

Bechtel

Interoffice Memorandum

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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 Bridgeport Brass Company Special Metals Extrusion Plant, hereafter referred to as the General Motors (GM) site, located in Adrian, Michigan. This environmental compliance evaluation is based on information contained in the Radiological Survey of the site, which provides the nature and extent of radiological contamination, and upon verbal information received from the FUSRAP Engineering and Technology Group. The environmental services subcontractor has not yet provided the Missouri/Ohio Team with a copy of the characterization data report for GM. This Scoping Notice reviews various environmental regulations. However, neither OSHA nor DOT regulations are within the scope of this review since such regulations are the primary responsibility of Safety and Health and Waste Management and Treatment Departments, respectively.

REGULATORY FRAMEWORK

Modified Observational Approach

Cleanup of the General Motors site will utilize the draft DOE Modified Observational Approach (MOA) as described in CCN 118781, dated July 27, 1994. The MOA Protocol is still pending final approval by DOE-FSRD. 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 is no longer responsible for determining the boundaries or extent of contamination because of the more complex surveys needed. As the PMC, Bechtel National, Inc., will define the extent of



contamination and perform design engineering and remedial action at the GM site.

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Since the GM site is not being remediated under CERCLA authority the Section 121(e)(1) exemption from permitting for on-site activities, is not available. Bechtel will procure all required permits, to ensure that work activities are in compliance with all local, state, and federal requirements that necessitate a permit and or notification.

National Environmental Policy Act (NEPA)

NEPA, as implemented by Executive Orders 11514 and 11991, establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains provisions which direct federal agencies to give appropriate consideration to the environmental effects of their decision making and to prepare appropriate documentation. Appropriate NEPA documentation may include the preparation of either a Environmental Impact Statement (EIS), Environmental Assessment (EA), or a Categorical Exclusion (CX) depending upon the potential significance of the activities' impact upon the environment.

Since activities at GM will not have an individual or cumulative significant effect on the environment, a Categorical Exclusion (CX) under NEPA has been prepared specific to the activities planned for the site. The CX has been submitted to and approved by the DOE Oak Ridge Operations NEPA Compliance Officer. The CX applied to work at this site 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 GM was approved by DOE-Headquarters on August 24, 1994 (see CCN 119788).

ADDITIONAL REGULATORY CONSIDERATIONS

DOE ORDER 5400.5

Cleanup of the General Motors 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 General Motors 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. For example, unlike DOE Order 5400.5, the proposed rule is



10 CFR 834 does not contain building release criteria or soil criteria in the form of easily identifiable numbers (e.g., 1,000 dpm). The proposed rule requires that the public not be exposed to 100 mrem/yr. This change would make it more difficult to determine whether buildings, soil, or equipment could be released.

Clean Air Act (CAA)

The federal National Emissions Standards for Hazardous Air Pollutants (NESHAPs) regulate radionuclide air emissions from DOE facilities and operations.

Radionuclide Emissions

NESHAPs subpart H regulates the emissions of radionuclides from DOE facilities and operations. A literal reading of the regulation indicates that DOE "operations", (assuming that remedial activities by DOE may be interpreted as "operations"), that emit radionuclides must demonstrate compliance with the 10 mrem/yr standard. However, the current DOE interpretation of the applicability of Subpart H, based on a draft Memorandum of Understanding with EPA, is that Subpart H only applies to DOE owned or leased sites, not to vicinity properties such as the General Motors site. In addition, it can be argued that merely "a potential to emit" does not trigger applicability of subpart H.

Asbestos Abatement

NESHAPs subpart M contains requirements for asbestos demolition and renovation activities in 40 CFR §61.145. The General Motors asbestos removal is classified as a renovation activity. Furthermore, since less than 260 linear feet of regulated asbestos containing material on pipes is being removed, the activity does not require compliance with the provisions of 40 CFR §61.145 and notification is not required to be given to U.S. EPA.

Clean Water Act (CWA)

The CWA regulates the discharge of pollutants to waters of the United States through the application of Federal, State, and local discharge standards.

Discharge of Pollutants to Waters of the U.S.

