

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

---

IN THE MATTER OF: )  
)  
THE COMMONWEALTH OF )  
THE NORTHERN MARIANA ISLANDS )  
)  
)  
EPA ID No. TTP000128710 )  
EPA DOCKET NO. RCRA7003-09-2008-0001 )  
RESPONDENT )  
)  
Proceeding under Section 7003 of )  
the Resource Conservation and )  
Recovery Act, 42 U.S.C. Section )  
6900, et seq., as amended. )

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## I. INTRODUCTION

- 1) This Administrative Order on Consent (AOC) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and the Commonwealth of the Northern Mariana Islands (CNMI). This AOC is issued pursuant to Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973.
- 2) This AOC addresses the hazards created by the presence of millions of pounds of Munitions and Explosives of Concern (MEC) present throughout the CNMI. The majority of MEC present, on essentially all of the islands of the CNMI, can be attributed to military ordnance resulting from the battle for the Marianas, the US air war to bomb Japan based out of the CNMI, or US stockpiles on the islands as part of the buildup of ordnance to support the invasion of Japan. At the end of World War II, the US left behind millions of pounds of ordnance, in the form of battle residue or abandoned military munitions in storage. Cleanup efforts subsequent to that time have removed only a percentage of the total MEC.
- 3) The CNMI government has been dealing with removal activities since that time with US Navy Explosive Ordnance Disposal (EOD) assistance. In view of post 9/11 explosive security concerns, and with the assistance of the Dept of Homeland Security, an organic Explosive Response Team (XRT) was formed under the Department of Public Safety to provide explosive emergency response support to the community and a dedicated explosive demolition site was established.
- 4) This AOC provides a regulatory framework for managing the remediation waste. Previously, explosive ordnance disposal events were regulated by EPA through emergency disposal permits on a case by case basis. The goal is to establish permanent procedures to:
  - (a) Replace the previous emergency permit procedure's with established procedures;
  - (b) establish local regulatory control similar to other State level explosives response programs within the country; and
  - (c) define the applicability of RCRA regulations in regards to those actions which are classified as "Explosive Emergency Response" and more routine RCRA regulated activities such as storage and treatment of remediation waste.
- 5) In entering into this AOC, the mutual objectives of EPA and CNMI are to identify, investigate, remedy, and prevent the potential endangerment to human health and the environment from activities involving hazardous waste, and to facilitate design and implementation of operations that protect human health and the environment. The standards herein are designed to manage the risks associated with MEC by providing protection against serious injury, loss of life, and damage to property. The CNMI shall be responsible for performing the work in accordance with this AOC.
- 6) Regulatory Authority: This AOC acknowledges the unique relationship between the United States and the CNMI. The CNMI is a self-governing commonwealth under the

sovereignty of the United States. Prior to 1976, CNMI was designated a Trust Territory by the United Nations, with the United States as the administering authority. As a US Commonwealth, the CNMI is treated as a State for EPA regulatory purposes and falls under EPA Region 9. The primary CNMI agencies for the regulation of MEC under this AOC are:

- CNMI Department of Public Safety (DPS): The CNMI DPS, under the direction of the Commissioner of Public Safety, is the primary regulatory agency for all matters concerning MEC within the CNMI including establishment of public policy, response, recovery, storage and disposal coordination, establishment of training/qualification standards and other program actions. Operational control within the DPS lies with the Officer in Charge of the Explosive Response Team (XRT). Operational authority during MEC response activities lies with the senior XRT Explosive Response Specialist.

- CNMI Division of Environmental Quality (DEQ): DEQ is the CNMI agency responsible for the environmental oversight of the implementation of the AOC.

7) Risk to Human Health & Environment: The CNMI recognizes that all MEC within the CNMI may present an imminent and substantial endangerment to human health and the environment. The MEC present a risk of accidental or unintentional detonation, bodily injury or death, fire and environmental degradation caused by the actual explosion and dispersal of chemicals to air, soil, surface water, sediment, and groundwater.

8) Procedures: CNMI, in its efforts to remediate this waste and alleviate the threat posed, currently handles, stores, and treats the MEC through an established response procedure encompassing the following steps:

- Discovery – Initial report to DPS from individual or organization of the discovery of MEC;
- Response – Actions taken by DPS Explosive Response Specialists to identify, determine the condition of and conduct procedures to minimize the explosive hazard;
- Transportation – Immediate removal of MEC from public exposure and transport to safe storage if feasible;
- Emergency Disposal - Emergency Disposal by detonation/burning if unsafe to transport to safe storage;
- Storage – MEC items determined to be safe to place in storage are stored in explosive storage facilities until a sufficient quantity is accumulated to justify requesting explosive response assistance from US Navy EOD; and
- Disposal - Regularly scheduled events coordinated by DPS with explosive

assistance by US Navy EOD.

9) Emergency Events: This AOC provides that due to the unique situation at the CNMI, where the location of waste MEC often coincides with public access and public property, the discovery, response, transportation and emergency storage and disposal of MEC at CNMI are considered explosives or munitions emergency actions, and are exempt from RCRA requirements as provided in 40 C.F.R. §§ 262.10(i), 263.10(e), 265.1(c)(11), and 270.1(c)(3), when DPS handles such emergency events under the direction of an Explosives Response Specialist, pursuant to procedures specifically designed for explosive emergencies as set forth in the relevant Standard Operating Procedures.

Non-emergency Actions: DPS shall handle all non-emergency MEC events in accordance with this AOC, and the appendices, including the RAP.

10) Notification: EPA has notified the Commonwealth of the Northern Mariana Islands of this action pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a)..

11) Liability: The CNMI's participation in this AOC shall not constitute or be construed as an admission of liability. Both parties recognize the presence of MEC within the CNMI was a result of World War II era battle and/or military logistics actions and that the CNMI did not cause the MEC contamination. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this AOC (Sections V and VI, Findings of Fact and Conclusions of Law).

12) EPA and Respondent acknowledge that this AOC has been negotiated by the parties in good faith and that this AOC is fair, reasonable, and in the public interest.

## II. JURISDICTION

13) This AOC is issued under the authority vested in the Administrator of EPA by Section 7003 of RCRA, which authority has been delegated to the Regional Administrators of EPA by Delegations 8-22-A and 8-22-C (April 20, 1994). In EPA Region 9 the Regional Administrator redelegated the authority to the Director of the Waste Management Division by Delegation R9-1280.20.

14) Respondent agrees to undertake and complete all actions required by the terms and conditions of this AOC. In any action by EPA or the United States to enforce the terms of this AOC, Respondent consents to and agrees not to contest the authority or jurisdiction of the Director of the Waste Management Division to issue or enforce this AOC, and agrees not to contest the validity of this AOC or its terms or conditions.

### III. PARTIES BOUND

- 15) This AOC shall apply to and be binding upon EPA, and on Respondent and Respondent's employees, agents, and upon all persons, including but not limited to contractors and consultants, acting on behalf of Respondent.
- 16) Respondent shall provide a copy of this AOC to any subsequent purchasers of the open burning/open detonation ("OB/OD") Site before a controlling interest in ownership rights, stock, assets or the Site is transferred.
- 17) Respondent shall provide a copy of this AOC within seven (7) days of the Effective Date of this AOC, or the date that such services are retained, to all contractors, subcontractors, laboratories, and consultants that are retained to conduct or monitor any portion of the work performed pursuant to this AOC. Respondent shall condition all contracts or agreements with contractors, subcontractors, laboratories and/or consultants in connection with this AOC, on compliance with the terms of this AOC. Respondent shall ensure that its contractors, subcontractors, laboratories, and consultants comply with this AOC.
- 18) Not later than 60 days prior to any voluntary transfer by Respondent of any interest in the Site, Respondent shall notify EPA of the proposed transfer. Not later than 3 days after any transfer, Respondent shall submit copies of the transfer documents to EPA.

### IV. DEFINITIONS

- 19) Unless otherwise expressly provided herein, terms used in this AOC that are defined in the RCRA statute shall have the meaning assigned to them in that statute. Any terms not found in the statute and not defined herein have the meaning assigned to them by 40 C.F.R. §§ 260.10 and 270.2.
- "AOC" shall mean this Administrative Order on Consent, any amendments thereto, and any documents incorporated by reference into this AOC.
  - "Effective Date" shall be the date on which EPA signs this AOC.
  - "Explosives or munitions emergency" (explosive emergency) means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and

expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

- “Explosives or munitions emergency response” (explosive emergency response) means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

- “Explosives or munitions emergency response specialist” (Explosive Response Specialist) means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses. Within the CNMI, recognized Explosive Response Specialists include individuals who have completed a formal course of instruction and possess a certificate from:

- US Military Explosive Ordnance Disposal school;
- FBI Hazardous Devices School;
- FBI/ATF Explosive Response Course;
- Department of Labor Qualified UXO Technician Course;
- CNMI Explosive Response Team (XRT) Course; or
- Other formal qualifications certified in writing from the Officer In Charge of CNMI XRT.

