

## DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

### SUMMARY

Data Element	Data
Site	Portsmouth
Agreement Name	US EPA Administrative Consent Order (No. OH7 890 008 983)
State	Ohio
Agreement Type	Consent Order
Legal Driver(s)	RCRA/CERCLA
Scope Summary	Establish a structure for oversight of DOE activities encouraging expeditious and efficient clean-up of Hazardous Waste/Constituents/Substances present at PORTS.
Parties	DOE; US EPA; State of Ohio
Date	8/12/1997

### SCOPE

- Establish a structure for oversight of DOE activities encouraging expeditious and efficient clean-up of Hazardous Waste/Constituents/Substances present at PORTS.
- Ensure compliance with RCRA and CERCLA.

### ESTABLISHING MILESTONES

- By the fifteenth day of January, April, July, and October, DOE shall submit a report to US EPA describing response action activities during the preceding three months with a schedule of projected activities for the next three months.
- The process and schedule of final remedy(ies) selection is outlined in Section VI (Oversight). Upon the completion of this process, DOE shall implement the final remedy in accordance with the Corrective Measures Implementation (CMI).
- DOE and OEPA project coordinators, by mutual agreement, may make modifications

to schedules contained in or required by this Order.

## **FUNDING**

- It is the expectation that all obligations of the DOE arising under this Order will be fully funded.
- DOE shall advise US EPA and OEPA of its efforts to obtain funding including, but not limited to, providing US EPA and OEPA a copy of its annual report to Congress which includes the specific cost estimates and budgetary proposals.
- DOE's performance of the commitments under this Order is subject to the availability of appropriated funds.
- Failure to obtain funds does not release DOE from its obligations in this Order.
- In cases where payment of funds would constitute a violation of the Anti-Deficiency Act, the schedule requiring payment of funds shall be appropriately adjusted.
- If appropriated funds are not available to fulfill requirements of this Order, US EPA and OEPA reserve the right to initiate appropriate actions to the extent permitted by law.
- DOE shall request funding and reimburse Ohio EPA for the costs of monitoring work directly related to the implementation of this Order.
- DOE shall notify US EPA in writing within 7 days after it becomes aware of events which constitute a force majeure.

## **PENALTIES**

- No specific monetary penalties are set forth in this Order.
- Nothing herein shall be construed as a waiver, delegation, or compromise of any US EPA authority under RCRA, CERCLA, or any other statute.
- US EPA agrees that compliance with this Order shall stand in lieu of any civil remedies, including administrative, legal and equitable, against DOE.
- Nothing in this Order limits OEPA in its enforcement of the terms of the Ohio Decree, or any other administrative order, permit, license or approved plan, or any State statute or rule.

- If US EPA and OEPA are unable to agree on a final remedy, then each reserves its rights to impose its requirements directly on DOE.
- Disputes shall be resolved according to Section X (Dispute Resolution). Ohio EPA may choose to invoke or enforce the dispute resolution provisions of the Ohio Decree at any state of this process. Disputes that cannot be resolved through the dispute resolution process including the Senior Executive Committee (SEC), all Parties may exercise their respective authorities and rights and DOE may raise the issue to the Administrator of US EPA.