

**COMMITTEE OF EXPERTS ON THE TRANSPORT OF  
DANGEROUS GOODS AND ON THE GLOBALLY  
HARMONIZED SYSTEM OF CLASSIFICATION  
AND LABELLING OF CHEMICALS**

Sub-Committee of Experts on the  
Transport of Dangerous Goods

Twenty-ninth session  
Geneva, 3-12 (a.m.) July 2006  
Item 13 of the provisional agenda

OTHER BUSINESS

Application for consultative status by the US Fuel Cell Council (USFCC)

1. The secretariat reproduces below information received from the US Fuel Cell Council (USFCC) requesting consultative status as a non-governmental organization for participation in the work of the Sub-Committee of Experts on the Transport of Dangerous Goods.
2. The Sub-Committee is invited to decide whether USFCC may participate in its work with a consultative status.





1100 H Street, NW, Suite 800  
Washington, D.C. 20005  
PH (202) 293-5500 FAX (202) 785-4313

# US Fuel Cell Council

March 28, 2006

Mr. Olivier Kervella  
Secretariat, Dangerous Goods and Special Cargoes Section  
UNECE Transport Division  
Palais des Nations  
CH-1211 Geneva 10  
Switzerland

Dear Mr. Kervella:

I am writing to request that the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods approve the US Fuel Cell Council for consultative status. This letter and accompanying materials provide information on US Fuel Cell Council (USFCC) for consideration by the Subcommittee at the twenty-ninth session scheduled for 3-12 July 2006.

The USFCC is interested in numerous issues before the UN Sub-Committee including, but not limited to, the transport and classification of fuel cells for portable applications.

Information on the USFCC, objectives, and members is attached for the Sub-Committee's review. More detailed information may be found on the US Fuel Cell Council web site ([www.usfcc.com](http://www.usfcc.com)).

If the USFCC's application for consultative status is approved, the following individual will represent the USFCC before the Sub-Committee:

Mr. Robert Wichert, Technical Director

Thank you for considering the USFCC's application for consultative status. If you have questions regarding our application, I can be reached at +1 202 293 5500 or via E-Mail at [brose@usfcc.com](mailto:brose@usfcc.com).

Sincerely,

Robert R. Rose  
Executive Director

## **Introduction**

Fuel cells are an established technology; which is emerging as a leading source of power for mobile and stationary power sources worldwide. Fuel cells offer a clean and efficient means of electrical power generation. Recognizing the environmental benefits of fuel flexibility, reduced greenhouse gases and no emissions at the point of use, governments worldwide are currently supporting the implementation of fuel cell technology, encouraging technological development, addressing regulatory impediments and overcoming logistical deterrents.

The use of fuel cells in portable electronic devices is one of the fastest developing applications of fuel cells. We anticipate that fuel cells will offer a safe and efficient alternative to batteries. It is envisioned that fuel cells will soon be providing electrical power for portable electronic devices such as laptop computers and cell phones. It is in this respect that the USFCC is interested in participating in the meetings of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCETDG).

## **Objectives**

The US Fuel Cell Council is an industry association dedicated to fostering the commercialization of fuel cells.

## **Membership and representation**

Our members include the world's leading fuel cell developers, manufacturers, suppliers and customers. USFCC member companies and organizations are based in the United States, Canada, Germany, Japan, France, Israel, Australia, the United Kingdom, Taiwan and Italy with subsidiaries located in many more countries such as China, India and Russia. A list of member companies and organizations is attached. In addition, the USFCC works closely with international and national governmental organizations. USFCC has Memorandums of Understanding with the Fuel Cell Commercialization Conference of Japan, Fuel Cells Canada, Fuel Cells Europe, and the World Fuel Cell Council. USFCC is also an active participant in the International Partnership for a Hydrogen Economy (IPHE).