- “Munitions and Explosives of Concern” (MEC) is the primary term used within this AOC for a broad category of ordnance and explosive items. MEC is used collectively to refer to any or all of the following terms currently in use in the explosive response community:

“Unexploded Ordnance (UXO)”; means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

“Military Munitions (MM)”: military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.

“Discarded Military Munitions (DMM)”: Military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of consistent with applicable environmental laws and regulations.

“Ordnance & Explosives (OE)/Ordnance & Explosive Waste (OEW)”:

“Explosive components”: (e.g., TNT, RDX, blasting caps, primers) present in high enough concentrations to pose an explosive hazard.

“Improvised Explosive Devices (IED)”: Those devices placed or fabricated in an improvised manner incorporating destructive, lethal, noxious, pyrotechnic or incendiary chemicals, designed to destroy, disfigure, distract or harass. They may incorporate military stores, but are normally devised from non-military components.

Commercial Explosives & Blasting Agents”:

“Commercial Ammunition, Pyrotechnics & Fireworks”:

“Other hazardous waste items which contain explosive hazards”:

- “Open Burning/Open Detonation” OB/OD are the two primary methods of treatment for ordnance and explosives.
- “OB/OD site” or the “Site” shall mean the storage and treatment site located 1 mile north of the Marpi Landfill, Saipan, CNMI. The address is Laderan Laggun Cliffline, Marpi, Saipan. The coordinates are: Latitude 15 Degrees 16 Minutes 0.0865 Seconds North; Longitude 145 Degrees 49 Minutes 0.3313 Seconds East.
- “RCRA”: shall mean the Resource Conservation and Recovery Act (also known as the Solid Waste Disposal Act), as amended, 42 U.S.C. § 6901, et seq.



- “Remediation waste” means all solid and hazardous wastes, and all media (including groundwater, surface water, soils and sediments) and debris that contain listed hazardous wastes or that themselves exhibit a hazardous characteristic and are managed for implementing cleanup.
- “Standard Operating Procedures for Emergency Disposal of Unexploded Ordnance”: means the Standard Operating Procedure developed by DPS for handling MEC. DPS follows Standard Operating Procedures (SOPs) for matters such as transportation and collection of MECs, and for some routine operations. EPA has reviewed these SOPs and agrees that they are consistent with best management practices for handling MECs. EPA also recognizes that DPS may revise these SOPs as circumstances warrant.
- “Storage”: means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

## V. FINDINGS OF FACT

- 20) It is estimated that following World War II over nine million pounds of MEC was abandoned in Saipan.
- 21) Unexploded ordnance can include military explosive munitions such as grenades, bombs, mortar shells and cluster munitions, which have been deployed or scattered during military activities but have failed to detonate. The presence of MEC presents an imminent and substantial endangerment to human health and the environment because there is a risk of accidental or unintentional MEC detonation, which can cause acute physical injury from fire or explosion. Consequences of MEC detonation can include bodily injury or death, and environmental degradation caused by the actual explosion and dispersal of chemicals to air, soil, surface water, sediment, and groundwater.
- 22) The MEC is a solid waste as defined in RCRA § 1004(27) because (1) it is abandoned within the meaning of 40 C.F.R. § 266.202(b)(1); (2) it is removed from storage for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal within the meaning of 40 C.F.R. § 266.202(b)(2); it is deteriorated or damaged within the meaning of 40 C.F.R. § 266.202(b)(3); and/or it is a used or fired military munition within the meaning of 40 C.F.R. § 266.202(c) and/or (d).
- 23) The MEC is a hazardous waste as defined in RCRA § 1004(5) and 40 C.F.R. § 261.23(a)(6).
- 24) The MEC is remediation waste, as defined in 40 C.F.R. § 260.10.

25) CNMI DPS is remediating the waste and the hazards posed by the MEC, and therefore is collecting, rendering safe, handling, transporting, storing, and arranging for treatment of the waste.

26) The MEC presents a public safety hazard, and must be managed pursuant to this AOC to protect human health and the environment. This AOC defines procedures to ensure safe handling, management, storage and treatment of the waste.

27) In recent years, EPA has issued emergency permits under 40 C.F.R. § 270.61 authorizing treatment of the MEC waste when the quantity collected exceeded the containment building's storage capacity. Until the RAP for the OB/OD is final, the routine storage, treatment and disposal of MEC will be conducted in accordance with the terms of the draft RAP, which is attached to this AOC. Emergency permits will no longer be required for the routine storage, treatment and disposal of MEC conducted pursuant to the AOC. Once the RAP is final the OB/OD site will be a RCRA permitted storage, treatment and disposal facility. Generation, transport and any emergency storage and disposal of MEC will continue to be conducted as emergency response. Routine storage, treatment, and disposal operations of the MEC at the OB/OD unit will be regulated pursuant to the final RAP.

## VI. CONCLUSIONS OF LAW AND DETERMINATIONS

28) Respondent CNMI is included in the definition of "state" in Section 1004(31) of RCRA, 42 U.S.C. § 6903(31) and is therefore a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

29) The MEC is discarded material, and thus a "solid waste" as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27) and 40 C.F.R. § 266.202(b)(1). Such solid waste may also be a "hazardous waste" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) because it poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. MEC may exhibit the characteristic of reactivity (RCRA waste code D003) when "it is capable of detonation or explosive reaction if it is subjected to a strong initiating source," or exhibit the characteristic of toxicity for lead (RCRA waste code D008).

30) The historical disposal of MEC may present an imminent and substantial endangerment to human health and the environment within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a). The discarded MEC, when not managed correctly, presents a risk of accidental or unintentional detonation, which can cause acute physical injury from fire or explosion. Consequences of MEC detonation can include bodily injury or death, and environmental degradation caused by the actual explosion and dispersal of chemicals to air, soil, surface water, sediment, and groundwater.

31) Respondent is currently handling, storing, and treating the waste MEC in an effort to remediate the waste.

32) Based on the foregoing Findings of Fact, and pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a), EPA has hereby determined that Respondent is contributing to the present handling, storage, and treatment of hazardous waste at the Site, which may present an imminent and substantial endangerment to health or the environment. The Director of the Waste Division of EPA, Region IX, has determined that issuance of this AOC is necessary to protect public health and the environment.

#### VII. ORDER ON CONSENT

33) Based upon the administrative record for the Site and the Findings of Fact (Section V) and Conclusions of Law and Determinations (Section VI) set forth above, and in consideration of the promises set forth herein, the following is hereby agreed to and ordered. Respondent shall comply with all provisions of this AOC, including, but not limited to, all appendices to this AOC and all documents incorporated by reference into this AOC.

#### VIII. WORK TO BE PERFORMED

34) This AOC governs the management of MEC, including collection, transport, storage, and treatment of MEC.

35) Project Coordinator. The EPA Project Coordinators will be Norwood Scott, CED-6, 75 Hawthorne Street, San Francisco, Ca, 94105, 415-972-3373, scott.norwood@epa.gov or Michael Wolfram, CED-6, 75 Hawthorne Street, San Francisco, Ca, 94105, 415-972-3027, wolfram.michael@epa.gov. The CNMI Project Coordinators will be Dave Chargualaf, Toxic Waste Management Branch at DEQ and Captain Pete Leon Guerrero, Officer in Charge Explosive Response Team, DPS. Each Project Coordinator shall be responsible for overseeing the implementation of this AOC. EPA and Respondent have the right to change their respective Project Coordinators. The other party must be notified in writing at least 10 days prior to the change.

36) The EPA Project Coordinator shall be EPA's designated representative for the Site. Unless otherwise provided in this AOC, all reports, correspondence, notices, or other submittals relating to or required under this AOC shall be in writing and shall be sent to the EPA Project Coordinators at the address specified in Paragraph 35, unless notice is given in writing to Respondent of a change in address. All correspondence shall include a reference to the EPA Docket number in the case caption.

37) To the extent practicable, the work completed pursuant to this AOC shall be conducted in compliance with all applicable EPA guidance, policies and procedures, and with this AOC, and is subject to EPA approval.

38) Respondent shall work with EPA to finalize a Remedial Action Plan ("RAP") for the OB/OD site. When the RAP is final the OB/OD unit will be a RCRA permitted treatment, storage and disposal facility, pursuant to the terms of the final RAP. A draft of the RAP is attached as Appendix A. This AOC and the draft RAP constitute CNMI's application for a RAP, as required by 40 C.F.R. § 270.110.

39) Within 180 days of the effective date of this AOC, Respondent shall submit a workplan for groundwater monitoring using 40 C.F.R. Part 264, Subpart F as guidance. EPA will assist CNMI DEQ in the preparation of this workplan. Upon approval of the workplan (including an implementation schedule) Respondent agrees to implement the workplan in a timely manner in accordance with the approved schedule. EPA or the permittee may request a permit modification based upon the groundwater monitoring results if necessary to assure continued compliance with 40 C.F.R. section 264.601 (Environmental performance standards ).

