

December 5, 2006

Naval Activity Puerto Rico

**RESPONSE TO PUBLIC COMMENTS  
on RCRA 7003 Administrative Order on Consent**

From September 12, 2006 through October 12, 2006, the United States Environmental Protection Agency (EPA) held a thirty day public review period on the proposed RCRA 7003 Administrative Order on Consent (Consent Order), which addresses completion of cleanup at the Naval Activity Puerto Rico (NAPR) facility, formerly Roosevelt Roads. On September 12, 2006, EPA published in the San Juan Star, in English and Spanish, a Public Notice announcing this review period and a planned public meeting to discuss the proposed Consent Order. The public meeting was held on September 27, 2006 at the Ceiba Multi-Use Center, in Ceiba, PR.

Three sets of written comments were received by EPA during the public comment period; two of the sets contained multiple comments/questions. The written comments and the most significant relevant comments made at the September 27<sup>th</sup> public meeting are summarized below, along with EPA's responses to those comments.

1. Comment: When is the next public meeting? Where on your website can the public find out about future activities? Also, can EPA invite members of the community to view where clean-up work has been done, or will be done in the future?

EPA Response: EPA will likely seek public comment and/or hold future public meetings if major modifications are proposed in the existing Consent Order, or if new Consent Orders are proposed between EPA and any "Third Party" acquirer of portions of the NAPR facility where clean-up has not yet been completed (see also Response to Comment 5). EPA would publish a public notice of such future meetings and announce them on EPA's internet web site (<http://www.epa.gov/region02/waste/fsroosev.htm>) where certain significant items concerning the NAPR facility, formerly Roosevelt Roads, are posted.

In addition, as discussed at the public meeting in Ceiba on September 27, 2006, the Navy is planning to establish a Restoration Advisory Board (RAB) which is an advisory group made up of 10 to 20 community volunteers, along with representatives from the Navy, EPA, and the Puerto Rico Environmental Quality Board (PREQB). RAB meetings provide an opportunity for two-way communication between the community and these agencies about the environmental cleanup work being done. The Navy held the initial RAB meeting on November 28, 2006 to develop interest in membership of this RAB. After this meeting the Navy expects to conduct RAB meetings every other month, however the schedule will be determined by the RAB.

Once a schedule is established for future RAB meetings, it will be announced on the Navy BRAC web site. (<http://www.bracpmo.navy.mil/>) This is the official web site to provide information about the United States Navy's Base Realignment and Closure (BRAC) Process to the general public. There is a link on this web site for the Former Naval Station Roosevelt

Roads now known as the Naval Activity Puerto Rico (NAPR). On this page there is a link for the Restoration Advisory Board and a schedule of meetings. Currently, this part of the web site is under construction, but will be updated in the very near future.

The Navy also has set up a project web site (<http://nsrr-ir.org>) to provide the public with information about the cleanup process at NAPR. This web site contains the complete Administrative Record for NAPR including investigations and cleanup documents.

Once the RAB is established, it is expected that there will be opportunities to take the RAB members into the facility to observe the sites where cleanup has been, or will be, completed. Announcements regarding such site visits to the facility will be made at the RAB meetings, and/or on the above discussed BRAC web site.

2. Comment: Where will contaminated soils be disposed of? Will it be in Ceiba?

EPA Response: The Navy, as Respondent under this Consent Order, will, subject to EPA oversight, be responsible for proper management, treatment, and disposal of all contaminated soils. Any excavated contaminated soils must be managed, treated, and disposed of pursuant to all applicable requirements given in 40 Code of Federal Regulations (CFR) Parts 260 through 268. Soils that are determined to be a hazardous waste, as that term is defined pursuant to 40 CFR Part 261, must be treated or disposed of at a permitted treatment, storage, or disposal facility (TSDF), as those terms are defined in 40 CFR Part 270. Since there currently is no permitted commercial TSDF in Puerto Rico, any soils excavated at NAPR that are determined to be a hazardous waste, if they are to be disposed of, must be transported to the U.S. mainland where several permitted commercial TSDFs are located. Therefore, no soils excavated at NAPR that are determined to be a hazardous waste will be disposed of in Ceiba, or elsewhere in Puerto Rico.

3. Comment: Does the proposed Consent Order have a time table or schedule for the clean-up operations?

EPA Response: Although the proposed Consent Order does not have a time table or schedule for the clean-up operations, it does contain time requirements for the Navy to submit work plans and reports related to the investigation of the site and clean-ups. Any such work plans submitted under the Consent Order, in order to be acceptable, must contain schedules for implementing that work. Once determined by EPA to be acceptable and complete, such work plans and their schedules become enforceable requirements under this Consent Order.