EPA and states regulate direct discharges of pollutants through their National Pollutant Discharge Elimination System (NPDES) and State Pollutant Discharge Elimination System (SPDES) programs, respectively. Although decontamination water will be generated at the GM site, such water will not be discharged to waters of the United States. Since remedial action at the General Motors site will not lead to the discharge of pollutants (i.e., deconwater) to waters of the United States, the provisions of the CWA are not applicable and a permit will not be required.



Stormwater Discharges Under the NPDES Program

A stormwater permit is not required for the GM site. The owner or operator of a facility subject to the regulations in 40 CFR 122.26 (the federal stormwater requirements) must apply for a stormwater discharge permit (e.g., a general or individual stormwater permit) for activities "associated with industrial activity" at a regulated facility. A regulatory database search reveals that the State of Michigan has not obtained authorization to implement the EPA stormwater program. However, the EPA administers this program in the absence of a state program.

Federal stormwater regulations require "operators" responsible for discharges of stormwater to obtain permits in certain circumstances. Although DOE does not own the General Motors facility, it could be argued that DOE "operates" a portion of the facility during remediation because it exercises control over the activity. However, the General Motors site does not fit into one of the facility categories listed in the stormwater regulation (e.g., it is not a construction site that will result in the disturbance of at least five acres of total land area). Therefore, the site is not subject to stormwater regulations.

Resource Conservation and Recovery Act (RCRA)

Hazardous Waste Management

RCRA regulates the storage, treatment, and/or disposal of hazardous waste or radioactive mixed waste (RMW) that contains hazardous constituents (40 CFR 261 through 40 CFR 268). No RCRA regulated waste or RMW has been identified at the site, nor is any expected based on process knowledge. Nevertheless, should a hazardous waste be generated, it will be managed in compliance with the provisions of RCRA. 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. In addition, should RCRA waste be encountered, recently promulgated treatment standards will be reviewed for applicability prior to land disposal or shipment of the waste for final disposal (59 FR 47982).

Used Oil Regulations

RCRA also establishes standards for the management of used oil (40 CFR 279). Used oil is defined as "any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities" (40 CFR 279.1). Oils that meet this definition are not subject to RCRA hazardous waste requirements if they are recycled (burned). To prevent the triggering of more stringent hazardous waste regulations, the used oil must not be mixed with a hazardous waste, cannot have greater than 1,000 ppm total halogens, and must be recycled. It is not necessary to test used oil for hazardous waste characteristics if the above provisions are met.



Used oils which are not radiologically contaminated will remain the property of GM. Such oils will not be managed by DOE. However, oils contaminated at levels greater than 300 piC/g will be managed in accordance with either used oil regulations, RCRA regulations, or state solid waste regulations, as appropriate.

Toxic Substances Control Act (TSCA)

PCBs

TSCA establishes requirements for the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs of greater than 50 ppm (40 CFR 761). TSCA regulated PCBs have not been identified, nor are any expected based on process knowledge, at the site. Should regulated PCBs be encountered, they will be managed, stored, and disposed of in accordance with TSCA regulations.

Asbestos

In addition, TSCA sets forth requirements which must be followed by employers of state or local government employees during asbestos abatement projects not governed by the Occupational Safety and Health Act [OSHA] (see 40 CFR 763.120). These requirements are not applicable to GM since asbestos abatement will not involve state or local government employees and OSHA asbestos standards under 29 CFR 1910.101 will be followed to protect workers.

National Historic Preservation Act (NHPA)

Since this removal action is a federal undertaking, compliance with §106 of the NHPA is required. On February 24, 1994, a letter was sent to the Michigan State Historic Preservation Officer (SHPO) indicating DOE's opinion that site activities will not detrimentally impact any historic properties (CCN 113700). In a letter dated March 10, 1994, the Michigan SHPO provided concurrence that activities at the General Motors site will not affect any historic properties and that the property is cleared under 36 CFR 800 (CCN 114461).

State Requirements

State Asbestos Regulations

The state of Michigan has adopted by reference the federal asbestos NESHAPs provisions of 40 CFR 61, subpart M (see R 299.4131). However, there are licensing requirements for corporations and accreditation requirements for workers who engage in asbestos removal activities. It is recommended that the services of a licensed/accredited subcontractor be obtained for the asbestos removal.