40) Collection and Transport. This AOC recognizes the unique situation at the Site, where the location of waste MEC often coincides with public access and public property. Collection and transport of MEC will be conducted in accordance with this AOC and the emergency response provisions in the RCRA implementing regulations, including 40 C.F.R. §§ 262.10(i) and 263.10(e).

41) DPS shall follow its standard operating procedures for collection and transport of MEC. The responsible agency for maintenance of the standard operating procedures is the CNMI Department of Public Safety. EPA Region 9 and DEQ coordinators will be provided a copy of this document within 30 days whenever it is changed or updated.

42) Emergency Treatment of MEC. DPS shall submit to the DEQ Coordinator and EPA an Explosive Response Operation report within 5 working days of any explosive emergency response event. Reports will include the information per XRT Emergency Explosive Response SOP. Reports may be submitted electronically.

43) DPS must retain records for three years identifying the dates of the response, the responding person, the description of material, and its disposition.

44) Storage and Treatment. Until the OB/OD unit is permitted under the final RAP, DPS shall conduct storage and treatment of MEC at the OB/OD site in compliance with the terms of the draft RAP attached hereto as Appendix A.

45) This AOC authorizes treatment of other explosive items such as waste propellants, explosives, IEDs, explosive chemicals and pyrotechnics described in the Munitions and Explosives of Concern definition above, to the extent such items require OB/OD treatment.

46) This AOC authorizes the treatment of explosive categories of hazardous waste including hazardous waste that may be defined as ignitable (D001) or reactive (D003). Treatment of any hazardous waste not authorized by this AOC is prohibited and is a violation of this AOC.

47) Notifications: Respondent must notify DEQ and EPA at least one week prior to non-emergency treatment events, and provide DEQ with an inventory of the items to be treated. Prior to all non-emergency treatment events, public notice must be provided as set out in Appendix A. Emergency response events, as defined in 40 C.F.R. § 262.10(i), do not require public notification.

48) Respondent may establish one or more alternate storage areas for remediation waste, in addition to the storage area at the OB/OD unit. The alternate storage areas must meet the security requirements of 40 C.F.R. § 264.14 including (1) a 24 hour surveillance system or (2) an artificial or natural barrier (i.e., a fence in good repair or a fence combined with a cliff) which completely surrounds the active portion of the facility, and a means to control entry. Alternate storage areas may be either long-term or temporary. Prior to establishing any alternate, long-term storage areas, Respondent shall obtain approval from EPA and shall submit a request for a permit modification for the RAP. EPA may authorize the use of the alternate, long-term storage area pending decision on the permit modification. Prior to establishing any alternate temporary storage areas, not to exceed 45 days, Respondents shall notify EPA. The use of any such alternate temporary storage areas shall be authorized pursuant to this AOC for 30 days, without further approval from EPA.

#### IX. ADMINISTRATIVE DOCUMENTATION

49) EPA will maintain an administrative record file. The administrative record supporting this AOC and the work to be performed shall be available for public review at 75 Hawthorne Street, San Francisco, California, 94105, and in Saipan at Joeten - Kiyu Library, Susupe, Saipan MP.

#### X. COMPLIANCE WITH OTHER LAWS

50) Respondent shall perform all actions required pursuant to this AOC in accordance with all applicable local, state, and federal laws and regulations, unless otherwise noted herein. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations in a timely manner so as not to delay the work required by this AOC.

## XI. PENALTIES

51) **Stipulated Penalties.** Any time Respondent fails to comply with any requirement of this AOC, Respondent may be liable for stipulated penalties up to \$100 per day unless EPA has approved the extension of a deadline. Compliance with this AOC by Respondent shall include completion of an activity or any matter under this AOC in accordance with this AOC, and within the specified time schedules approved under this AOC.

52) **Violations of the draft RAP, Appendix A to this agreement, are subject to the penalties described in this section, until the RAP is final. Once the RAP is final it is a RCRA permit. Any violations of the final RAP are subject to penalties as described in Section 3008 of RCRA.**

53) **Civil Penalties.** Violation of this AOC may subject Respondent to civil penalties as provided for in Section 7003(b) of RCRA, 42 U.S.C. § 6973(b), as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461 note. Should Respondent violate this AOC or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to any applicable authorities, and/or may seek judicial enforcement of this AOC. EPA shall notify Respondent in writing of any violation of this AOC and provide Respondent a reasonable opportunity to correct the deficiency (where the violation is capable of being corrected) prior to imposition of any penalties, taking unilateral action, or seeking judicial enforcement.

54) **Appendix B, Section B-X provides information regarding payment of penalties.**

## XII. MODIFICATION OF THIS AOC

55) **This AOC may be modified only by the mutual agreement of EPA and Respondent. Any agreed modifications shall: (1) be in writing, (2) be signed by both parties, (3) have as their effective date the date on which they are signed by EPA, and (4) be incorporated into this AOC.**

56) **The RAP, once finalized, exists as an independent document and is a RCRA permit. Modifications to the final RAP must be pursuant to 40 C.F.R. § 270.170 and 40 C.F.R. § 270.41 (Modification or revocation and reissuance of permits).**

57) **No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain such formal approval as may be required by this AOC, and to comply with all requirements of this AOC unless it is formally modified. Any deliverables, plans, technical memoranda, reports, specifications, schedules and attachments required by this AOC are, upon approval by EPA, incorporated into and enforceable under this AOC.**

### XIII. ADDITIONAL WORK

58) EPA or Respondent may propose that certain tasks are necessary in addition to or in lieu of the tasks included herein to meet the objectives set forth in Section I (Introduction). Subject to mutual agreement, any work plan for such additional work shall be incorporated by reference into this AOC.

### XIV. TERMINATION AND SATISFACTION

59) The provisions of this AOC may be deemed terminated and satisfied by Respondent upon written notice from EPA that Respondent has demonstrated that all of the terms of this AOC, including any additional work as may be performed pursuant to Section XIII (Additional Work) and any stipulated penalties demanded by EPA under Section XI and Appendix B, B-X (Penalties), have been addressed to the satisfaction of EPA. Notwithstanding any other provision of this section, Appendix B of this AOC shall not apply to Respondent's activities pursuant to the RAP upon finalization of the RAP.

### XV. PUBLIC COMMENT

60) EPA shall provide public notice, opportunity for a public meeting and a reasonable opportunity for public comment on the draft RAP, pursuant to 40 C.F.R. § 270.145. After consideration of any comments submitted during a public comment period of not less than 45 days (which EPA may extend), and consideration of comments received at any public hearing held to address interest in the RAP, EPA will issue a final permit decision.

61) The final permit decision may be appealed pursuant to 40 C.F.R. § 270.155 and 40 C.F.R. § 124.19.

### XVI. EFFECTIVE DATE

62) This AOC shall be effective when EPA signs this AOC. Within 2 business days of signing this AOC, EPA will provide Respondent with a copy of the signature page of this AOC signed by the Director, Waste Management Division. The undersigned representative of Respondent certifies that it is fully authorized to enter into the terms and conditions of this AOC and to bind the party it represents to this document. Respondent agrees not to contest the validity or terms of this AOC, or the procedures underlying or relating to it in any action brought by the United States, including EPA, to enforce its terms or seek penalties for its violation. Respondent retains its right to assert claims against any third parties with respect to this Site.

Agreed this \_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_

Frank Rabauliman  
Director, Division of Environmental Quality  
Commonwealth of the Northern Mariana Islands

By: \_\_\_\_\_

Rebecca Warfield  
Commissioner, Department of Public Safety  
Commonwealth of the Northern Mariana Islands

It is ~~so~~ ORDERED and Agreed this 27<sup>th</sup> day of November, 2007.

By: \_\_\_\_\_

Date: 27 November 2007

Nancy Lindsay) Acting Director, Waste Management Division  
Region IX, U.S. Environmental Protection Agency

EFFECTIVE DATE: 27 November 2007



Agreed this End day of November, 2007.

By: *Frank Rabauliman*  
Frank Rabauliman  
Director, Division of Environmental Quality  
Commonwealth of the Northern Mariana Islands

By: *Rebecca M. Warfield*  
Rebecca Warfield  
Commissioner, Department of Public Safety  
Commonwealth of the Northern Mariana Islands

It is ~~so~~ ORDERED and Agreed this 27<sup>th</sup> day of November, 2007.

By: \_\_\_\_\_  
Nancy Lindsay, Acting Director, Waste Management Division  
Region IX, U.S. Environmental Protection Agency

Date: 27 November 2007

EFFECTIVE DATE: 27 November 2007





**Commonwealth of the Northern Mariana Islands  
Marpi Point, Saipan  
Remedial Action Plan**

**Enforcement Confidential  
Do Not Release**

PO Box 10007, Civic Center  
Saipan, MP 96950  
Phone: (670) 664-9022

- (3) USGS map showing the location of the remediation waste management site attached.
- (4) A scaled drawing of the remediation waste management site showing: (i) The remediation waste management site boundaries; (ii) Any significant physical structures; and (iii) The boundary of all areas on-site where remediation waste is to be treated, stored or disposed is attached.

