

# OhioEPA

State of Ohio Environmental Protection Agency

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George V. Voinovich  
Governor

July 15, 1991

Re: Director's Final Findings & Orders  
United States Department of Energy  
Portsmouth Enrichment Office

CERTIFIED MAIL

United States Department of Energy  
Portsmouth Enrichment Office  
Attn: Mr. Eugene Gillespie  
P.O. Box 700  
Piketon, Ohio 45661-0700

Dear Mr. Gillespie:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Very truly yours,

*Thomas E. Crepeau*

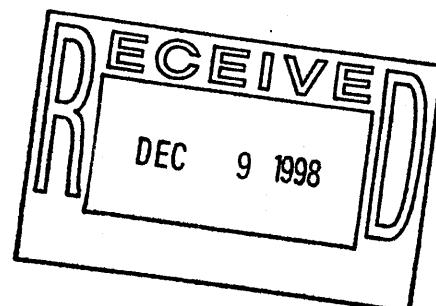
Thomas E. Crepeau, Manager  
Data Management Section  
Division of Solid & Hazardous Waste Management

TEC/dhs

cc: Brian Babb, Legal Supervisor  
Mark Navarre, Legal  
Mike Savage, DSHWM  
Steve Hamlin, SEDO  
Dan Hanket

*Gile*

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Issuance Date: July 15, 1991  
Effective Date: July 15, 1991

By: Mary Cavin Date 7-15-91

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

United States Department of Energy  
Portsmouth Enrichment Office

P.O. Box 700

Piketon, Ohio 45661-0700

Pursuant to Chapter 3734. of the Ohio Revised Code,

the Director of Environmental Protection, hereinafter

referred to as "Director", hereby makes the following

Findings and issues the following Orders.

Director's Final Findings and Orders

Ohio E.P.A. July 15, 91

RECORDED IN THE JOURNAL OF THE DIRECTOR'S OFFICE

ON THIS DAY OF JULY, 1991, IN THE CITY OF PINEHURST, OHIO

FINDINGS

1. The United States Department of Energy, Portsmouth Enrichment Office, located approximately 20 miles north of Portsmouth in Pike County, Ohio (hereinafter "USDOE-PORTS"), owns and operates a gaseous diffusion facility which enriches uranium for military and commercial use on a 16.2 square kilometer site. In the course of normal operations, USDOE-PORTS operates a hazardous waste facility as that term is defined by Section 3734.01 of the Ohio Revised Code and Rule 3745-50-10 of the Ohio Administrative Code.
2. USDOE-PORTS generates RCRA hazardous and mixed (hazardous and radioactive) wastes which are stored on-site in four hazardous waste storage facilities (X-326, X-752, X-744G(R), and X-744G(U) buildings). These existing hazardous waste storage facilities are close to being filled to capacity. Ongoing plant operations and clean-up activities required by the August 31, 1989 Consent Decree, State of Ohio vs. United States Department of Energy, Divested Atomic Corporation, et.al., (Civil Action No. C2-89-732) United States District Court, Southern District of Ohio, Eastern Division, are continuously generating hazardous and mixed wastes for which there are no immediate treatment or disposal options in the United States. In addition, USDOE-PORTS desires to consolidate stored hazardous and mixed wastes from existing hazardous waste storage facilities (with the exception of the X-326 storage facility), and hazardous and mixed wastes currently being generated from on-site (with the exception of hazardous and mixed waste generated in the X-326 process facility) operations into one building in order to facilitate management of these wastes.
3. By letter dated April 15, 1991, USDOE-PORTS submitted to the Director a request for an exemption from the hazardous waste permitting requirements for the X-7725 building located at the facility. The request was submitted pursuant to Section 3734.02(G) of the Ohio Revised Code.

