



State of Ohio Environmental Protection Agency

Southwest District Office

401 East Fifth Street
Dayton, Ohio 45402-2911

TELE: (937) 285-6357 FAX: (937) 285-6249

FERNALD _____

LOC _____

Nov 12 8 15 AM '99

Bob Rafi, Governor
Maureen O'Connor, Lt. Governor
Christopher Jones, Director

FILE: _____
LIBRARY: _____

2653

November 10, 1999

Mr. Jack Craig, Site Manager
U.S. Department of Energy
Fernald Environmental Management Project
P.O. Box 538705
Cincinnati, Ohio 45253-8705

Mr. John Bradburne, President
Fluor Daniel Fernald, Inc.
P.O. Box 538704
Cincinnati, Ohio 45253-8704

SUBJECT: U.S. DOE-FEMP - NOTICE OF VIOLATION (NOV)

Dear Sirs:

As a result of our review of information, *reported by the facility*, concerning two (2) related incidents of mixed waste leaking from on-site storage containers, this office has determined that U.S. DOE-FEMP/FDF has violated specific Ohio Administrative Code (OAC) regulations and/or relevant OEPA Director's Findings and Orders governing on-site management of hazardous waste. This Notice of Violation (NOV) is a formal regulatory response to information reported and submitted by U.S. DOE-FEMP/FDF, and is viewed as the appropriate response by the agency. This office acknowledges that the circumstances and known facts of the incident have been self-reported by the facility, and is aware that certain corrective measures have already been undertaken by the facility. *Nevertheless, this office considers the facility's self-report and the resultant NOV to be indicative of correct and responsible action by both U.S. DOE-FEMP/FDF and OEPA.* The purpose of this letter is to identify the violations, as well as issues and concerns, which has prompted issuance of a NOV in this matter.

On October 12, 1999, U.S. DOE-FEMP/FDF notified this office via telephone of the facility's recent discovery of an incident involving a leaking mixed waste (liquid) storage container identified as a metal box, (MB) container inventory #W169457. At the time of discovery, the MB was stored in Tension Structure-6 (TS-6) located on the Plant 1 Pad. The MB had apparently leaked most, if not all of its contents into the TS-6 trench drain and isolated sump. The telephone notification to OEPA indicated U.S. DOE-FEMP/FDF representatives were investigating the matter. Subsequent information has identified a second MB, container inventory #W170797, that has also leaked liquid mixed waste. At the time of the facility's telephone notification this office requested follow-up information and any additional information resulting from the facility investigation. In compliance with our request, this office has subsequently received four (4) facility communications via facsimile transmission that have summarized the circumstances and current factual information related to this incident.

Mr. Jack Craig, U.S. DOE-FEMP
Mr. John Bradburne, FDF, Inc.
November 10, 1999
Page 2

For your reference, the facsimile communications are:

- Oct. 14, 1999, @ 1307; FDF to OEPA, Subject; Leaking Metal Box.
- Oct. 19, 1999, @ 1536; FDF to OEPA, Subject; (*Info/Fact Sheet on 2nd leaking MB*).
- Oct. 25, 1999, @ 1514; FDF to OEPA, Subject; (*Analytical data regarding contents of subject MB's*).
- Nov. 2, 1999, @ 1054; DOE to OEPA, Subject; TS-6 Sump Contents Removal Fact Sheet - 10/28/99.

In summary, information provided by the facility has indicated that this incident involved the loss of most, if not all of the contents of two (2) MB's at two (2) storage locations. Liquid mixed waste from one container may have leaked into sub-surface soil below the TS-6 trench drain and isolated sump, and from another, may have leaked into portions of the facility controlled storm drain system. Established on-site waste management administrative and engineering controls have not prevented this incident from occurring.

The following Violations of the OAC and/or relevant OEPA Director's Findings and Orders are deemed to have occurred:

1. Director's Final Findings & Orders issued June 6, 1996; Section V, Order #9; This Order exempts the facility from obtaining a hazardous waste facility installation and operation permit with stipulated provisions, i.e., enjoins the facility to comply with terms of the facility Part B permit application, (and revisions) and applicable hazardous waste laws and regulations, unless otherwise specifically provided for by the Orders.