**I. INTRODUCTION**

1) This Remedial Action Plan (RAP) is issued by the U.S Environmental Protection Agency under the authority of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA) 42 U.S.C. §§ 6901 *et seq.*, and its implementing regulations at 40 C.F.R. §§ 270.79 - 270.230. This Remedial Action Plan is equivalent to a RCRA permit issued pursuant to §§ 270.1 through 270.51 (Permit). Where there is a conflict with the provisions of 40 CFR §§ 260-279, the specific terms of this RAP shall control.

2) This RAP is issued to the Commonwealth of the Northern Mariana Islands Department of Public Safety (DPS or the Permittee) to operate a hazardous remediation waste storage and treatment facility at Marpi Point on Saipan. The site coordinates are Latitude 15 Degrees 16 Minutes 0.0865 Seconds North; Longitude 145 Degrees 49 Minutes 0.3313 Seconds East. The Facility EPA ID number is TTP000128710.

3) For any situation not outlined herein, Permittee shall use the CNMI Explosive Response Team standard operating procedures, and DOD 4145.26M – DOD Contractors Safety Manual for Ammunition and Explosives as guidance.

**II. GENERAL PERMIT CONDITIONS**

4) Except as specified otherwise herein, the following requirements, incorporated by reference, apply to the Permittee. Where guidance is provided, compliance with that guidance shall be presumed to satisfy the requirements of the regulation.

- **40 C.F.R. § 264.4, Imminent Hazard Action**
- **40 C.F.R. § 264.12(c), Required Notices**

- **40 C.F.R 264.13(a) General Waste Analysis**

Munitions and Explosives of Concern (MEC) will be identified sufficiently to determine the following:

- a) Type of MEC (projectile, bomb, etc);
- b) Country of origin;
- c) Size as defined in reconnaissance publications;
- d) Explosive content; and
- e) Presence and condition of fuzing/firing elements.

Completion of the above elements of information is considered sufficient for the explosive response specialist to make a determination applicable to the MEC recovered. Detailed lab sampling or other analysis is not generally required.

If unknown explosive components exist, use of the explosive chemical analysis trace detection equipment such as those used by TSA/Customs may be used to specifically identify the explosive family present in the MEC.

- **40 C.F.R 264.14 Security**

The site will be secured through a fence and locking gate at the entrance with the other sites surrounded by dense jungle and a cliff line. Additionally, a steel door with padlock blocks the entrance to the storage cave.

Prior to conducting operations at the facility, security checks will be made of the area to prevent unauthorized or accidental intrusion of personnel or livestock within the immediate area of the detonation site.

- **40 C.F.R 264.15(a) & (c) General Inspection Requirements**

DPS will conduct monthly inspections at the storage site with specific emphasis on site security and safety issues.

Vegetation will be removed from the immediate vicinity of the storage and detonation pit areas sufficient to prevent fire occurring as a result of operations or a fire in the area affecting the explosive items in storage. A minimum of a 50 foot radius will be maintained clear of trees and brush. Grass will be kept trimmed to less than 18 inches in height.

Remedial action will be taken to repair any deterioration or malfunction of equipment or structures on a schedule which ensures that the problem does not lead to an environmental or human health hazard.

- **40 C.F.R 264.16(a)(1) and (d)(3) Personnel Training**

Facility personnel handling MEC at the site must have successfully completed a program of classroom instruction and certification to meet the requirements for qualification as an "Explosive or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses. Within the CNMI, recognized Explosive Response Specialists include individuals who have completed a formal course of instruction and possess a certificate from:

- US Military Explosive Ordnance Disposal school;
- FBI Hazardous Devices School;
- FBI/ATF Explosive Response Course;
- Department of Labor Qualified UXO Technician Course;
- CNMI Explosive Response Team (XRT) Course; or
- Other formal qualifications certified in writing from the Officer In Charge of

CNMI XRT.

Additionally, prior to each operation conducted at the Site, the Range Safety Officer will brief all personnel working at the site in safety procedures. At a minimum, the briefing will address:

- a) Authority and chain of command during the operation;
- b) Emergency evacuation procedures;
- c) Communications or alarm systems;
- d) Response to fires or explosions;
- e) No smoking/fire safety policies; and
- f) Access restrictions/visitor controls.

Procedures and training requirements will be maintained by DPS within the CNMI XRT SOP #3 Demolition Operations. As this document is updated, a copy will be provided to DEQ Toxic Waste Management Branch within 5 days.

- **40 C.F.R 264.17 General Requirements for ignitable, reactive, or incompatible wastes**

A “No Smoking” policy is in effect at all times within the treatment facility at any time the bunker storage door is open and/or MEC is present outside the storage bunker.

A “No Smoking” sign will be posted at the entrance to the facility.

No smoking policy will be emphasized as part of the safety brief prior to any waste treatment operations conducted at the facility.

- **40 C.F.R 264.31 Design and operation of facility**

The demolition site shall be sited and operated within the explosive siting and safety requirements of DOD 4145.26M – DOD Contractors Safety Manual for Ammunition and Explosives as a guide.

The fence and security door to the cave entrance should be inspected for any deterioration and should be fix or replaced as soon as possible if deterioration is present.

- **40 C.F.R. § 264.32(c) & (d), Required Equipment**

The OB/OD unit location is remote and no water supply, well or telephones exist. It is not practical to have a permanent water supply (i.e. well or containment reservoir) on site since these structures are at risk for damage during detonation events.

Equipment required at the site will consist of:

- a) Portable fire extinguisher of an ABC dry chemical type will be present in vehicles used to transport MEC;
- b) A fire truck will be readily accessible on standby mode within 5 minutes of the facility site while routinely scheduled waste treatment OB/OD operations are being conducted; and
- c) Portable communication devices such as vehicle mounted and hand held radios will be used to communicate at the facility during operations.

- **40 C.F.R. § 264.33, Testing and Maintenance of Equipment**

- **40 C.F.R. § 264.34, Access to Communications or Alarm System**

The OB/OD unit location is remote and no phone communication service available. Authorized personnel should always make sure to carry a radio device or cell phone. The OB/OD unit consist of the cave storage area and detonation pit which are roughly 150+ ft from each other; the working area is relatively small that a voice (yelling) warning is adequate to warn all personnel working at the site.

During detonation operations, communication devices are available to all personnel involved to maximize communication during the operation at all times. A minimum of two persons ("buddy system") is required during detonation operations. Communications/emergency evacuation procedures will be briefed prior to conduct of waste treatment operations at the site.

Portable communication devices such as vehicle mounted and hand held radios will be used to communicate at the facility during operations.

- **40 C.F.R. § 264.37, Arrangements with Local Authorities**

DPS is the local authority with the knowledge and skill to respond to emergencies at the site. All other necessary arrangements with local authorities are established under the DPS SOP for the facility especially during the detonation event.

A fire truck will be readily accessible on standby mode within 5 minutes of the facility site while routinely scheduled waste treatment OB/OD operations are being conducted.

- **40 C.F.R. § 264.52, Contingency Plan**

The CNMI DPS XRT will maintain standard operating procedures at the site to describe the actions personnel will take in response to emergencies at the site.

- **40 C.F.R. § 264.55, Emergency Coordinator**

- **40 C.F.R. § 264.56 Emergency Procedures**

The CNMI DPS XRT will maintain standard operating procedures at the site adequate to comply with the requirements relating to emergency procedures at the site.

- **40 C.F.R. § 264.73(a) & (b)(1) Operating Record**

The operating record required by these sections may be kept at the facility or another



location designated by the Permittee. Records in the operating record will be maintained for three years.

- **40 C.F.R. § 264.74 Availability, Retention and Disposition of Records**
- **40 C.F.R. § 264.77 Additional Reports**
- **40 CFR § 264.111 Closure Performance Standard**

EPA, DEQ and the Permittee will work together and develop an approved closure plan for the facility 180 days prior to estimated closure date.

- **40 CFR § 264.114 Disposal or Decontamination of Equipment, Structures & Soils**

EPA, DEQ and the Permittee will work together and develop an approved closure plan for the facility 180 days prior to estimated closure date.

- **40 CFR § 264.601 Environmental Performance Standards, Miscellaneous Unit**

EPA, DEQ and the Permittee will work together and develop an approved closure plan for the facility 180 days prior to estimated closure date.

