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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

MAY 25 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Captain J. K. Stark
Commanding Officer
U.S. Naval Station Roosevelt Roads
Box 3021
FPO AA 34051-3001

Re: RCRA § 3007 Information Request Regarding the
Naval Ammunition Support Depot, Vieques, PR,
EPA I.D. No. PRD980536189

Dear Captain Stark:

The U.S. Environmental Protection Agency (EPA) is investigating the waste determination, generation, storage, and handling of waste munitions, regulated pursuant to 40 CFR Part 260, et al, at the Naval Ammunition Support Depot on the island of Vieques, Puerto Rico. As such, we are requesting that you provide us with such information, in response to questions in Attachment I of this letter.

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq. Pursuant to the provisions of Section 3007 of RCRA, 42 U.S.C. § 6927, EPA may require parties who handle or have handled hazardous waste to provide information relating to such wastes. Pursuant to the statutory provisions cited above, EPA hereby requires that you provide the information requested in Attachment I to this letter using the instructions and definitions included in Attachment II. This information is required to evaluate the regulatory status of the Naval Ammunition Support Depot and the disposition of such munitions maintained by the Department of the Navy and the U.S. Naval Station Roosevelt Roads.

Please provide the information requested no later than thirty (30) calendar days from receipt of this letter. Requests for additional time must be justified. Requests for additional time must be made within ten (10) calendar days of receipt of this letter. The response must be signed by a responsible official of your facility or department.

OPTIONAL FORM 99 (7-80)

FAX TRANSMITTAL

of pages = 6

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GENERAL SERVICES ADMINISTRATION

TOTAL P.02

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The response to the requests in Attachment I must be mailed to the following address:

Mr. Steven Petrucelli
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region II
290 Broadway, 22nd Floor
New York, New York 10007-1866

Failure to respond in full to this requirement is a violation of RCRA and may result in federal enforcement action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

You may, if you so desire, assert a confidentiality claim covering all or part of the information herein requested. Where information has been classified, restricted, or protected for national security, law enforcement, or other similar reasons, all such information is to be maintained in accordance with the originating agencies' requirements. While we do not anticipate such issues to arise in your response to this information request letter, EPA can make arrangements for EPA staff with the appropriate level of security clearance to review the subject documents. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

This information request is not subject to the requirements of the Paperwork Reduction Act as amended, 44 U.S.C. Section 3501 et seq.

If you have any questions about this letter, please call Mr. Steven Petrucelli at (212) 637-3129.

Sincerely yours,



George C. Meyer, P.E., Chief
RCRA Compliance Branch

Enclosures

cc: Carmelo Vasquez, EQB

ATTACHMENT I

1. Describe the mission of the Naval Ammunition Support Depot, including its functions, objectives, active components, and operations.
2. Describe the number and type of munitions currently stored at the Naval Ammunition Support Depot. Include a description of each type of munition referenced, and for each type include the mass of propellants, explosives, and other potentially RCRA Subtitle C-regulated materials, as well as the overall mass of each type of munition. Also, indicate the length of time each munition included above has been stored at the Naval Ammunition Support Depot and an estimate of the average storage time for munitions at the Depot.
3. Describe the number and type of munitions received at the Naval Ammunition Support Depot in the past three calendar years. Include a description of each type of munition referenced, including mass of propellants, explosives, and other potentially RCRA Subtitle C-regulated materials, as well as the overall mass of each type of munition. Also include, to the extent possible, an estimate of the average age of munitions (as measured from the production date) when they are received at the Depot (e.g., new versus previously stored elsewhere.)
4. List all sources from which the above munitions were received at the Naval Ammunition Support Depot during the past three calendar years, including the types and amounts from each source, and when each munition was received.
5. Describe the number and type of munitions removed from the Naval Ammunition Support Depot during the past three calendar years. Specify the amount sold to other parties, sent for intended use, burned or detonated on Vieques as waste, burned or detonated on Vieques during training, burned or detonated at some other location (be specific), or used in other manners (be specific.) For each type of munition referenced, include a description, the number of each type, the mass of propellants, explosives, and other potentially RCRA Subtitle C-regulated constituents, and the overall mass.
6. List all locations to which munitions were shipped from the Naval Ammunition Support Depot during the past three calendar years, including the purpose for which they were intended to be used at the receiving facility.
7. Describe the process by which munitions at the Naval Ammunition Support Depot are evaluated to determine whether they are serviceable (i.e., usable), or are solid or hazardous waste. Indicate the percentage of unserviceable munitions (by mass and number) deemed to be solid waste during the past three calendar years. Also indicate the amount (by mass) and percentage (by mass and number) of unserviceable munitions

declared a hazardous waste during the past three calendar years. Please provide a copy of all written documentation relating to these determinations.

