter, the Advisory Committee shall elect three (3) or four (4) representatives each year to replace outgoing representatives. No representative can serve two consecutive terms. The Advisory Committee may also at any time elect a new representative to complete the term of a representative who is unable to finish his/her term.

Sec. 2d. With the advice and consent of the Advisory Committee, the Advisory Chair shall set the time, place and agenda of the Advisory Committee meetings and shall preside over their meetings.

Sec. 3. The Consortium Director shall be the chief representative of the Consortium and shall be responsible for the administration of its affairs. He or she shall represent the Consortium in situations where a single representative of the Consortium is appropriate. In his

or her job as chief fund-raiser, the Director shall interact with public and private funding sources to secure and maintain funding necessary to meet the long-term goals of the Consortium.

Sec. 3a. As administrator, the Director shall implement the decisions of the Council, and oversee the daily operations of the Consortium. The Director will establish and enforce computerized and other necessary communication systems among all Consortium members. Under the direction of the Council, the Director in accordance with Sec. 4 will operationally manage Consortium funds. The Director will have authority to establish and maintain The Pennsylvania State University research reporting procedures, using research sponsor guidelines where applicable. The Director shall publicize the Consortium and its research results utilizing publications, research reviews, and any other means approved by the Council. The director will make frequent formal recommendations to the Council to aid it in setting policy for the Consortium.

Sec. 3b. The Director is appointed by The Energy Institute at The Pennsylvania State University, and serves at the pleasure of The Energy Institute at The Pennsylvania State University.

Sec. 4. Administrative costs of the Director and Director's office will be borne by the Consortium in accordance with the budget approved by DOE. The balance of the funding received from DOE will be allocated for research to the members.

Current planning and budgeting is to provide the 50% cost share by using members project proposal funding and documented in-kind contributions.

The basic premise will be for research, development, demonstration and commercial programs for investigating technologies for non-fuel uses of coal, including production of coke and other premium carbon products from coal, and production of coal-derived feedstocks that will be precursors of value added carbon products.

Article IV

Sec. 1. The Consortium Constitution can be amended only by the Council. The Council may also change and add bylaws.

Sec. 1a. Any Council member may propose a change in the Constitution or Bylaws by petition to the Director. The Director shall submit the proposed amendment or change to each representative to the Council at least thirty (30) days prior to the next meeting.

Sec. 2. Unless indicated otherwise in the Constitution or Bylaws, all decisions for and on behalf of the Consortium shall be by consensus vote of those present in a Council meeting. All votes shall be open ballot unless a majority of the Council or Advisory committee prefers a closed ballot.

Sec. 3. Charter members can conduct their own proprietary research in this field independently of the Consortium as they deem appropriate. Funds allocated by the CPCPC may be used to conduct proprietary research only if agreed to by consensus vote of Advisory Committee and Council.

BYLAWS FOR THE CONSORTIUM FOR PREMIUM CARBON PRODUCTS FROM COAL

I. Purpose

These Bylaws are intended to promulgate the governing policies of the Consortium and shall be subject to and interpreted consistent with the Consortium Constitution.

II. Affiliate and Associate Membership

1. Applications for affiliate and associate membership shall be submitted to the Director, whose responsibility it shall be to ensure their completeness and compliance with these Bylaws.
2. Upon receipt of membership fee, the member(s) shall immediately exercise all rights, privileges and responsibilities of membership.
3. Calendar year shall mean January 1 to December 31.

Any individual, firm, partnership, association, institution/university or corporation engaged in the production of coal or carbon products, or engaged in research and development of technologies associated with coal or carbon products, or is a user of coal or carbon products is eligible for membership.

Membership in CPCPC entitles each member to one (1) voting representative to the Advisory Committee, periodic communications, eligibility of industrial members to be elected to the Council, eligibility to sponsor or propose a project, and eligibility to be awarded a research project from CPCPC. Associate membership entitlements are as indicated in the constitution.

III. Endorsing Membership

1. Application for endorsing membership shall be submitted to the director, whose responsibility it shall be to ensure their completeness and compliance with these Bylaws.
2. Calendar year shall mean January 1 to December 31.
3. Endorsing members do not have any voting rights.

Endorsing members are not eligible to compete for Consortium funding. Endorsing Membership entitlements are as indicated in the consortium.

IV. Director

The office of the Director shall be located on the campus of The Pennsylvania State University, whose responsibility it shall be to provide an office, staff and facilities for the conduct of his or her duties and responsibilities as provided in the Constitution and these Bylaws. The administrative costs of the Director's office shall be borne by the budget of the Consortium.

The Council shall meet at least twice a year at places and times set by the Director with the approval of the Council representatives.

The Director shall prepare the agenda for Council meetings from items submitted by the representatives of the Council and the Advisory Committee. He or she shall preside over Council meetings and arrange for minutes of the meetings to be recorded and distributed to all members.

The attendance of a majority of the representatives to the Council shall constitute a quorum for the conduct of business at properly called meetings.

In the event that specific items of Consortium business require a vote of the Council and it is impractical to convene a full Council meeting, the Director will poll the Council membership by phone, computer, or other means.

V. Publications and Conferences

The preparation, presentation and publication of research results shall remain the sole right and responsibility of the members, and the Consortium shall in no way infringe upon this right. The consortium can expect that such publications and presentations shall acknowledge its efforts to secure funds for the associated work.

The Director shall be responsible for the preparation of all guidelines for technical reports and publications that have been approved by the Council.

The Director shall arrange for all technical meetings and conferences at times and places approved by the Council.

VI. Finances

The Pennsylvania State University will serve as fiscal agent for the Consortium. As such, The Pennsylvania State University will represent the Consortium in fiscal matters and have the ultimate accounting and financial reporting duties and the sole legal authority to enter into contracts and to administer and expend funds on behalf of the Consortium. The members, acting solely upon their own behalf, may only subcontract with other members, each likewise acting solely on its own individual behalf, for work conducted outside the member's institutions. The subcontracts will be carried out in accordance with the rules and regulations of research sponsors and standard internal subcontracting policies and procedures of the members' institution as they may separately negotiate.

CONSORTIUM FOR PREMIUM CARBON PRODUCTS FROM COAL INTELLECTUAL PROPERTY RIGHTS POLICY

Pursuant to chapter 18 of title 35 of the United States Code, commonly known as the Bayh-Doel Act, as enacted by the Department of Energy (DOE) in DEAR 952.227-11, any domestic small business firm or nonprofit organization conducting research under Consortium funding (Research Party) may elect to retain title to any invention conceived or first actually reduced to practice by its employees in the course of or under the research conducted with Consortium funding. Title to these inventions will be subject to DOE patent policy, including the retention by the Government of a license for Government use and march-in rights, and U.S. competitiveness and manufacture requirements. The Consortium will petition the DOE for a class waiver of ownership rights to any inventions conceived or first actually reduced to practice by employees of entities other than domestic small business firms and non profit organizations. Information that results from the research and or commercial or financial information that is privileged or confidential if the information had been obtained without Federal support, may be protected from public disclosure for up to 5 years after development of the information, but shall be available to Consortium members during the period of protection.