- **40 C.F.R. § 270.2, Definitions**
- **40 C.F.R. § 270.4, Effect of a Permit**
- **40 C.F.R. § 270.12, Confidentiality of Information**
- **40 C.F.R. § 270.30, Conditions Applicable to All Permits**
- **40 C.F.R. § 270.32, Establishing Permit Conditions**
- **40 C.F.R. § 270.40, Transfer of Permits**
- **40 C.F.R. § 270.41 Modification or Revocation and Reissuance of Permits**
- **40 C.F.R. § 270.43 Termination of Permits**

### III. SPECIAL PERMIT CONDITIONS

5) The Facility may only store and treat hazardous remediation wastes, limited to specific categories of ordnance and explosives which meet the definition of Munitions and Explosives of Concern (MEC), defined as any or all of the following terms currently in use in the explosive response community:

“Unexploded Ordnance (UXO)”: means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

“Military Munitions (MM)”: military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.

“Discarded Military Munitions (DMM)”: Military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of consistent with applicable environmental laws and regulations.

“Ordnance & Explosives (OE)/Ordnance & Explosive Waste (OEW)”;

“Explosive components”: (e.g., TNT, RDX, blasting caps, primers) present in high enough concentrations to pose an explosive hazard.

“Improvised Explosive Devices (IED)”: Those devices placed or fabricated in an improvised manner incorporating destructive, lethal, noxious, pyrotechnic or incendiary chemicals, designed to destroy, disfigure, distract or harass. They may incorporate military stores, but are normally devised from non-military components.

Commercial Explosives & Blasting Agents”;

“Commercial Ammunition, Pyrotechnics & Fireworks”;

“Other hazardous waste items which contain explosive hazards”

Nothing in this section is intended to prohibit any use of the Site otherwise authorized by the AOC, including, but not limited to the use of the Site for Emergency Events conducted pursuant to paragraph 9 of the AOC.

- 6) Under this Permit, the Permittee is prohibited from storing and treating any non-explosive type hazardous wastes at the OB/OD unit. This provision is not intended to limit any other storage or treatment which may be authorized pursuant to AOC RCRA-9-7003-0003.
- 7) The primary methods of waste treatment at this facility will be open burning/open detonation (OB/OD) and neutralization methods using DOD 4145.26M – DOD Contractors Safety Manual for Ammunition and Explosives as a guide. Open Detonation methods will use explosive charges and detonated remotely using accepted industry standard firing procedures such as non electric, electric or radio controlled firing systems. The Permittee shall not employ alternative methods of treatment or disposal for the waste without prior written approval from US EPA.
- 8) Personnel conducting waste treatment of MEC at this facility will meet the training and qualifications standards of an “Explosives or munitions emergency response specialist” as defined above. Nothing in this RAP is intended to preclude use of the facility for training purposes.
- 9) Prior to the beginning of each open burn and/or open detonation event, the Range Safety Officer (RSO) shall give a safety briefing, which will include at minimum: type of clothing to be worn, smoking prohibitions, burn station rules, ignition sequence, opening and disposition of wastes, emergency services, first aid, and life flight. Prior to initiation of disposal operations, all personnel shall retreat to a safe observation point far from the disposal range. This location is outside the Personnel Exposure Distance Limits. Re-entry into the area shall be allowed only by permission of the Range Safety Officer (RSO). Specific procedures for disposal operations are contained in the CNMI XRT standard operating procedures.
- 10) The Fire Department and Emergency Medical Services shall be notified and made available to provide on-site fire truck and ambulance units for quick response to the disposal range. CNMI DPS shall coordinate their assistance to the detonation operations.
- 11) At least one week prior to commencing non-emergency open burning and/or open detonation activities, the Permittee shall publish public notice one (1) time in the newspaper. Permittee may also broadcast the public notice on cable television in addition to publishing notice.

12) The Permittee shall provide a copy of the notice to DEQ, Toxic Waste Management Branch.

13) The Permittee shall comply with all applicable State, local and Federal laws and regulations for non-emergency operations, including all applicable US Department of Transportation regulations. Actions conducted as explosive emergency response, as defined in the AOC, will comply with the EPA guidance for emergency response operations.

#### **IV. RECORDKEEPING AND REPORTING**

14) The Permittee shall maintain treatment reports at the site or at DPS. Treatment reports shall be prepared following each treatment event at the OB/OD unit.

15) The Permittee must submit to the EPA Project Coordinator identified in the AOC and CNMI DEQ Air & Toxic Management Branch an inventory of the contents of the remediation waste storage unit quarterly for the periods of Jan – Mar, Apr – Jun, Jul – Sep and Oct – Dec. Reports are due on the first of February, May, August, and November.

16) The Permittee must maintain at the site or at DPS records as required by the regulations incorporated in Section II above. The Permittee must inform EPA where such records will be maintained.

#### **V. SAMPLING AND ANALYSIS**

17) The Permittee shall perform groundwater monitoring in accordance with an approved workplan.

#### **VI. GENERAL CLOSURE REQUIREMENTS**

18) No less than 180 days prior to the estimated date of closure of the OB/OD unit, The DEQ and DPS shall work with EPA to implement closure as specified in the General Permit Conditions of this RAP. The closure plan is attached to this RAP and incorporated by reference.

## **Closure and Post-Closure Plan for Marpi Point OB/OD Unit and UXO Storage Bunker**

### **Closure Plan Documentation [40 CFR 270.14(b)(13)]**

#### **Introduction**

The purpose of this closure plan is to describe the procedures and methods by which the open burn/open detonation unit, UXO storage bunker, and surrounding area at the Marpi Point DPS Explosives Demolition Site will be closed in accordance with the Resource Conservation and Recovery Act (RCRA).

This plan describes the OB/OD Unit, the UXO Storage Bunker, decontamination and sampling procedures, health and safety requirements during closure, and the approximate closure schedule.

This closure plan is based on the achievement of clean closure of the facility. If clean closure cannot be achieved, this closure plan will be revised to include post-closure care requirements and restrictions. It will then be submitted to the Environmental Protection Agency (EPA) and CNMI Department of Environmental Quality (DEQ) for review and approval.

#### **Applicability of Closure and Post-Closure Care Regulations**

1. All owners or operators of hazardous waste management facilities must prepare closure plans describing how each OB/OD and storage unit at the facility will be closed.
2. The hazardous waste management units operated after November 18, 1980 at the Marpi Point DPS Explosives Demolition Site are considered hazardous waste management units, since they treat reactive waste. This hazardous waste is also considered to be remediation waste under the AOC and RAP.
3. Therefore, the closure requirements under 40 CFR 264.110-264.120 (Subpart G) are applicable to this facility.

Post-closure care regulations are applicable to hazardous waste management units that cannot be clean closed and must be closed with waste in place.

It is the intention of this closure plan to achieve clean closure, thereby eliminating the requirement for post-closure care requirements.

#### **Closure Requirements**

This plan describes the steps and techniques to completely close the OB/OD Unit and UXO Storage Bunker. This document has been prepared in accordance with 40 CFR 264 Subpart X, Miscellaneous Units, 40 CFR 270.14(b)(13), and 40 CFR 264 Subpart G requirements.

The CNMI DPS will maintain a copy of this closure plan, including all revisions, at least until certification of closure.

Any revisions to this closure plan will be submitted to EPA and CNMI DEQ for review and approval. The plan will be revised whenever any of the following would affect closure:

- Modifications are made to existing storage unit and OB/OD structures;
- The quantity or composition of the waste material to be treated by OB/OD is increased or altered, operating procedures are revised, or regulatory requirements change;
- During closure activities, unexpected events occur that require a modification to the closure plan; and
- Any closure plan procedures (e.g., decontamination or sampling) are revised to accommodate modern techniques.

#### **Closure Performance Standard [40 CFR 264.111(a), (b) and (c)]**

Closure of the OB/OD Unit will be achieved based on soil removal and decontamination as discussed in the following sections. These procedures will be utilized to achieve cleanup standards that are protective of human health and the environment. These cleanup standards will be determined prior to closure. Several regulatory and health-based criteria will be considered, in conjunction with the planned use of the site, to determine cleanup levels.

Human health-based target concentrations (carcinogenic and non-carcinogenic effects) and ecotoxicologically-based target concentrations will be considered for groundwater, soil and surface water. These health-based criteria may be revised at time of closure if human health and ecological risk assessment values or methods have been updated. Depending on the proposed groundwater usage, drinking water or other Maximum Contaminant Levels (MCLs) established under the Safe Drinking Water Act and Alternative Concentration Limits (ACLs) will be evaluated for groundwater concentrations. Background concentration limits for waste constituents in soil will be evaluated as potential cleanup criteria depending on plausible future patterns of use. The performance standard to eliminate air contamination is based on termination of OB/OD activities. The compounds of concern are those which will be sampled as per the closure sampling plan and baseline sampling plan. CNMI DPS will develop the closure sampling plan in 2008 in coordination with CNMI DEQ and EPA.

Closure of the UXO Storage Bunker will be achieved based on attainment of hazardous waste meeting the treatment standards for hazardous wastes at found at 40 CFR 268.40, and 268.48 or the standards for hazardous debris at 40 CFR 268.45. It is anticipated that after removal of the final volume of waste, the rock surfaces on the interior of the bunker

will be treated using one of the extraction technologies in Table 1 – Alternative Treatment Standards for Hazardous Debris at 40 CFR 268.45.

