

**Bechtel***Interoffice Memorandum*

To	G. L. Palau	File No.	7440/124
Subject	Scoping Notice: Former Associate Aircraft Tool and Manufacturing, Inc. Site, Fairfield, Ohio	Date	November 1, 1994
		From	D. D. Sexton <i>DDS</i>
		of	ES&H
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**SCOPING NOTICE****INTRODUCTION**

The purpose of this scoping notice is to formalize the identification and application of federal and state rules and regulations that may apply to the cleanup of the Former Associate Aircraft Tool and Manufacturing Site at 3660 Dixie Highway (hereinafter referred to as the Fairfield Site), in Fairfield, Ohio. This environmental compliance evaluation is based on information contained in the Radiological Survey of the site which provides the nature and extent of contamination upon which this regulatory review relies. This scoping notice reviews various environmental regulations; however, neither OSHA nor DOT regulations are within the scope of this review.

**REGULATORY FRAMEWORK****Modified Observational Approach**

Cleanup of the Fairfield Site is being planned utilizing the draft DOE Modified Observational Approach (MOA) as described in CCN 118781, dated July 27, 1994. The MOA is an expedited method of remediating DOE sites utilizing DOE's authority under the Atomic Energy Act of 1954, and subsequent related legislation. The MOA Protocol is similar to the Expedited Protocol, except it was modified to address more complicated NEPA-only sites that may not be remediated immediately after designation. The major difference between the two alternatives is that the designation contractor would no longer be responsible for determining the boundaries or extent of contamination because of the more complex surveys needed. Bechtel National, Inc., as the PMC will be responsible for defining the extent of contamination and performing design engineering and remedial action at the Fairfield site.



**National Environmental Policy Act (NEPA)**

A Categorical Exclusion (CX) under NEPA must be prepared specific to the activities planned for the site. The CX must be submitted to the DOE Oak Ridge Operations NEPA Compliance Officer for review and approval. The CX to be applied is "B.6.1 Removal Actions under CERCLA (including those taken as final response action and those taken before remedial action) and removal-type actions similar in scope under RCRA and other authorities." The CX for the Fairfield Site has been submitted to and initialed off by the ORO NEPA Compliance Officer. Final concurrence is pending.

**DOE ORDER 5400.5**

Cleanup of the Fairfield Site will be conducted pursuant to DOE Order 5400.5. However, the Department of Energy (DOE) is currently in the process of codifying all DOE Orders. A proposed rule which would codify DOE Order 5400.5 (10 CFR 834) has been published (58 FR 16268). The final rule is expected to be published before the end of this calendar year. Upon codification of 10 CFR 834, the requirements governing cleanup of radioactively contaminated areas at the Fairfield site would have to be reevaluated, particularly if the new requirements become effective before remediation commences. It is recommended that cleanup be completed prior to the effective date of the new regulations. Based on the proposed rule, it is expected that 10 CFR 834 will significantly change existing cleanup requirements at DOE sites.

**ADDITIONAL REGULATORY CONSIDERATIONS****Clean Air Act (CAA)**

All contamination is located indoors. Since no release of airborne contamination is expected to ambient air, application of the radionuclide NESHAPs provisions is not an issue. All Ohio regulations were searched using the ENFLEX INFO database for references to regulations on the use of HEPA filters in equipment. No regulations were identified other than those for asbestos. Since no asbestos has been identified at the site, there are no state regulations requiring the use of a vacuum system with a HEPA filter. However, HEPA filters may be used at the discretion of the Site Superintendent.

**Clean Water Act (CWA)**

Since all contamination at the site is located indoors, surface waters are not impacted by either process discharges or stormwater. Therefore, provisions of the CWA are not applicable.

**State Radioactive Waste Code**

A strong case can be made, based on statutory and regulatory interpretation of federal and state law, that DOE is not subject to



Ohio's radiation protection regulations. This is based on the fact that Ohio's authority to regulate radioactive materials is derived from the Nuclear Regulatory Commission (NRC). DOE must only follow NRC requirements where there is not a DOE requirement or regulation on point. Therefore, NRC and/or state radiation protection regulations are not generally applicable to DOE.

Another potential issue involves the crossing of state lines with radioactive waste during transportation to a permanent disposal site. We recommend that this issue be researched and evaluated by Waste Management and Treatment for applicability to the Fairfield site.

#### **National Historic Preservation Act (NHPA)**

Since this removal action is a federal undertaking, compliance with §106 of the NHPA is required. A letter was sent to the Ohio State Historic Preservation Officer (SHPO) indicating DOE's opinion that site activities will not detrimentally impact any historic properties (CCN 120674). In a letter dated October 12, 1994, the Ohio SHPO provided concurrence that there are no historic properties at the Fairfield Site (CCN 121885).

#### **Resource Conservation and Recovery Act (RCRA)**

No RCRA regulated waste has been identified at the site, nor is any expected based on process knowledge. Since RCRA regulations now also cover contaminated debris (e.g., concrete rubble and other building material) any such building material that is suspected to have been contaminated from leakage or spills of hazardous waste must be tested using the RCRA TCLP procedure. Should a RCRA waste be encountered, it must be managed, stored, and disposed of in accordance with Ohio Hazardous Waste Management Regulations.

Should RCRA waste be encountered and site activities extend to December 19, 1994, the recently promulgated treatment standards of 59 FR 47982 will be reviewed for applicability prior to land disposal or shipment of the waste for final disposal.

#### **Toxic Substances Control Act (TSCA)**

No TSCA regulated waste (e.g., PCBs or asbestos) has been identified, nor is any expected based on process knowledge, at the site. Should TSCA waste be encountered, it will be managed, stored, and disposed of in accordance with TSCA regulations.

#### **Potential Local Ordinances**

Local officials must be contacted to determine whether any local ordinances restrict construction or demolition operation hours. Construction work is scheduled during the day to avoid disturbing the public. Construction permits shall be obtained from Ed Dodds, the Building Superintendent for the City of Fairfield.



**CONCLUSION**

This review has identified the major regulatory drivers that guide activities during the Fairfield Site cleanup. Additional actions, such as contacts with local officials, will be required. These actions will be tracked and coordinated by the Missouri-Ohio Environmental Compliance Coordinator upon direction from the Project Manager.

Based on the above assumptions and research, environmental compliance has not identified any additional environmental regulations, other than those identified and referenced to date, that would impact the Fairfield Site work.