## **Qualifications**

USFCC is uniquely qualified to represent the fuel cell industry on critical issues. USFCC is currently leading in the development of comprehensive safety standards for fuel cells covering all aspects of their use, including transportation. The standards that are issued through the International Electro technical Commission (IEC) include tests to ensure the integrity of fuel cell cartridges and fuel cell powered devices in transport.

USFCC is unique in that it represents all of the current fuel cell technologies with no bias toward any particular technology. We believe that through USFCC's participation, the UNSCETDG will be able to make better-informed decisions regarding the inclusion of new provisions for fuel cells in the UN Model Regulations.



1100 H Street, NW, Suite 800  
Washington, D.C. 20005  
PH (202) 293-5500 FAX (202)785-4313

# US Fuel Cell Council

## ***USFCC Executive Members***

3-M  
Ballard Generation Systems  
ChevronTexaco Energy Technology System  
Columbian Chemicals Company  
DaimlerChrysler  
Dana Corporation  
Delphi Corporation  
DuPont Fuel Cells  
Englehard Corporation  
Entegris, Inc.  
Freudenberg-NOK General Partnership  
FuelCell Energy, Inc.  
General Electric Hybrid Power Generation Systems  
General Motors  
Gore Fuel Cell Technologies  
H.C. Starck, Inc.  
Hydrogenics Corporation  
IdaTech  
Johnson Matthey  
Materials Innovation Technologies, LLC  
Methanol Institute  
Motorola Labs  
MTI Micro Fuel Cells  
National Joint Apprenticeship and Training Committee  
National Rural Electric Cooperative Association  
Nissan Technical Center North America, Inc.  
Nuvera Fuel Cells  
Ohio Department of Development  
Plug Power, Inc.  
Porvair Advanced Materials  
Proton Energy Systems, Inc.  
Reli-On, Inc.  
SGL TECHNIC, Inc.  
Siemens Westinghouse  
Teledyne Energy Systems, Inc.  
Tenneco Automotive  
Toyota Motor North America  
UTC Fuel Cells  
World Fuel Cell Council

## **USFCC Associate Members**

Air Products and Chemicals, Inc.  
American Electric Power  
Angstrom Power, Inc.  
Argonne National Laboratory  
Arkema, Inc.  
Asbury Graphite Mills  
BIC Corporation  
Breakthrough Technologies Institute  
Bulk Molding Compounds, Inc.  
Cabot Corporation, Superior MicroPowders  
CASIO Computer Co., Ltd.  
Caterpillar, Inc.  
Ceramic Fuel Cells Limited  
Concurrent Technologies Corporation  
ConocoPhillips  
Corning, Inc.  
De Nora North America, Inc.  
Direct Methanol Fuel Cell Corporation  
Donaldson Company, Inc.  
Electrochem, Inc.  
EMTEC  
Energizer Battery Manufacturing, Inc.  
Exergy, Inc.  
Fideris, Inc.  
Foamex International, Inc.  
Franklin Fuel Cells, Inc.  
Fuel Cell Technologies, Ltd.  
Gas Technology Institute  
Graftech, Inc.  
Habco, Inc.  
Hawaii Natural Energy Institute  
Heliocentris  
Hoku Scientific, Inc.  
HyEnergy Systems, Inc.  
HyRadix, Inc.  
Intel Corporation  
Jadoo Power Systems, Inc.  
Kettering University  
Lilliputian Systems, Inc.  
Medis Technologies  
Methanex, Inc.  
Millennium Cell, Inc.  
Mott Corporation  
Neah Power Systems  
NexTech Materials, Ltd  
Office of Naval Research  
Panasonic Energy Solutions Lab  
Parker Hannifin Corporation  
PolyFuel, Inc.  
Precision Flow Technologies  
Protonex Technology Corporation  
Renew Power, Inc.