4. Comment: The proposed Consent Order does not make reference to the intentions of transferring parts of the Facility to the Government of Puerto Rico.

EPA Response: The majority of the facility likely will be transferred to the Commonwealth of Puerto Rico including, 3,333 acres of conservation areas, 1,851 acres for airport and port related operations, and 291 acres for economic development purposes. If the Commonwealth assumes responsibility for the cleanup of sites within these parcels after transfer, it will be required to enter into a "Third Party" order with the EPA. Otherwise the Navy will be responsible for any cleanup that is required at these sites.

5. Comment: The proposed Consent Order provides no guidance as to the administrative process to follow in the event a “Third Party” transfers land to another party.

EPA Response: Although this proposed Consent Order does not spell out in detail the administrative process to follow in the event a “Third Party” transfers land to another party, it is not necessary to do so. Section X of the Consent Order contains a provision explicitly noting that the Navy’s responsibility for the required work is conditioned on (i.e., is on-going until) the satisfactory and timely performance by the Third Party. This requirement is consistent with requirements in the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”), Section 120(h), 42 U.S.C. Section 9620(h). Note further that “Third Party” is defined under this Order to include any “successors and assigns... and may include prospective purchasers... and/or other parties that may otherwise acquire one or more parcels...” which includes any party to which a third party transfers any parcel.

6. Comment: Were Areas of Expected Future On-site Residential Housing at the NAPR facility, as shown on the government of the Commonwealth of Puerto Rico’s proposed “Portal del Futuro” web site (<http://portaldelfuturo.com>) considered in evaluating potential exposure pathways for releases from AOC F and SWMUs 26, 54, 61 and 62?

EPA Response: The Areas of Expected Future On-site Residential Housing as shown on the proposed “Portal del Futuro” web site (<http://portaldelfuturo.com>) to be located in the southwest corner of the facility, are incorrectly identified on this website as future residential housing areas. The website should indicate that those areas are in fact intended to be transferred to the US Army (the Army) for use by the Army Reserve Command. A portion of the multi-site Area of Concern (AOC) F, and Solid Waste Management Units (SWMUs) 26, 54, and 61, which are described in the Consent Order, are located within the Army’s new property boundary. It is anticipated that the Army will enter into a Consent Order with EPA, less extensive but similar to the Consent Order with the Navy, which will require the Army to complete the investigation, cleanup, and monitoring of AOC F and SWMUs 26, 54, and 61. SWMU 62 is located within a projected public sale parcel. The successful purchaser of the property upon which SWMU 62 is located will be required to enter into a “Third Party” Consent Order with the EPA. This “Third Party” Consent Order will provide requirements for the investigation and cleanup of SWMUs in accordance with risk standards established by EPA for current and expected use of the property. The “Third Party” may choose to clean up sites on its parcels to meet an unrestricted reuse (i.e., residential), or it may conform to an alternate protective standard (i.e., industrial or recreational) with a restricted future use of the property.

7. Comment: At the public meeting held on September 27, 2006, a number of persons expressed concern with allowing the Navy to sell property prior to its being cleaned-up, and with transferring the responsibility for completion of the required clean-up to another entity.

EPA Response: Under the Consent Order, the Navy is responsible for completing all required clean-ups throughout the entire facility, unless the entity acquiring the contaminated property, also enters into an Order with EPA for completing the clean-ups required on any property which it acquires from the

Navy. In addition, under terms of the Consent Order and Federal law, in the event of default (or non-performance in completing the required clean-ups) by the entity acquiring contaminated property from the Navy, the Navy can be required to complete any such non-completed clean-ups.

8. Comment: At the public meeting held on September 27, 2006, a number of persons expressed concern with the proposed redevelopment and reuse plan for the facility, which has been developed by the Local Reuse Authority (LRA), the entity chartered by the government of the Commonwealth of Puerto Rico to develop a master reuse proposal for the properties comprising the former Roosevelt Roads facility.

EPA Response: The Consent Order does not define the redevelopment and reuse options for the lands comprising the former facility, and/or the role of the LRA in any such redevelopment or reuse of the facility. The redevelopment and reuse options for the lands comprising the former NAPR facility are determined by the LRA and/or other agencies of the government of the Commonwealth of Puerto Rico.

9. Comment: At the public meeting held on September 27, 2006, a number of persons expressed concern that some or all of the lands comprising the former Roosevelt Roads facility should be transferred to the local community.

EPA Response: The Consent Order does not address to whom the lands comprising the former Roosevelt Roads facility should be transferred. That is determined by the Navy in coordination with the LRA and/or other agencies of the government of the Commonwealth of Puerto Rico. At this time, it is expected that approximately 3,333 acres of conservation areas will be transferred to the Commonwealth of Puerto Rico.