Director's Final Findings and Orders  
The United States Department of Energy,  
Portsmouth Enrichment Office  
PAGE TWO

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By: Mary Canine Date 7-15-91

4. Pursuant to Section 3734.02(G) of the Ohio Revised Code and Rule 3745-50-31 of the Ohio Administrative Code, the Director may by order exempt any person generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or other requirements of Chapter 3734. of the Ohio Revised Code. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2906, 42 U.S.C. Section 6921 et seq., as amended, except as otherwise provided by Chapter 3734. of the Ohio Revised Code.
5. USDOE-PORTS is prepared to begin construction of improvements to the X-7725 storage facility which, when completed, will render the facility suitable for the storage of containers of hazardous and mixed wastes. The hazardous and mixed wastes to be stored in this storage facility include wastes from ongoing on-site plant operations, wastes generated as a result of on-site clean-up activities associated with the Consent Decree and wastes currently stored on-site in existing hazardous waste storage facilities.
6. If the USDOE-PORTS X-7725 hazardous and mixed waste storage facility is established and operated in compliance with these Orders, it is unlikely that the public health or safety or the environment will be adversely affected. These Orders are consistent with and equivalent to the rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2906, 42 U.S.C. Section 6921 et seq., as amended, except as otherwise provided by Chapter 3734. of the Ohio Revised Code.

ORDERS

1. An exemption from the requirement to obtain a hazardous waste facility installation and operation permit for the storage of hazardous and mixed wastes, as required by Sections 3734.02 and 3734.05 of the Ohio Revised Code, is hereby granted to the United States Department of Energy, Portsmouth Enrichment Office, to establish and operate the X-7725 storage facility at the USDOE-PORTS gaseous diffusion facility, provided the following conditions are fully satisfied:
  - a. USDOE-PORTS shall diligently pursue all action necessary to obtain a hazardous waste facility installation and operation permit from the Ohio Hazardous Waste Facility Board (HWF).
  - b. If the HWFB makes a final determination which disapproves an application for a hazardous waste facility permit for the USDOE-PORTS X-7725 container storage facility, and all available appeals have been exhausted, USDOE-PORTS shall immediately discontinue operation of the X-7725 hazardous and mixed waste container storage facility and submit closure plan pursuant to Ohio Administrative Code Rule 3745-66-12 to Ohio EPA within thirty (30) days of the HWFB determination which provides for closure thereof in accordance with Ohio Administrative Code Rules 3745-66-10 through 3745-66-20.

Director's Final Findings and Orders  
The United States Department of Energy,  
Portsmouth Enrichment Office  
PAGE THREE

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By: Mary Cavin Date 7-15-91

C. The X-7725 container storage facility shall provide storage capacity for hazardous and mixed wastes generated only by USDOE-PORTS at the Portsmouth Enrichment Office. No hazardous or mixed wastes shall be accepted from any other off-site generator, on-treatment, storage or disposal facility, with the exception of residues from treatment of hazardous and mixed waste generated at USDOE-PORTS and transported off-site for treatment.

D. USDOE-PORTS shall submit an inventory reduction plan within sixty (60) days of the effective date of this Order to the Ohio EPA for documents to establish alternatives to continued on-site storage of hazardous and mixed waste. This plan shall address hazardous wastes up to 0.04 cu. m. of the Order.

E. USDOE-PORTS shall comply with all applicable hazardous waste laws and rules of the Ohio Revised Code and the Ohio Administrative Code, including but not limited to, the following which are incorporated herein by reference:

- 3745-50-58 Conditions Applicable to All Permits  
3745-65-13 Waste Analysis Plan  
3745-65-14 Security  
3745-65-15 General Inspection Requirements  
3745-65-16 Personnel Training  
3745-65-17 General Requirements for Ignitable, Reactive or Incompatible Wastes  
3745-65-31 Design and Operation of Facility  
3745-65-32 Required Equipment  
3745-65-33 Testing and Maintenance of Equipment  
3745-65-34 Access to Communications or Alarm System  
3745-65-35 Required Aisle Space  
3745-65-37 Arrangements/Agreements with Local Authorities  
3745-65-50 through 65-56 Contingency Plan and Emergency Procedures  
3745-65-73 Operating Record  
3745-65-74 Availability, Retention and Disposition of Records  
3745-66-10 through 66-20 Closure and Post-Closure  
3745-66-70 through 66-77 Use and Management of Containers

F. USDOE-PORTS shall comply with the following rules as applicable to the X-7725 container storage facility by the following dates:

- i. Submittal of a closure plan to the Ohio EPA pursuant to Ohio Administrative Code Rule 3745-66-12 by June 10, 1991, which is to be incorporated into and made a part of the USDOE-PORTS hazardous waste permit application.
- ii. Submittal of a contingency plan to the Ohio EPA pursuant to Ohio Administrative Code Rules 3745-65-50 through 3745-65-56 by June 10, 1991, which is to be incorporated into and made a part of the USDOE-PORTS hazardous waste permit application.