Renewable Fuels Association  
SENTECH, Inc.  
Smart Fuel Cell, GmbH  
SoFCo-EFS Holdings LLC  
South Coast Air Quality Management  
Sud-Chemie, Inc.  
Superior Graphite Company  
The Gillette Company  
TIAX, LLC  
Toshiba Corporation  
UltraCell, Inc.  
Umicore Autocat USA, Inc.  
Underwriters Laboratories, Inc.  
University of SC NSF-1/UCRC for Fuel Cells  
Updike, Kelly & Spellacy, P.C.  
Worcester Polytechnic Institute  
ZTEK Corporation

### ***USFCC Government/Non-Profit Members***

Bonneville Power Administration  
California Environmental Protection Agency  
Connecticut Clean Energy Fund  
CSA America  
Florida Dept of Environmental Protection  
Houston Advanced Research Center  
National Fuel Cell Research Center  
National Renewable Energy Laboratory  
NextEnergy, Michigan Economic Dev. Corp.  
Rochester Institute of Technology  
U.S. Army ERDC  
U.S. Department of Energy







# US Fuel Cell Council

## BYLAWS OF U.S. FUEL CELL COUNCIL, INC.

### ARTICLE 1. OFFICES

Principal Office. The principal office of U.S. Fuel Cell Council, Inc. (the "Corporation") shall be located in the District of Columbia or such other place as the Board of Directors (the "Board") may designate. The Corporation may have such other offices, either within or without the District of Columbia, as the Board may designate or as the affairs of the Corporation may require from time to time.

### ARTICLE 2. BOARD OF DIRECTORS

2.1 General Powers. The affairs of the Corporation shall be managed by the Board of Directors ("Board"). Directors need not be residents of the District of Columbia.

2.2 Number and Tenure. The Board shall be composed of no fewer than three (3) Directors. The Board shall be composed of company designated Board Member representatives, one from each Executive Member company in good standing as defined by Article 4 and by resolution of the Board. The number of Directors may be changed from time to time by amendment to these Bylaws but no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director. A Director shall hold office for a term of one year, or until he or she dies, resigns or is replaced by his or her Executive Member company.

2.3 Regular Meetings. By resolution, the Board may specify the time and place either within or without the District of Columbia for holding regular meetings without other notice than such resolution.

2.4 Special Meetings. Special Board meetings may be called by or at the request of the President, the Secretary or any two (2) Directors. The person or persons authorized to call special meetings may fix any place either within or without the District of Columbia as the place for holding any special Board meeting called by them.

2.5 Notice of Special Meetings. Written notice stating the place, day, hour, business to be transacted, and the purpose of each special Board meeting shall be delivered personally or by mail, electronic mail, or telegraph to each Director at his/her address shown on the records of the Corporation at least seven (7) days before the meeting. Notice shall be effective upon delivery at such address, provided that notice by mail shall also be deemed effective if deposited in the United States mail properly addressed with postage prepaid at least ten (10) days before the meeting, and notice by electronic mail shall also be deemed effective if successfully posted to a working Internet mail gateway within nine (9) days before the meetings, and notice by telegraph shall also be deemed effective if the content thereof is delivered to the telegraph company at least nine (9) days before the meetings.

2.6 Waiver of Notice.

2.6.1 Whenever any notice is required to be given to any Director under the provisions of these Bylaws, the Articles of Incorporation or the District of Columbia Nonprofit Corporation Act, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. The business to be transacted and the purpose of any regular or special meeting of the Board shall be specified in the waiver of notice for such meeting.

2.6.2 The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

2.7 Quorum. A majority of the total number of Directors shall constitute a quorum for the transaction of business at any Board meeting but, if less than a majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

2.8 Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law or by these Bylaws.

2.9. Resignation. Any Executive Member company may resign their position on the Board at any time by delivering written notice to the President or the Secretary, or to the registered office of the Corporation.

2.10 Presumption of Assent. A Director of the Corporation present at a Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his/her dissent is entered in the minutes of the meeting, or unless he/she files his/her written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof, or unless he/she forwards such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. A Director who voted in favor of such action may not dissent.

