

DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

SUMMARY

Data Element	Data
Site	Portsmouth
Agreement Name	State of Ohio vs. United States Department of Energy, Divested Atomic Corporation, et. al Consent Decree (Civil Action #C2-89-732)
State	Ohio
Agreement Type	Consent Decree
Legal Driver(s)	RCRA
Scope Summary	Establish requirements and schedule of work to be performed in regard to the complaint filed by the State of Ohio on 29 August 1989.
Parties	DOE; Divested Atomic Corporation; State of Ohio
Date	9/1/1989

SCOPE

- Establish requirements and schedule of work to be performed in regard to the complaint filed by the State of Ohio on 29 August 1989
- Ensure the safe handling of hazardous waste, mixed waste, PCBs, solid waste, and water pollutants at Portsmouth.

ESTABLISHING MILESTONES

- Unless otherwise specified within the Consent Decree, actions are required to be taken within a specified period of time (e.g. "within thirty days") after the entry of the Consent Decree.
- In some cases, unusually inclement weather conditions may prevent construction work and delay completion of a closure activity, in which case, DOE shall have the right to seek additional time to complete a closure activity.

- Except for minor field changes agreed to by the Project Coordinators, no modification or additional changes shall be made by DOE to any closure plan, workplan, report or study approved by Ohio EPA without prior written notification and written approval by Ohio EPA.
- Disputes concerning any closure plan, workplan, report, study or other required document shall be resolved through the processes in Section 12.3. Disputed matters not resolved shall be referred to the Deputy Director of Remedial and Technical Programs, Ohio EPA, for a final decision.
- Should Ohio EPA determine that additional work is required, Ohio EPA may notify DOE of such a need; within 45 days of receipt, DOE shall submit to Ohio EPA for review and approval a new or revised document incorporating the additional work.
- Should DOE determine that additional work is required, DOE shall submit to Ohio EPA for approval a plan for performing such work.

FUNDING

- DOE agrees to advise the State of Ohio of its efforts to obtain the appropriate funds necessary to fulfill the stipulations of this Consent Decree.
- The State has sole discretion to make adjustments to the schedule if obligations cannot be met due to the unavailability of funds.
- If appropriate DOE funds are not available, the dispute resolution procedures outlined in the Consent Decree shall be followed.
- If no agreement can be reached, both parties agree that DOE may raise the defense that its failure to comply was caused by the unavailability of appropriate funds.
- The State of Ohio disagrees that the unavailability of appropriated funds is a legitimate defense.

PENALTIES

- No specific monetary penalties are set forth in this Decree.
- Disputes shall be resolved according to Section XII (Resolution of Disputes).

- During the pendency of any dispute, the portions of this Decree which are not in dispute or dependent on the outcome of the dispute shall continue to be implemented.
- Divested Atomic shall pay to the State of Ohio in full and final settlement of disputed claims against Divested Atomic, the sum of \$125,000.00.