ENTERED DIRECTOR'S JOURNAL

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Director's Final Findings and Orders  
The United States Department of Energy,  
Portsmouth Enrichment Office  
PAGE FOUR

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By: Mary Cavin Date 7-15-91

- G. USDOE-PORTS shall upgrade the X-7725 container storage facility to meet the following facility standards of the Ohio Administrative Code:
1. USDOE-PORTS shall make immediate improvements to 92,000 square feet of the X-7725 facility that satisfy applicable requirements of the interim facility standards (Chapters 3745-65 and 3745-66) of the Ohio Administrative Code.
- (2) ~~USDOE-PORTS shall make improvements to the remaining 140,000 square feet of the X-7725 storage facility to satisfy applicable requirements of the new facility standards (Chapters 3745-54 and 3745-55) of the Ohio Administrative Code. USDOE-PORTS shall not move hazardous and mixed wastes into the remaining 140,000 square feet of the X-7725 storage facility, unless that specific portion of the 140,000 square feet of the X-7725 storage facility to be used has been improved to meet applicable requirements of the new facility standards under the Ohio Administrative Code. USDOE-PORTS shall notify the Ohio EPA, Southeast District Office, when each of these improvements have been completed.~~
- H. USDOE-PORTS shall submit to Ohio EPA by August 15, 1991, a detailed plan for transferring existing containers of hazardous and mixed wastes stored in the X-744G(R), X-744G(U) and X-752 hazardous waste storage facilities to the X-7725 container storage facility. The plan shall specify the dates when wastes will be relocated, the types of waste to be relocated from each facility, the location within X-7725 where these wastes will be placed, and safety measures that will be followed during transfer of the wastes. Upon approval of the container transfer plan by the Director, USDOE-PORTS shall implement the plan within 180 days from the date of the Director's approval.
2. USDOE-PORTS shall evaluate the waste stored in Container No. RFD 2255 per Ohio Administrative Code Rule 3745-52-11. Prior to completing the evaluation, USDOE-PORTS shall manage the waste in Container No. RFD 2255 in accordance with Ohio Administrative Code Rules 3745-66-70 through 3745-66-77. Once the evaluation is completed, USDOE-PORTS shall manage the waste in accordance with the applicable provisions of the Ohio Revised Code.
3. USDOE-PORTS shall submit to Ohio EPA for approval a closure plan pursuant to Ohio Administrative Code Rule 3745-66-12 for the X-735 landfill (cells 1-6) which provides for closure thereof in accordance with Ohio Administrative Code Rules 3745-66-10 through 3745-66-20 by June 10, 1991.
4. USDOE-PORTS shall submit to Ohio EPA for approval closure plans pursuant to Ohio Administrative Code Rule 3745-66-12 which provides for closure thereof in accordance with Ohio Administrative Code Rules 3745-66-10 through 3745-66-20 for container storage units X-752, X-744G(U), and X-744G(R) by June 10, 1991. Closure of these units shall commence under closure plans approved by the Director in accordance with the schedules contained therein.

Director's Final Findings and Orders  
The United States Department of Energy  
Portsmouth Enrichment Office  
PAGE FIVE

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By: Mary Cawley Date 7-15-91