2.11 Compensation. Directors shall not receive any stated salaries for their services, but by Board resolution, Directors may be paid their expenses, if any, of attendance at each Board or committee meeting, or a fixed sum for attendance at each Board or committee meeting; but nothing herein shall be construed to preclude any Director from receiving compensation for services rendered to the Corporation.

2.12 Loans. No loans shall be made by the Corporation to any of its Directors.

2.13 Meeting by Conference Telephone. Members of the Board may participate in a meeting by means of telephone conference, video, or similar communications equipment, provided all persons participating in the meeting can hear each other when they speak. Such participation shall constitute presence in person at the meeting.

2.14 Action by Board without a Meeting. Any action which could be taken at a meeting of the Board may be taken without a meeting if a written consent setting forth the action so taken is signed by each of the Directors. Any such written consent shall be inserted in the minute book as if it were the minutes of a Board meeting.

### ARTICLE 3. OFFICERS

3.1 Number. The officers of the Corporation shall be a President, a Secretary and a Treasurer, each of whom shall be elected by the Board. The President shall serve as the Chair of the Board of Directors. One or more Vice Chairs and such assistant officers as may be deemed necessary may be elected or appointed by the Board; such officers and assistant officers to hold office for such period have such authority and perform such duties as may be provided by resolutions of the Board. The Board may delegate to any officer or agent the power to appoint any such subordinate officers, or agents, and to prescribe their respective terms of office, authority and duties. Any two or more offices may be held by the same person, except the offices of President and Secretary, which must be held by separate persons.

3.2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board at its annual meeting to serve a one-year term. Unless he/she dies, resigns, or is removed, each officer shall hold office until his/her successor is elected.

3.3 Resignation. Any officer may resign at any time by delivering written notice to the President, the Secretary, or the Board.

3.4 Removal. Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Nor, shall such removal affect the membership rights of any member.

3.5 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause may be filled by the Board for the unexpired portion of the term.

3.6 President/Chair of the Board. The President/Chair of the Board shall be chief executive officer of the Corporation and, subject to the Board's approval, shall supervise and control all of the assets, business and affairs of the Corporation. The President/Chair of the Board shall preside over all Board meetings unless absent. In the absence of the President, an elected or appointed Vice Chair *or Vice President* may preside over the meeting. Following approval by the Board, the President may sign deeds, mortgages, bonds, contracts, or other instruments, except when the signing and execution thereof have been expressly delegated by the Board or by these Bylaws to some other officer or agent of the Corporation or are required by law to be otherwise signed or executed by some other officer or in some other manner. The President shall, with the approval of the Executive Committee, appoint or remove any staff or consultants for the Corporation and establish the rate of compensation for any such staff person or consultant. In general, he/she shall perform all duties incident to the office of President and such other duties prescribed by the Board from time to time.

3.7 Secretary. The Secretary shall: (a) keep the minutes of meetings of the Board in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records; (d) keep registers of the post office and e-mail address of each Director; (e) sign with the President, or other officer authorized by the President or the Board, deeds, mortgages, bonds, contracts, or other instruments, except when the signing and execution thereof have been expressly delegated by the Board or by these Bylaws to some other officer or agent of the Corporation; (f) prepare and submit an annual report as required by the District of Columbia Nonprofit Corporation Act and (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the President or by the Board. In the absence of the Secretary, an Assistant Secretary, if appointed, may perform his/her duties.

3.8 Treasurer. If required by the Board, the Treasurer shall give bond for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board shall determine. The cost of such bond may be paid by the Corporation, subject to Board approval. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in banks, trust companies or other depositories selected in accordance with the revisions of these Bylaws; and in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him/her by the President or by the Board. In the absence of the Treasurer, an Assistant Treasurer may perform his/her duties.

3.9 Salary. The officers shall not receive compensation for their services as officers. As adopted by resolution of the Board, officers may be reimbursed for their expenses. No loans shall be made by the Corporation to its officers.