Section D of the facility Part B permit application ("application") describes the hazardous waste management standards for on-site storage, including locations for containers with free liquids, and for containers without free liquids. Section D also describes the type(s) of hazardous waste storage containers utilized by the facility. The facility has stored hazardous waste liquids in a non-approved area, (container inventory #W170797 stored in an area not designated for free liquids, from July 7, 1999 to October 7, 1999). In addition, the facility arguably has stored hazardous waste in containers not specifically designated for free liquids, i.e., information within Section D-1a does not reference MB's, and Table D-2 does not identify MB's as storage containers for liquids. This office does recognize there may exist ambiguity within Section D regarding explicit container standards for mixed waste storage. In the future, the expectation of this office is that the facility will utilize mixed waste storage containers consistent with provisions of Table D-2.

Mr. Jack Craig, U.S. DOE-FEMP
Mr. John Bradburne, FDF, Inc.
November 10, 1999
Page 3

The facility has stored hazardous waste in a manner not consistent with information contained within the application, therefore; the facility is in violation of the Order.

2. OAC 3745-65-15 General inspection requirements; and,
Requires the owner/operator to remedy any deterioration or malfunction of equipment revealed by inspections on an appropriate schedule.
- OAC 3745-66-71 Condition of containers; and,
Requires appropriate container management practices in the event of discovering a leaking container.
- Facility application, Section F-2c Remedial Action.
Describes and references appropriate remedial action to problems identified by facility inspections.

Facility inspection procedure identified Type-1 leaks in two (2) containers storing hazardous waste (#W169457 and #W170797) however, deficient tracking and/or scheduling procedures have apparently resulted in a failure to apply appropriate corrective measures, therefore; the facility is in violation of the regulations and, terms of the application.

If you have not already done so, please correct the above violations immediately, and within fifteen (15) days from the date of this letter, provide a written response to this office which describes action(s) taken to correct and/or action(s) designed to prevent a re-occurrence of these violations. In addition, please submit the following **Information and Documentation** to this office within fifteen (15) days from the date of this letter:

- Copies of the TS-6 inspection forms initially reporting the leaking containers, (July 19, 1999 for #W169457 and July 7, 1999 for #W170797).
- Additional documentation of inspections conducted in the areas where these containers were stored, (e.g., one inspection-log example for TS-6 and for Bldg. 71/contamination area for the months of July, August, September, and October).
- Relevant copies of the facility's RCRA Operating Record which document the tracking movement and placement of these containers during the period of July, 1999, to present.
- Describe the rationale used to conclude that a reportable release had not occurred, including calculations related to RQ's and mass-balance.
- Identify the quantity and location of hazardous waste liquids currently in storage in containers of this type. Identify the planned disposition and scheduling for any such wastes.

Mr. Jack Craig, U.S. DOE-FEMP
Mr. John Bradburne, FDF, Inc.
November 10, 1999
Page 4

- An evaluation of the integrity of the TS-6 trench drain and sump system, including plans and schedule for repairs if necessary.
- An evaluation summary of anticipated actions related to RCRA/CERCLA integrated closure activity for the two (2) Hazardous Waste Management Units (HWMU) affected.

OEPA notes the following Issues and Concerns associated with this incident and invites relevant comment:

- a) Current facility RCRA Operating Log tasking protocols and related communications need to be evaluated and revised where necessary.
- b) The facility concluded that a CERCLA release did not occur. A parallel, (if not primary) evaluation of release and/or emergency considerations subject to OAC 3745-65-51 and 3745-65-56, and Section G of the application should have also occurred. It is recognized that the mixed wastes involved were hazardous waste waters, and that the facility did in fact, notify the agency.

Should you have any questions in this matter, please contact me at (937) 285-6090.

Sincerely,



Phillip C. Harris
Division of Hazardous Waste Management

cc: Terry Hagen, FDF
Linda Neumann, RCRA Compliance, OEPA, CO
Paul Pardi, OEPA DHWM SWDO
Tom Schneider, OEPA, OFFO
SWDO FILE: U.S. DOE-FEMP, OH6890008976, HAZARDOUS WASTE, HAMILTON CO., TSDF

PCH/bp