In addition, for any asbestos removal of at least 10 linear feet or 15 square feet, whether on pipes or facility components, the asbestos abatement contractor must provide notification to the state at least 10



days prior to the beginning of the abatement activity (Asbestos Abatement Contractors Licensing Act; Act 135 of 1986; §220(1)). Asbestos abatement contractors must also pay fees equal to 1% of the price of the contract for the asbestos abatement project (Act 135, §220(3)). Michigan has also recently adopted the OSHA construction standards of 29 CFR 1926.1101. These standards categorize work activities for asbestos removals.

In summary, the state of Michigan requires compliance with federal NESHAPs provisions (for the actual asbestos renovation or demolition activities), state licensing and accreditation requirements, state notification requirements (10 days prior to beginning the abatement project), and the OSHA construction standards of 29 CFR 1926.1101.

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 Michigan's radiation protection regulations. This is based on the fact that Michigan's authority to regulate radioactive materials is derived from the Nuclear Regulatory Commission (NRC). The NRC and DOE are sister agencies and generally do not have regulatory or enforcement authority over each other. Therefore, NRC regulations and/or state radiation protection regulations derived from NRC authority are not applicable to DOE.

State Solid Waste Regulations

Requirements regarding the disposal of radiologically contaminated non-hazardous oils are found in the Michigan Solid Waste Regulations. Generally, these regulations require treatment prior to disposal of liquids in a solid waste landfill. In addition, since oils managed by DOE will have contamination in excess of 300 pCi/g, they may not be disposed of in a solid waste landfill.

The oils in question will be treated onsite and then disposed of at a RCRA permitted facility (e.g., Envirocare). Solidification will be the treatment method for these non-hazardous oils. Planned treatment and disposal methods actually comply with hazardous waste requirements.

State Hazardous Waste Code

The state of Michigan has an EPA authorized hazardous waste program which sets forth regulations that are compatible with RCRA. Therefore, state hazardous waste rules are the applicable regulations for hazardous waste generated at the General Motors site. Where state regulations do not address certain issues contained in federal regulations, the federal regulations are applicable.



Based on process knowledge and characterization activities to date, RCRA regulated waste has not been identified at the General Motors site. If hazardous waste is generated, it will be managed according to the requirements contained in the Michigan Hazardous Waste Management Rules (R299.9101 through R299.11107).

Transportation Interstate

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 General Motors site.

Water Management

Evaporation (e.g., drum heaters) and/or solidification are the preferred method of handling contaminated water remaining from site activities. However, should it be necessary to transport and dispose of water offsite, a water hauler who is licensed pursuant to §325.12501 of the Michigan Drinking Water Rules will be contacted. The licensed water hauler must comply with applicable Michigan regulations. Local public owned treatment works (POTWs) may be contacted to explore the possibility of discharging water directly to the local sewer system.

Potential Local Ordinances and/or Permits

The city of Adrian has been contacted to identify applicable local ordinances and/or permits for the GM site. According to Mr. Gary Bice of the Engineering/permitting Department for the city, only an electrical permit must be obtained. The permit shall be acquired by an electrician licenses in the State of Michigan. It is not necessary to provide the city with copies of drawings or the scope of work.

Pursuant to an agreement with General Motors, construction activities will use facility (e.g., General Motors) power control and water supplied connections as opposed to using local power controls and water supplied connections. Therefore, permits will not be required for water service extensions, construction, or sanitary services (E-Mail dated 3/28/95 from Naren Ramachandran).

CONCLUSION

This review has identified the major regulatory drivers that guide activities during the General Motors site cleanup. As a result, the following specific actions have been identified that should be addressed prior to initiating work at the site:

- the Michigan Department of Public Health should be notified of the asbestos removal at least 10 days prior to the start of the activity,



- Bechtel or the appropriate subcontractor should obtain appropriate licenses for corporations and/or accreditation for employees prior to beginning asbestos abatement, and
- the construction or engineering group should obtain an electrical permit from the city of Adrian.

Additional actions may 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 environmental regulations, other than those identified and referenced to date, that would impact work at the General Motors site.

REFERENCES

1. Radiological Survey Report; April 1992
2. Verbal Information; since SAIC has not provided Bechtel with a characterization data report, verbal information related to waste characterization has been relied upon in concluding that neither RCRA nor TSCA waste are present at GM.