#### **ARTICLE 4. MEMBERS**

This Corporation shall have three (3) classes of members: Executive Members, Associate Members and Nonprofit/Government Members. The rights and obligations of such classes of members shall be provided by the Board through resolution. Membership will be open to individuals, corporations and other entities with a commercial interest in fuel cells in the United States. Applications for membership will be subject to approval by the Board of Directors. To be in good standing, a member must remit the full amount of dues within 90 days of receipt of an annual dues invoice, or make other acceptable arrangements. Only Members in good standing may enjoy the benefits of membership.

#### **ARTICLE 5. CONTRACTS, LOANS, CHECKS AND DEPOSITS**

5.1 Contracts. The Board may authorize any officer or officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of, and on behalf of, the Corporation. Such authority may be general or confined to specific instances.

5.2 Loans. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances.

5.3 Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, or agent or agents, of the Corporation and in such manner as is from time to time determined by resolution of the Board.

5.4 Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may select.

5.5 Gifts and Contributions. The Treasurer may accept on behalf of the Corporation any contribution, gift, bequest, grant, or device as may be consistent with the established purposes of the Corporation and as may be permitted by any applicable local, state or federal law.

#### **ARTICLE 6. BOOKS AND RECORDS**

The Corporation shall keep correct and complete books and records of account, minutes of the proceedings of its Board and such other records as may be necessary or advisable, or required by law at the registered or principal office of the Corporation. All books and records of the Corporation may be inspected by a director for any proper purpose at any reasonable time, upon reasonable notice to the Secretary of the Corporation.

#### **ARTICLE 7. FISCAL YEAR**

The fiscal year of the Corporation shall be the calendar year, provided that if a different fiscal year is at any time selected for purposes of federal income taxes, the fiscal year shall be the year so selected.

#### **ARTICLE 8. EXECUTIVE COMMITTEE**

8.1 Number, Tenure and Qualifications. The Board, by majority vote, may elect from its members an Executive Committee, which will assist the Board in financial and management responsibility for the Corporation. The number of members of the Executive Committee shall not be less than three (3), including the President and the Treasurer. The members of the Executive Committee shall serve for one year from the date of election or until they are reelected, or their successors are elected.

8.2 Powers. The Executive Committee shall have the authority to approve staffing and management decisions of the President. The Executive Committee shall have the authority to recommend to the Board changes to the Bylaws or to the Articles of Incorporation that would assist the Corporation in carrying out its purpose, or improve its business practices. The Executive Committee shall also have the authority, subject to Board review, to approve and oversee the budget and approve contracts on behalf of the Corporation.

8.3 Chair of the Executive Committee. The President/Chair of the Board shall serve as Chair of the Executive Committee and shall preside at all meetings unless absent. In the absence of the President/Chair, an elected or appointed Vice Chair or Vice President, shall preside. The Executive Committee members present may elect or appoint a member to preside at any such meeting if necessary.

8.4 Meetings. The Executive Committee shall meet, from time to time, when any such meeting is called by the Chair, or by a majority of the members of the Executive Committee. Notice for such a meeting shall be delivered orally or in writing seven days in advance of the meeting.

8.5 Quorum. A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business at a meeting of the Executive Committee.

8.6 Manner of Acting. The act of a majority of the members present at a meeting of the Executive Committee where a quorum is present shall be the act of the Executive Committee.

8.7 Action by the Executive Committee without Meeting. Any action which would otherwise be taken at a meeting of the Executive Committee may be taken without a meeting if such action is approved, in writing, by all of the members of the Executive Committee.

8.8 Meeting by Conference Telephone. Members of the Executive Committee may participate in a meeting by means of telephone conference, video or similar communications equipment provided all persons participating in the meeting can hear each other when they speak. Such participation shall constitute presence in person at the meeting.

## **ARTICLE 9. STRATEGY COMMITTEE**

9.1 Number, Tenure and Qualifications. The Board may, by majority vote, establish a Strategy Committee, to assist the Board in implementing Corporation policies and programs. The Strategy Committee shall comprise the chairs of any Working Groups, Task Forces and Focus Groups the Board may establish. In the event that the Corporation hires an Executive Director or other staff, the Executive Director, or other staff, may participate as non-voting members at the Committee's discretion. One staff member may serve as a voting member of the Committee, with Board approval.

