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**DOE-FEMP EXPERIMENTAL TREATMENT FACILITY  
(ETF)**

**DOCUMENT DATE 12-11-91**



State of Ohio Environmental Protection Agency

**Southwest District Office**

40 South Main Street  
Dayton, Ohio 45402-2086  
(513) 285-6357  
FAX (513) 285-6249

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George V. Voinovich  
Governor

December 11, 1991

RE: DOE-FEMP  
EXPERIMENTAL TREATMENT  
FACILITY (ETF)

Mr. R.E. Tiller  
DOE-FEMP  
P.O. Box 398705  
Cincinnati, Ohio 45239-8705

Dear Mr. Tiller:

This letter is written in response to your December 5, 1991 letter regarding the status of the Experimental Treatment Facility (ETF). In your 12/5/91 letter, the contention is made that the ETF is not subject to the RCRA permitting requirements because it is part of the wastewater treatment unit at the facility.

Ohio Administrative Code Rule 3745-50-45(C)(5) [40 CFR 270.1(c)(2)(v)] states that owners or operators of wastewater treatment units (as defined in OAC 3745-50-10) are not required to obtain a hazardous waste permit. A wastewater treatment unit is defined as a device which:

- (a) Is part of a wastewater treatment facility that is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and
- (b) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in rule 3745-51-03 of the Administrative Code, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined by rule 3745-51-03 of the Administrative Code, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined by rule 3745-51-03 of the Administrative Code; and
- (c) Meets the definition of tank or tank system in this rule.

It appears that at the time the ETF was used as a sludge dryer (November, 1984), it may have satisfied the criteria indicated above, and therefore, may have been considered a wastewater treatment unit not subject to a RCRA permit.

However, after the initial treatment event in November, 1984, DOE made a decision to cease using this unit as part of the wastewater treatment unit. It is the position of this office that at the time that decision was made, this unit was no longer subject to the

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Clean Water Act provisions. Since November, 1984, listed hazardous waste has been stored in this unit. Units storing hazardous waste for greater than 90 days are subject to RCRA permitting requirements. For these reasons, Ohio EPA's position is that the ETF is a hazardous waste management unit and is subject to the closure requirements specified in OAC 3745-66- 11 through 66-19.

Your 12/5/91 letter also requests concurrence with DOE's schedule to conduct a removal action at the ETF should our office decide that the unit is a regulated hazardous waste management unit. Ohio EPA concurs that an immediate removal of the waste and structure is necessary to prevent further migration of contaminants from leaks or spills to the soil. Ohio EPA does not wish to delay this process, and suggests you proceed with the removal under an approved Removal Action Work Plan.

In order to satisfy RCRA requirements for this unit, a compliance schedule must be submitted to this office per Section 3.12 of the Proposed Amended Consent Decree. This compliance schedule must address the submittal of an approvable closure plan for this unit. Ultimately, this unit must be closed in accordance with an approved closure plan.

Please call Phil Harris or me at 513-285-6357 if you have any questions or comments.

Sincerely,



Paul D. Pardi  
Group Leader  
Division of Hazardous Waste Management

cc: Phil Harris/DHWM/SWDO  
Robin Fisher/DHWM/SWDO  
Graham Mitchell/DHWM/SWDO