5. Within three hundred sixty (360) days from the effective date of these Orders, USDOE-PORTS shall begin a comprehensive waste minimization assessment program for the hazardous and mixed waste generated by current USDOE-PORTS facility operations by initiating the Planning and Organization Phase of the Waste Minimization Assessment Procedure as described in the Waste Minimization Opportunity Assessment Manual, EPA/625/7-88/003, dated July 1988 (Attachment A of this Order).
6. Within three hundred ninety (390) days from the effective date of these Orders, USDOE-PORTS shall document compliance with the requirements in Order No. 5 by submitting the completed Worksheets 2 through Appendix A of the Waste Minimization Opportunity Assessment Manual (Attachment A); and shall initiate the Assessment Phase of the Waste Minimization Assessment Procedure as described in the Waste Minimization Opportunity Assessment Manual (Attachment A).
7. Within four hundred fifty (450) days from the effective date of these Orders, USDOE-PORTS shall document compliance with the requirement in Order No. 6 by submitting an Assessment Report of the selected options and the completed Worksheets 3 through 13 from Appendix A of the Waste Minimization Opportunity Assessment Manual (Attachment A); USDOE-PORTS shall also implement the Feasibility Analysis Phase of the Waste Minimization Assessment Procedure as described in the Waste Minimization Opportunity Assessment Manual (Attachment A).
8. Within four hundred eighty (480) days from the effective date of these Orders, USDOE-PORTS shall document compliance with the requirement in Order No. 7 by submitting a Feasibility Analysis Report including the recommended options and the completed Worksheets 14 through 17 from Appendix A of the Waste Minimization Opportunity Assessment Manual, EPA/625/7-88/003, dated July, 1988 (Attachment A); USDOE-PORTS shall also implement the Recommended Waste Minimization Projects for the Facility that are determined by using the Waste Minimization Assessment Procedure described in the Waste Minimization Opportunity Assessment Manual (Attachment A).
9. Within five hundred forty (540) days from the effective date of these Orders, USDOE-PORTS shall document compliance with the requirement in Order No. 8 by submitting a Final Report and the completed Worksheets 18 and 19 from Appendix A of the Waste Minimization Opportunity Assessment Manual (Attachment A).
10. These Orders do not exempt USDOE-PORTS from any other local, state, or federal laws or regulations which are otherwise applicable, or the Consent Decree.
11. The exemption from the State of Ohio's hazardous waste permitting requirements provided by these Orders shall terminate when any one of the following four events occurs:

EMERED DIRECTOR'S JOURNAL

Director's Final Findings and Orders  
The United States Department of Energy,  
Portsmouth Enrichment Office  
PAGE SIX

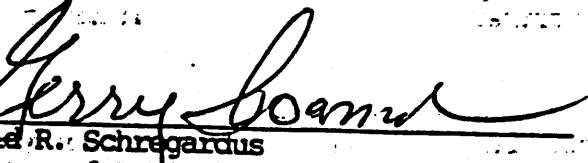
ENTITLED DIRECTOR'S FINAL FINDINGS AND ORDERS

A. USDOE-PORTS withdraws its application for a hazardous waste facility installation and operation permit from the Ohio EPA or the HWFB;

B. the HWFB approves the issuance of a hazardous waste facility installation and operation permit to USDOE-PORTS;

C. the HWFB disapproves the issuance of a hazardous waste facility installation and operation permit for USDOE-PORTS and all available means to seek appeals have been exhausted; USDOE-PORTS is advised that it has the right to appeal to the Director of Environmental Protection, who may revoke the permission granted, if he finds under these Orders to USDOE-PORTS that the conditions granted are not being observed. USDOE-PORTS is advised to seek legal counsel before the issuance of these Orders by the Director does not release USDOE-PORTS of any liability it may have incurred for any violations which may have occurred at the USDOE-PORTS prior to the effective date of these Orders. The issuance of these Orders does not release USDOE-PORTS of any obligation to transmit, has to comply with the State of Ohio's environmental laws except as otherwise specifically provided herein.

IT IS SO ORDERED:

  
Donald R. Schregardus  
Director of Environmental Protection

7/12/91  
Date

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By: Mary Cavin Date 7-15-91

OHIO E.P.A.

JUL 15 91

ENTERED DIRECTOR'S JOURNAL

Director's Final Findings and Orders  
The United States Department of Energy,  
Portsmouth Enrichment Office  
PAGE SEVEN

WAIVER

The United States Department of Energy hereby waives the right to appeal the issuance, terms, and service of these Orders, and hereby waives any and all rights it might have to seek administrative or judicial review of these Orders, either at law or in equity. In the event that these Orders are appealed by any other party to the Environmental Board of Review or any court, nothing in these Orders shall preclude the right of the United States Department of Energy to intervene and participate in such appeal. In such event, the United States Department of Energy shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

IT IS SO AGREED:

THE UNITED STATES DEPARTMENT OF ENERGY,  
PORTSMOUTH ENRICHMENT OFFICE

By:

Eugene W. Gillogly

Date

7/10/91

OHIO ENVIRONMENTAL PROTECTION AGENCY

By:

Donald R. Schregardus  
Director

Date

7/12/91

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