### **Certification of Closure**

Certification that final closure of the units has been completed in accordance with the approved closure plan will be submitted to the Regional Administrator of EPA Region IX and CNMI DEQ within 60 days of final closure. The certification will be sent by registered mail. The closure certification will be signed by the owner/operator, the engineer responsible for oversight of the closure, and an independent professional engineer.

### **Description of Partial or Final Closure Procedures [40 CFR 264.112(b)(1) and (2)]**

During final closure, the OB/OD Unit will be closed by treating the final volume of hazardous remediation waste, treating the explosives residues generated during the last treatment, and removal of all metal from the surface of the facility for resale as scrap metal or disposal in accordance with applicable regulations.

The pit will be sampled and analyzed in accordance with the Quality Assurance Project Plan (QAPP). CNMI DPS will develop this QAPP in 2008 in coordination with CNMI DEQ and EPA. If contaminated soil is identified, it will be removed and disposed of off-site. If the contaminated soil cannot be removed and disposed, closure with waste in place will be implemented following approval of a modified closure plan. After soil removal and sampling, the pit will be backfilled and regraded.

During final closure, the UXO Storage Bunker will be closed by removing the final volume of hazardous remediation waste, and meeting the treatment standards for hazardous wastes as found at 40 CFR 268.40, and 268.48 or the standards for hazardous debris at 40 CFR 268.45. It is anticipated that after removal of the final volume of waste, the rock surfaces on the interior of the bunker will be treated using one of the extraction technologies in Table 1 – Alternative Treatment Standards for Hazardous Debris at 40 CFR 268.45. The existing door to the UXO Storage Bunker will be removed upon final closure.

### **Description of Procedures for Removal or Decontamination of Hazardous Waste Residues, Equipment, Structures and Soils [40 CFR 264.112(b)(4) and 264.114] and Location of Disposal Facility**

The closure of the OB/OD Unit and UXO Storage Bunker will be based on the most effective and practical treatment available at time of closure. It will consist of removing and/or decontaminating all structures, soil and other materials contaminated with hazardous wastes or hazardous constituents. The closure process will be phased to provide for most effective use of labor and equipment to accomplish the task. Critical decisions will be made throughout the process regarding subsequent steps, based on

analysis conducted during closure to determine the extent of contamination and effectiveness of closure procedures.

### **Personnel and Human Health Protection During Closure Activities**

The closure of the OB/OD Unit and UXO Storage Bunker will be implemented in a manner that is safe to all involved personnel and to human health and the environment. The current SOPs relating to safe operations of the facility will be implemented or modified as appropriate to closure operations.

All contractors involved with closure activities will be required to be familiar with these SOPs. A Health and Safety Plan (HASP) will be developed and implemented to address the potential hazards associated with this closure. The most likely potential hazards are unexploded energetic material and other physical/equipment hazards. CNMI DPS, US Navy EOD, or other trained EOD specialists will conduct or oversee all closure activities that involve reactive materials or UXO. All personnel involved with closure will have the appropriate training in hazardous waste operations. EOD security and inspection procedures will continue throughout the closure period through closure certification. EOD personnel or contractors performing closure tasks will inspect temporary storage areas, if any are required during closure.

### **Hazardous Waste and Materials**

A temporary storage area, if required, will be set up on the facility to store closure equipment and wastes generated during closure prior to disposal. Any material determined to be reactive or UXO will be treated onsite in accordance with CNMI DPS SOPs. All closure wastes will be properly labeled. If any wastes are determined to be hazardous, they will be marked with "Hazardous Waste" labels, the EPA ID number of the Marpi Point DPS Explosives Demolition Site, the date of generation, and other items required by RCRA regulations and additional CNMI DEQ requirements, if any.

### **Description of Additional Activities Performed During Closure [40 CFR 264.112(b)(5)]**

Run-on and run-off control. Run-on and run-off control may be utilized during closure activities such as covering of drums of decontamination wastes generated during closure of the OB/OD Unit. Run-on and run-off controls will be used during decontamination of the UXO Storage Bunker. Run-on and run-off control will not be required during post-closure, since clean closure will be achieved.

### **Description of Closure Schedule [40 CFR 264.112(b)(6) and 264.113]**

The Federal regulations require that the owner or operator must treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan within 90 days after receiving the final volumes of hazardous wastes.



The regulations require that the owner or operator complete final closure activities in accordance with the approved closure plan within 180 days after receiving the final volume of hazardous wastes. It is anticipated the Marpi Point DPS Explosives Demolition Site will undergo clean closure within the 180-day period without the need for an extension.

A timetable showing closure activities will be developed jointly by CNMI DPS in 2008 in coordination with CNMI DEQ and EPA and inserted into the closure plan.

#### **Extension of Closure Time [40 CFR 264.113(a) and (b)]**

If it is determined that final closure activities will take longer than 180 days to complete or if there is reasonable likelihood that another person will recommence operation within 1 year, then a modification to the RAP will be requested. The request for modification will be submitted to the Regional Administrator of EPA Region IX and CNMI DEQ at least 30 days prior to the end of the 180-day period (after receiving final volume of hazardous remediation waste).

The extension request will demonstrate the reason(s) for requesting an extension. The request will demonstrate the facility will continue to be operated in compliance with all applicable AOC and RAP provisions and that all steps to prevent threats to human health and the environment will be taken.

#### **Closure Sampling Plan**

The closure sampling plan for clean closure of the OB/OD Unit and CXO Storage Bunker will be implemented in accordance with 40 CFR 264 Subpart G requirements. The sampling activities that will be performed at the time of closure will be reevaluated based on the results of the initial baseline sampling program and continued sampling program for detection monitoring required under the AOC. Closure sampling will be conducted before, during, and after site remediation activities. A more complete closure sampling plan and the quality control/quality assurance (QA/QC) procedures that will be followed in the field will be jointly developed by CNMI DPS in 2008 in coordination with CNMI DEQ and EPA.

**Pre-Closure Soil Quality Sampling.** Shallow soil sampling will be performed on a sampling grid established during the baseline sampling program. A geophysical survey will be conducted prior to soil sampling. Soil sampling procedures that will be followed in the field will be jointly developed by CNMI DPS in 2008 in coordination with CNMI DEQ and EPA.

**Soil Closure Sampling.** After removal of contaminated soil, a round of clearance samples will be collected to determine the effectiveness of the remediation. The clearance samples will be collected from a depth interval below the contaminated soil excavation.

Upon evaluation of the analytical results, additional soil excavations and sampling may be warranted.

**Groundwater Sampling.** Groundwater sampling during closure activities will be based upon the groundwater sampling program required under the AOC. During the active operation of the OB/OD Unit and UXO Storage Bunker, a groundwater monitoring program will be implemented based on 40 CFR 264 Subpart F.

The first phase of proposed monitoring will consist of a baseline monitoring event. This was conducted in April 2007. Based on the initial sampling, a detection monitoring program may be developed to determine whether hazardous constituents are detected at the active facility. If detection monitoring is continued throughout the active life of the facility, the closure sampling will consist of the final round of detection groundwater monitoring. The quality of the groundwater at the facility will be defined prior to closure.

If the analytical results of the monitoring program indicate that groundwater remediation is warranted, an appropriate groundwater remedial plan will be developed. Prior to clean closure, a final round of groundwater samples will be collected for laboratory analysis.

#### **Quality Assurance Project Plan**

A quality assurance project plan (QAPP) for closure will be jointly developed by CNMI DPS in 2008 in coordination with CNMI DEQ and EPA.