8. Describe the frequency in which munitions at the Naval Ammunition Support Depot are evaluated to determine whether they are serviceable and by which munitions are evaluated to determine whether they are a solid or hazardous waste.
9. Provide a copy of all written guidance documents or standard operating procedures used for determining the status and disposition of munitions from the Naval Ammunition Storage Depot.
10. Indicate the amount (by mass) and percentage (by mass and number) of munitions received at the Naval Ammunition Support Depot in the past three calendar years that were previously declared unserviceable (i.e., prior to arriving at Vieques.) Indicate the amount of this material (by mass) and percentage (by mass and number) that was subsequently burned or detonated as waste on Vieques.
11. Indicate the amount of waste generation reported in the Naval Ammunition Support Depot's 1995 and 1997 RCRA Biennial Reporting System (BRS) submissions. Include the waste code(s) cited, mass of waste in each waste code, the method by which mass of munitions is determined for purposes of the BRS reports (e.g., propellants/explosives only, complete units), and the location and treatment/disposal methods for each waste stream.

ATTACHMENT II

INSTRUCTIONS AND DEFINITIONS

In responding to this Request for Information, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the facility or Department of the Navy.
2. A complete response must be made to each individual point in this request for information. Identify each response with the number of the request to which it is addressed.
3. In preparing your response to each request, consult with all present and former employees and agents of the department or facility whom you have reason to believe may be familiar with the matter to which the request pertains.
4. In responding to each request, identify all contributing sources of information.
5. If you are unable to respond in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any request, state that person's name and last known address and phone number and the reasons for your belief.
6. If you cannot provide a precise response to any request, please approximate and state the reason for your inability to be specific.
7. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the request to which it applies.
8. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.
10. The facility and/or department for the purposes of this Request for Information is the Naval Ammunition Support Depot, Route 200, Vieques Island, Puerto Rico, to which the EPA hazardous waste generator ID number FRD980536189 was issued, and the U.S. Navy or Department of the Navy.

11. Hazardous waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(5) of RCRA, as amended, 42 U.S.C. Part 6903(5) and in 40 C.F.R., Section 261.3.
12. Manage shall be defined for the purposes of this Request for Information as to market, generate, treat, store, dispose or otherwise handle.
13. Standards applicable to transporters of hazardous waste shall be those as established in 40 C.F.R. Part 263.
14. Hazardous constituents shall be defined as those substances listed in 40 C.F.R. Part 261, Appendix VIII.
15. Munitions or military munitions shall be defined as for the purposes of this request as any material meeting the definition of "military munitions" under 40 CFR Part 260.10.

5090
Ser N02L/0395
July 31, 1999

U.S. Environmental Protection Agency
Region II
RCRA Compliance Branch
Division of Enforcement and
Compliance Assistance
290 Broadway, 22nd Floor
New York, NY 10007-1866
Attn: Mr. Steven Petrucelli

Dear Sir:

This letter is in response to your 28 May 1999 letter requesting information from the Naval Ammunition Support Depot, Vieques, Puerto Rico. In your letter, you characterize your request as one based on your authority under 42 USC 6927. We of course fully recognize your authority under this statute, but believe it is important to clarify that by law and regulation your authority under the Solid Waste Disposal Act (SWDA, 42 USC 6901, et seq.) and its implementing regulations (42 CFR 260, et seq.) only extends to wastes, not materials. Furthermore, as to military munitions in particular, it is clear that U.S. EPA, in the Military Munitions Rule (MMR, 62 FR 6622, 12 Feb 1997), has explicitly recognized that military munitions are products or materials that are not subject to regulation until they become wastes under one or more of the various tests set forth in 42 CFR 266.200. Finally, again as to military munitions in particular, it is clear, pursuant to the Department of Defense's (DoD) authority under 10 USC 172, that it is DoD, and its Department of Defense Explosive Safety Board (DDESB) that regulates management of military munitions as materials (see 62 FR 6637, where U.S. EPA discusses the role of DDESB in the management of military munitions).

It is clear, however, that several of the questions in your letter focus on military munitions in their state as materials, not as wastes. It is for this reason that the information we provide you in this letter is done by focusing solely over items over which you have jurisdiction. Therefore, in response to Attachment I of your letter the following information is provided.

1. In response to question 1, the mission of the Naval Ammunition Support Depot, Vieques (NASD Vieques) is the receipt, storage and issuance of military munitions for use in military training and operations. These munitions are materials, which are

not within the scope of the SWDA. In addition, the Naval Ammunition Support Depot also has a mission of properly managing waste munitions that emanate from these military training and operations activities. Such wastes are within the scope of the SWDA, and the MMR in particular.

2. In response to question 2, the munitions stored at NASD Vieques are held for use in military training and operations and are not wastes within the meaning of the SWDA as explained above.

3. In response to question 3, the munitions stored at NASD Vieques are held for use in military training and operations and are not wastes within the meaning of the SWDA as explained above.

4. In response to question 4, the munitions stored at NASD Vieques are held for use in military training and operations and are not wastes within the meaning of the SWDA as explained above.