9.2 Powers. The Policy Strategy Committee shall have the authority to oversee the activities of Working Groups, Focus Groups and Task Forces and recommend to the Executive Committee any policies for approval by the Board that would further the activity of the Groups. The Strategy Committee shall have the authority to recommend by resolution changes to Working Groups, Focus Groups or Task Forces, including establishment of new groups or dissolution of groups no longer needed.

9.3 Chair of the Strategy Committee. The Board shall, from its members, elect a Chair of the Strategy Committee. The Chair shall preside over meetings unless absent,

and be responsible for reporting to the Board from time to time on the committee's activities. If the Chair is absent, or if no chair is provided, the Strategy Committee may elect or appoint a member to preside at meetings.

9.4 Meetings. The Strategy Committee shall meet, from time to time, when any such meeting is called by the Chair, or by a majority of the members of the Strategy Committee. Notice for such a meeting shall be delivered orally or in writing seven days in advance of the meeting.

9.5 Quorum. A majority of the members of the Strategy Committee shall constitute a quorum for the transaction of business at a meeting of the Strategy Committee.

9.6 Manner of Acting. The act of a majority of the members present at a meeting of the Strategy Committee where a quorum is present shall be the act of the Strategy Committee.

9.7 Action by the Strategy Committee without Meeting. Any action which would otherwise be taken at a meeting of the Strategy Committee may be taken without a meeting if such action is approved, in writing, by all of the members of the Strategy Committee.

9.8 Meeting by Conference Telephone. Members of the Strategy Committee may participate in a meeting by means of conference telephone, video, or similar communications equipment provided all persons participating in the meeting can hear each other when they speak. Such participation shall constitute presence in person at the meeting.

#### **ARTICLE 10. STANDING ADVISORY COMMITTEES, WORKING GROUPS, FOCUS GROUPS, AND TASK FORCES GROUPS**

The Board, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more Committees, Working Groups, Focus Groups or Task Forces to assist in preparing and implementing Corporation policies and programs and advise and aid the Board, officers and employees of the Corporation in any and all matters designated by the Board of Directors. Such Committees, Working Groups, Focus Groups, and Task Forces will take the form specified by the Board. If any such committee or group shall have and exercise the authority of the Board in the management of the Corporation, it shall include no fewer than two Directors.

Each such committee or group may, subject to the approval of the Board of Directors, prescribe rules and regulations for the call and conduct of meetings of that body and all other matters relating to its procedures and responsibilities. Each such committee or group shall keep regular minutes of its meetings and deliver such minutes to the Board of Directors. The members of any committee or group shall not receive any stated salary for their services as such, but by resolution of the Board of Directors a fixed sum or expenses of attendance, or both, may be allowed for attendance at any meeting of such committee or group.

## **ARTICLE 11. INDEMNIFICATION**

To the full extent permitted by the General Corporation Law of the District of Columbia, the Corporation shall indemnify any person who was or is a party to any civil, criminal, administrative or investigative action, suit or proceeding by reason of the fact that he/she is or was a Director or officer of the Corporation, or is or was serving at the request of the Corporation as a Director or officer of another corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and necessarily incurred by him/her in connection with such action, suit or proceeding; and the Board may, at any time, approve indemnification of any other person which the Corporation has the power to indemnify under the General Corporation Law of the District of Columbia.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which a person may be entitled as a matter of law or by contract. The foregoing shall not apply to matters where any such person shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of a duty.

## **ARTICLE 12. AMENDMENTS**

These Bylaws may be altered, amended or repealed, and new Bylaws may be adopted by the Board at any regular or special meeting of the Board.

The foregoing Bylaws were adopted by the Board of Directors of U.S. Fuel Cell Council on November 14, 2005.

Eric L. Simpkins, Secretary