**APPENDIX B**  
**ADDITIONAL AOC REQUIREMENTS**  
**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**  
**RCRA 7003 ORDER ON CONSENT**

**Commonwealth of the Northern Mariana Islands  
RCRA 7003 Order Appendix B  
Marpi Point, Saipan**

**B-I. DOCUMENT CERTIFICATION**

1. Any report or other document submitted by Respondent pursuant to this AOC which makes recommendations as to whether or not further actions are necessary, or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this AOC shall be certified by either a principal executive officer or ranking elected official. This means: (1) the chief executive officer of an agency; or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
2. The certification required above shall be in the following form:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**B-II. SAMPLING, ACCESS AND DATA AVAILABILITY**

3. All results of sampling, testing, modeling or other data generated (including raw data if requested) by Respondent, or on Respondent's behalf, during implementation of this AOC shall be validated by Respondent and submitted to DEQ and EPA, as appropriate, within 30 days of Respondent's receipt of the data. EPA will make available to Respondent data generated by EPA for the purposes of oversight of the work unless it is exempt from disclosure by any federal or state law or regulation.
4. Respondent shall orally notify EPA at least 20 days prior to conducting field sampling. At EPA's request, Respondent shall allow split or duplicate samples to be taken by EPA or EPA's representative.
5. Site Access. Pursuant to RCRA § 3007(a), 42 U.S.C. § 6927(a), Respondent shall provide

**Commonwealth of the Northern Mariana Islands**  
**RCRA 7003 Order Appendix B**  
**Marpi Point, Saipan**

access to the Site at reasonable times to EPA, EPA's contractors and oversight officials. Respondent shall also provide access at reasonable times to EPA, EPA's contractors and oversight officials to all records and documentation in its possession or control, including those records and documents in the possession or control of Respondent's contractors and employees, related to the conditions at the Site and the actions conducted pursuant to this AOC. Respondent shall use its best efforts to gain access to areas owned by or in the possession of someone other than Respondent, as necessary to implement this AOC. Such access shall be provided to EPA, its contractors and oversight officials. These individuals shall be permitted to move freely about the Site and appropriate off-site areas in order to conduct actions that EPA determines to be necessary. EPA, its contractors and oversight officials shall notify Respondent of their presence on the Site by presenting their credentials. All parties with access to the Site under this Paragraph shall comply with all approved health and safety plans and regulations. Pursuant to this Section, any denial of access at reasonable times to any portion of the Site property where a request for access was made for the purposes of enforcing the requirements of RCRA or this AOC shall be construed as a violation of the terms of this AOC subject to the penalty provisions outlined in Section XI (Penalties) of this AOC, except for situations when safety requires restricting access.

6. **Privileged Documents.** Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege in lieu of providing documents, Respondent shall provide EPA with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the author's name and title; (4) the name and title of each addressee and recipient; (5) a description of the contents; and (6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this AOC shall be withheld on the grounds that they are privileged.
7. All data, information, and records created or maintained relating to any solid or hazardous waste found at the Site shall be made available to EPA upon request unless Respondent asserts a claim that such documents are legally privileged from disclosure. Respondent shall have the burden of demonstrating to EPA that such privilege exists.
8. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.
9. Nothing in this AOC shall be construed to limit EPA's right of access, entry, inspection, and information gathering pursuant to applicable law, including but not limited to RCRA and CERCLA.

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**B-III. RECORD RETENTION**

10. Respondent shall preserve all documents and information, including raw data, relating to the work performed under this AOC, or relating to any solid waste or hazardous waste found at the Site, for 3 years following completion of the work required by this AOC. Pursuant to Section XIV of the AOC, EPA will provide written notice when the work required by the AOC is complete.
11. Respondent shall make available to EPA all employees and persons, including contractors, who engage in activities under this AOC and make its best efforts to ensure their cooperation with EPA with respect to this AOC.
12. After the 3 year retention period and 90 days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies (at no extra cost) of such documents and information to EPA. Notification shall be in writing and shall reference the effective date, caption, and docket number of this AOC and shall be addressed to the Director, Waste Management Division. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the 3 year retention period at the written request of EPA.
13. All documents required to be maintained by Respondent pursuant to this AOC shall be stored by Respondent in a centralized location at the Site, or an alternative location mutually approved by Respondent and EPA, to promote easy access by EPA or its representatives.

**B-IV. DISPUTE RESOLUTION**

14. Respondent shall raise any disputes concerning the work required under this AOC to EPA (excluding any decision document(s) issued by EPA), in writing, within 15 days after receiving written notice from EPA regarding any aspect of the work required under this AOC that Respondent disputes. EPA and Respondent shall expeditiously and informally attempt to resolve any disagreements. EPA and Respondent Project Coordinators shall first confer in an effort to resolve the dispute. If the Project Coordinators are unable to informally resolve the dispute within 3 days of the first conference, Respondent shall notify EPA, within 5 days, in writing of its objections. Written objections shall identify Respondent's objections, state the basis for those objections, and provide all data, analyses and information relied upon by Respondent. EPA and Respondent then have an additional 14 days from EPA's receipt of the objections to reach agreement. If an agreement is not reached within the 14 days, Respondent may request in writing, within 5 days, a

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determination resolving the dispute by EPA's Division Director of the Waste Management Division. The request should provide all information that Respondent believes is relevant to the dispute. If such request is submitted within 5 days, the Division Director shall issue a determination in writing. EPA's final decision shall be incorporated into and become an enforceable part of this AOC and shall no longer be subject to dispute pursuant to this AOC. Respondent shall proceed in accordance with the Division Director's decision regarding the matter in dispute, regardless of whether Respondent agrees with the decision. If Respondent does not agree to perform or does not actually perform the work in accordance with EPA's decision, EPA reserves the right in its sole discretion to conduct the work itself, seek reimbursement from Respondent, seek enforcement of this AOC, seek stipulated penalties, and/or any other appropriate relief.

15. Any disputes arising under this AOC are not subject to judicial review until such time as EPA seeks to enforce this AOC.
16. If EPA and Respondent reach agreement on the dispute at any stage, the agreement shall be set forth in writing and shall, upon signature of both parties, be incorporated into and become an enforceable part of this AOC.
17. The existence of a dispute and EPA's consideration of matters placed in dispute shall not excuse, toll, or suspend any compliance obligation or deadline required pursuant to this AOC during the pendency of the dispute resolution process except as agreed by EPA in writing. The invocation of dispute resolution does not stay the accrual of stipulated penalties under this AOC.

**B-V. RESERVATION OF RIGHTS**

18. Notwithstanding any other provisions of this AOC, the United States retains all of its authority to take, direct, or order any and all actions necessary to protect public health or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste or constituents of such wastes, on, at, or from the Site, including but not limited to the right to bring enforcement actions under RCRA, CERCLA, and any other applicable statutes or regulations.
19. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this AOC, including without limitation the assessment of penalties under Section 7003 of RCRA, 42 U.S.C. § 6973.
20. This AOC shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, claims, and/or authorities, civil or criminal, which EPA has

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under RCRA, CERCLA, or any other statutory, regulatory, or common law authority of the United States.

21. This AOC is not intended to be nor shall it be construed to be a permit, except insofar as the attached Remedial Action Plan, once finalized, is a RCRA permit. Respondent acknowledges and agrees that EPA's approval of a work plan does not constitute a warranty or representation that the work plan will achieve the required cleanup or performance standards. Compliance by Respondent with the terms of this AOC shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations, except as stated otherwise herein.
22. Notwithstanding any other provision of this AOC, no action or decision by EPA pursuant to this AOC, including without limitation, decisions of the Regional Administrator, the Director of the Waste Management Division, or any authorized representative of EPA, shall constitute final agency action giving rise to any right of judicial review prior to EPA's initiation of a judicial action to enforce this AOC, including an action for penalties or an action to compel Respondent's compliance with the terms and conditions of this AOC.

**B-VI. OTHER CLAIMS**

23. By issuance of this AOC, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA will not be deemed a party to any contract, agreement or other arrangement entered into by Respondent or its officers, directors, employees, agents, successors, assigns, heirs, trustees, receivers, contractors, or consultants in carrying out actions pursuant to this AOC.
24. Respondent waives all claims against the United States relating to or arising out of conduct of this AOC, including, but not limited to, contribution and counterclaims.
25. Respondent shall bear their own litigation costs and attorney fees.
26. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive or other appropriate relief relating to the Site, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been raised in the present matter.



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**B-VII. INDEMNIFICATION**

27. Respondent agrees to indemnify, save and hold harmless the United States, its officials, agents, contractors, employees, and representatives from any and all claims or causes of action: (a) arising from, or on account of, acts or omissions of Respondent, Respondent's directors, officers, employees, agents, successors, assigns, heirs, trustees, receivers, contractors, or consultants in carrying out actions pursuant to this AOC; and (b) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any persons for performance of the work on or relating to the Site, including claims on account of construction delays. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including litigation costs arising from or on account of claims made against the United States based on any of the acts or omissions referred to in the preceding sentence.

**B-VIII. SEVERABILITY**

28. If a court issues an order that invalidates any provision of this AOC or finds that Respondent has sufficient cause not to comply with one or more provisions of this AOC, Respondent shall remain bound to comply with all provisions of this AOC not invalidated or determined to be subject to a sufficient cause defense by the court's order.

**B-IX. FORCE MAJEURE**

29. Respondent agrees to perform all requirements under this AOC within the time limits established under this AOC, unless the performance is delayed by a force majeure. For purposes of this AOC, a force majeure is defined as any event arising from causes beyond the control of Respondent, or any entity controlled by Respondent or Respondent's contractors, which delays or prevents performance of any obligation under this AOC despite Respondent's best efforts to fulfill the obligation. The requirement that the Respondent exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event: (1) as it is occurring, and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. Force majeure does not include financial inability to complete the Work, increased cost of performance, changes in Respondent's business or economic circumstances, or inability to attain media cleanup standards.
30. If any event occurs or has occurred that may delay the performance of any obligation under this AOC, whether or not caused by a force majeure event, Respondent shall orally notify EPA within 48 hours of when Respondent knew or should have known that the event might cause a delay. Such notice shall: (1) identify the event causing the delay, or anticipated to cause delay, and the anticipated duration of the delay; (2) provide

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Respondent's rationale for attributing such delay to a force majeure event; (3) state the measures taken or to be taken to prevent or minimize the delay; (4) estimate the timetable for implementation of those measures; and (5) state whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or the environment. Respondent shall undertake best efforts to avoid and minimize the delay. Failure to comply with the notice provision of this Paragraph and to undertake best efforts to avoid and minimize the delay shall waive any claim of force majeure by Respondent. Respondent shall be deemed to have notice of any circumstances of which its contractors had or should have had notice.