5. The response to question 5 is limited to military munitions removed from NASD Vieques for disposal or treatment prior to disposal and/or munitions stored at NASD Vieques declared a waste by an authorized military official and therefor subject to regulation pursuant to 40 CFR 266 Subpart M. Information concerning military munitions removed for intended use, including training, reissue or other use, is not provided because such materials are not wastes within the meaning of the SWDA as explained above. Munitions removed from storage for the purpose of being treated prior to disposal are reflected in Enclosure 1. Please note that Enclosure 1 includes some munitions which were shipped from NSRR, but they were in a serviceable condition Code A, as annotated on pages 1 and 2. These Code A munitions are not wastes within the meaning of the SWDA as explained above. The Remainder of the transactions noted were thermally treated at the OB/OD site at the Live Impact Area (LIA), as identified in RCRA Hazardous Waste Facility Permit Application for Atlantic Fleet Weapons Training Facility Vieques Island, Puerto Rico, Dated June 28, 1993. The mass of explosives is referenced as Net Explosive Weight (N.E.W.). The mass of propellants is unavailable from existing databases. If desired, mass of propellants can be calculated for individual line items.

6. In response to question 6, aside from the shipments of munitions discussed in our answer to question 5, all other shipments of munitions were the shipments of military munitions as materials, not wastes. As such, these shipments are not wastes within the meaning of the SWDA as explained above.

7. As described in Enclosure 2, The Military Munitions Rule portion of NSRR Hazardous Waste Management Plan Section 12.10, determination of whether a munition item is to be managed as a waste or as a material is made by the designated disposition authority (DDA). DDA's are the only personnel in DoD authorized

to declare unused military munitions as wastes or materials. Additionally, DDA's may authorize the treatment prior to disposal of munitions declared unserviceable by item managers. After such a declaration or authorization, when the munition is removed from storage, such munition become a solid waste pursuant to 40 CFR 260.202(b)(2). In the event that an unserviceable munition is deemed a solid waste, a determination is made regarding whether the munition in question constitutes hazardous waste (by the public works department environmental division) unless the solid waste is exempt from hazardous waste determinations pursuant to 40 CFR 266.203(a) *Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation*.

Forty eight percent of munitions determined to be unserviceable were deemed a solid waste after being removed from a military magazine for the purpose of being treated prior to disposal pursuant to 40 CFR 266.202(b)(2). All of these munitions qualified for exemption from regulation as hazardous waste under 40 CFR parts 260 through 270 under section 266.203. No unserviceable munitions were therefore determined to be hazardous waste.

8. In response to question 8, evaluation of the serviceability of munitions held by the Department of Defense is conducted continuously by applicable DDA's and item managers. Determinations regarding status of solid waste pursuant to 40 CFR 266.202 are made as follows: 1) by DDA's directive; 2) in conjunction with item manager relocation and disposition instructions; 3) as required by emergent circumstances (discovery of abandoned munitions); and 4) through frequent magazine visits and annual wall-to-wall inventory which determine in part if a munitions stored therein are deteriorated or damaged. Hazardous waste determinations are made in the event that the above procedures identify a solid waste, pursuant to 40 CFR 261 as qualified by 40 CFR 266.203(a) *Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation* and 40 CFR 266.205 (a) *Criteria for hazardous waste regulation of waste non-chemical military munitions in storage*.

9. In response to question 9, the NSRR Hazardous Waste Management Plan Section 12.10, attached as Enclosure 2 and the Standard Operating Procedures for Unexploded Ordnance (UXO) Clearances and Retrograde Ordnance Disposal, attached as Enclosure 3 are provided.

10. In response to question 10, no unserviceable munitions have been accepted into inventory at NASD Vieques in the past three years.

11. In response to question 11, the amount of waste generated during 1995 for Reactive Unserviceable Ammunitions containing

Explosives A was 1,665 lbs., for Reactive Unserviceable Ammunitions containing Explosives B was 105.3 lbs., and for Reactive Unserviceable Ammunitions containing Explosives C was 1,515 lbs. The amount of waste generated during 1997 for Reactive Unserviceable Ammunitions containing Explosives A was 4,793 lbs., for Reactive Unserviceable Ammunitions containing Explosives B was 135.8 lbs., and for Reactive Unserviceable Ammunitions containing Explosives C was 778.2 lbs. The waste code for the above mentioned waste is D003. The net explosive weight (NEW) was used to determine the munitions waste mass. The thermal treatment method used is open detonation at the Live Impact Area (LIA) on the eastern side of Vieques Island.

In conclusion, we recognize that the need to protect human health and the environment from improper management of wastes can justify a certain understandable latitude on your part to investigate the status of materials that might be hazardous wastes once they become solid wastes. That is why despite our responses to questions 2, 3, 4, 5 and 6, we are eager to work with you to assure you that our processes for characterizing our materials as materials (or wastes) are reliable and protective. This is especially the case at Vieques, given that the MMR is unambiguously the "rules of the road" for our operations here, and given your authority to insure that the MMR is being obeyed. In this spirit of seeking cooperation, I would like to invite you at you at your earliest convenience to visit our facility to inspect our storage areas, and verify for yourself that those items that are materials, truly are materials, and those items which are wastes, are being managed appropriately. Should you need any further assistance, please contact Mr. Wilfredo Rivera, Hazardous Waste Branch Manager, Environmental Engineering Division, Public Works Department at (787)865-4429.

Sincerely,

J. K. STARK, JR.
Captain
United States Navy
Commanding Officer

Encls