31. If EPA determines that a delay in performance or anticipated delay in fulfilling a requirement of this AOC is or was attributable to a force majeure, then the time period for performance of that requirement will be extended as deemed necessary by EPA. If EPA determines that the delay or anticipated delay has been or will be caused by a force majeure, then EPA will notify Respondent, in writing, of the length of the extension, if any, for performance of such obligations affected by the force majeure. Any such extensions shall not alter Respondent's obligation to perform or complete other tasks required by this AOC which are not directly affected by the force majeure.
32. If EPA disagrees with Respondent's assertion of a force majeure, then Respondent may elect to invoke the dispute resolution provision, and shall follow the procedures set forth in Section B-IV (Dispute Resolution). In any such proceeding, Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that Respondent's best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this section. If Respondent satisfies this burden, then EPA will extend the time for performance as EPA determines is necessary.

**B-X. PENALTIES**

33. If payment is not made within 30 days of the date of Respondent's receipt from EPA of a written demand for payment of the penalties or of the date of agreement or decision resolving the dispute, interest shall begin to accrue on any unpaid stipulated penalty balance beginning on the first day after Respondent's receipt of EPA's demand letter, or the date of the agreement or decision resolving the dispute, and will accrue until such penalties and interest have been paid in full. Interest shall accrue at the Current Value of Funds Rate established by the Secretary of the Treasury. An additional penalty of six percent (6 %) per annum on any unpaid principal shall be assessed for any stipulated penalty payment which is overdue for ninety (90) days or more. The applicable rate of interest shall be the rate in effect at the time the interest accrues pursuant to 31 U.S.C. §

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3717.

34. Respondent shall make payments by money order, certified check, company check, electronic funds transfer, or cashier's check payable to the Treasurer of the United States within thirty (30) days of Respondent's receipt of EPA's request, and shall be submitted to the following address:

Mellon Bank  
U.S. Environmental Protection Agency - Region 9  
P.O. Box 371099M  
Pittsburgh, PA 15251.

The Docket number in the caption above should be clearly typed on the check to ensure proper credit. Respondent shall send simultaneous notices of such payments, including copies of the money order, certified check, company check, electronic funds transfer, or cashier's check to the following:

Norwood Scott, CED-6  
U.S. EPA, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105.

35. Respondent may dispute an EPA determination that it failed to comply with this AOC by invoking the dispute resolution procedures under Section B-IV (Dispute Resolution) unless the matter has already been in or is the subject of dispute resolution. Penalties shall accrue but need not be paid during the dispute resolution period. If Respondent does not prevail upon resolution, all penalties shall be due to EPA within 30 days of resolution of the dispute. If Respondent prevails upon resolution, no penalties shall be paid. In the event that Respondent prevails in part, penalties shall be due on those matters in which Respondent did not prevail.
36. Neither the invocation of dispute resolution nor the payment of penalties shall alter in any way Respondent's obligation to comply with the terms and conditions of this AOC. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the terms and conditions of this AOC.
37. No payments under this Section shall be deducted for federal tax purposes.
38. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this AOC.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Federal Resource Conservation and Recovery Act

Notice of Intent to Approve  
RCRA Remedial Action Plan Application for

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF PUBLIC SAFETY  
PO BOX 10007, Civic Center  
Saipan, MP 96950

EPA ID. NO. TTP000128710  
Proposed Permit Decision

The United States Environmental Protection Agency ("EPA") has received an application from the Commonwealth of the Northern Mariana Islands Department of Public Safety (CNMI DPS) for a Remedial Action Plan ("RAP") under 40 C.F.R. § 270.80 to treat and store hazardous remediation waste at an Open Burn/Open Detonation unit. EPA is proposing to approve the permit application. EPA is issuing a draft Remedial Action Plan and providing a 45-day public comment period from December 11, 2007 through January 24, 2008 on our proposed decision to approve the RAP. EPA issued public notice of its proposed decision to approve the application on November 14, 2007. This Statement of Basis discusses the basis for the proposed decision.

#### FACILITY LOCATION

The CNMI DPS Open Burn/Open Detonation unit and storage bunker are located at Marpi Point, Saipan, approximately 1 mile north of the new Marpi Landfill.

#### BACKGROUND

Millions of pounds of Munitions and Explosive of Concern (MEC) abandoned after World War II present a serious and ongoing threat to human health and the environment in CNMI. The MEC is spread all over the island, and has also been a significant challenge to development. Abandoned MEC is often hazardous waste, and must be managed pursuant to RCRA. Since World War II, CNMI has employed trained experts to discover, store, and treat (by detonation) the abandoned MEC, to mitigate the hazards associated with this waste.

Treatment of the waste MEC generally takes place at an Open Burn/Open Detonation unit at Marpi Point. CNMI DPS has also established a secure storage area there. The CNMI DPS, under the direction of the Commissioner of Public Safety, is the primary regulatory agency for all matters concerning MEC within the CNMI including establishment of public policy, response, recovery, storage and disposal coordination, establishment of training/ qualification standards, and other program actions. In late

2004, CNMI DPS formed an Explosive Response Team or bomb squad.

### REMEDIAL ACTION PLAN

A RAP is a special form of RCRA permit that authorizes the permittee to treat, store, or dispose of hazardous remediation waste. Remediation waste is defined in federal regulations as "all solid and hazardous wastes, and all media (including ground water, surface water, soils, and sediments) and debris, that are managed for implementing cleanup." See 40 C.F.R. § 260.10. Therefore a RAP is an appropriate permit for storage and treatment of MEC in Saipan.

The only hazardous wastes accepted at the CNMI DPS OB/OD unit and storage bunker under the RAP are remediation wastes consisting of ordnance and explosives which meet the definition set forth in the RAP.

### PUBLIC PARTICIPATION

EPA, CNMI DPS and CNMI DEQ are holding an informal public meeting in Saipan on December 11, 2007 to address questions on the RAP. The meeting will be from 11:30 a.m. to 12:30 p.m. at the Division of Environmental Quality, Pangelinan Building, Chalan Pale Arnold Road, in Gualo Rai Village.

In addition, a 45-day public comment period on the permit begins December 11, 2007. Comments must be postmarked by January 24, 2008. Comments may be mailed to Mary Blevins at USEPA Region 9, 75 Hawthorne St. (WST-4), San Francisco, CA 94105.

### APPEAL PROCEDURES

A party may appeal an EPA final permit decision by filing an appeal within 30 calendar days of the time a final decision is made. Only parties who file comments on the proposed permit decision during the public comment period or who speak at the public hearing may file an appeal. See 40 C.F.R. § 124.19.

An appeal should be filed with the Environmental Appeals Board in EPA Headquarters, as follows:

All filings delivered to the Board by hand or courier, including Federal Express, UPS, and U.S. Postal Express Mail, M U S T be delivered to the following address:

Colorado Building  
1341 G Street, NW  
Suite 600  
Washington, D.C. 20005

All documents that are sent through the U.S. Postal Service (except by Express Mail) MUST be addressed to the EAB's mailing address, which is:

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board (MC 1103B)  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**FOR MORE INFORMATION**

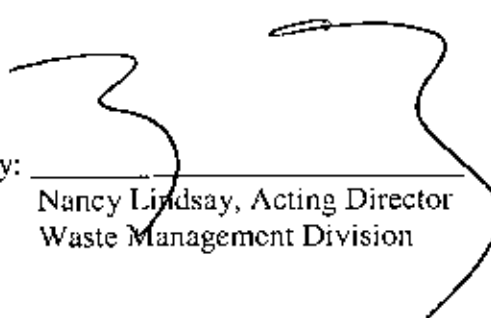
The official Administrative Record for this proposed decision, including key documents about the facility, are available for viewing at the following locations:

Joeten – Kiyu Library  
Susupe, Saipan, MP 96950

US Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105  
(please call 415-947-4597 to set up an appointment to review the file)

If you have questions about this proposed decision, the hearings, or need special accommodations, please contact:

Mary Blevins  
US EPA, Region 9  
75 Hawthorne Street, WST-4  
San Francisco, CA 94105  
Toll-Free 800-231-3075  
Phone: 415-972-3357  
[blevins.mary@epa.gov](mailto:blevins.mary@epa.gov)

Approved by:   
Nancy Lindsay, Acting Director  
Waste Management Division

