

N00102.AR.002401  
NSY PORTSMOUTH  
5090.3a

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION REGULATORY UPDATE  
PRESENTED AT THE 9 OCTOBER 2003 RESTORATION ADVISORY BOARD MEETING NSY  
PORTSMOUTH ME  
10/9/2003  
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAWN R. GALLAGHER  
COMMISSIONER

**Portsmouth Naval Shipyard**  
**October 9, 2003 Restoration Advisory Board Meeting**  
**Maine Department of Environmental Protection regulator update**

The majority of MEDEP's work on the Portsmouth Naval Shipyard this year has been overseeing the construction of the OU3 Jamaica Island Landfill cap construction.

In August the Navy sent the DEP (and EPA) a Change Request Form (CRF 11) proposing to revise the previously agreed upon specifications for the Low Permeability soil layer in the landfill. Unfortunately, we encountered many difficulties during the ensuing review and discussions. At one point in the process the MEDEP considered exploring our options to stop work on the landfill construction until our issues were resolved. Fortunately the situation did not get to that point.

This project (the landfill cap) does not have a Quality Assurance Plan which is typically required for hazardous waste landfill covers. Therefore, there was no written procedure stating how the regulators would receive documents and data, what documents/data they would receive and when they would receive them. This made it difficult for the DEP to obtain much of the documentation we needed to make any judgement regarding the Navy's proposed changes. Our concern was primarily that the requested changes would eliminate much of the testing that verifies that the permeability requirements of the low permeability soil layer are being met. Had a Quality Assurance Plan been developed for this project it is likely that most of the problems we encountered would not have occurred.

The Navy approved CRF 11 on Sept. 23 without State approval and despite the fact that the MEDEP has had major concerns regarding CRF 11.

Following recent discussions with the Navy and EPA we should be receiving data that will significantly aid our review very soon. The Navy's responses to our Sept. 24 comments will hopefully clear up these issues. The Navy hopes to submit these responses next week.

Some of the quality assurance issues that we feel are significant are:

- Removal of most tests of the on-yard low perm soil (primarily dredge spoils) that provide several lines of evidence that the soil meets the required specification.
- CRF 11 was submitted to the MEDEP nearly eight months after it was submitted to the Navy by Foster-Wheeler. Both the Navy and the State have agreed that it is important for the regulators to be involved in reviewing CRFs or other similar documents as soon as the Navy receives them.

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 764-1507

- The first version of CRF 11 submitted to us on August 6 did not provide adequate justification for the change request or any data analysis and reporting that would support their change request.
- The original specification required that Soil Material Assessment Reports be submitted to the Navy by the contractor at least 30 days prior to low permeability soil placement. Installation of the low perm layer began close to a month before the Navy had the complete Soil Material Assessments back from their lab.
- We asked for results from daily testing of the moisture content and density of the low perm soil already in place on Sept. 17 (results of these tests are known immediately, i.e., they do not have to wait to get results from a lab). The Navy showed these results to the MEDEP when we were on-site on Oct. 6. The Navy agreed to email us the results on Oct. 8. Given that installation of this soil began in July we should have received the results immediately upon our request.
- Installation of the liner (the layer above the low perm soil layer) has begun even though MEDEP has not yet been able to review the results of the moisture and density tests mentioned above.

Positives:

We reached agreement on many issues at our regular Remedial Project Manager's meeting (MEDEP, USEPA, EFANE, and PNSY) on Oct. 8, 2003.

- As stated above the Navy will email us currently available results for the moisture and density testing. In addition, the Navy will send us weekly updates.
- In addition to the results of these tests the Navy indicated they would provide us with all data pertaining to the landfill.
- We had a positive discussion regarding the Navy providing the regulators with all available submittals on a cd. The regulators can then choose to review what they feel are the most important submittals.
- The Navy agreed that it was a good idea to provide brief discussion in Biweekly Quality Control meetings what test were performed in the previous 2 weeks and what actions were taken for any tests that failed.
- The Navy suggested putting together a consensus document outlining how to deal with any similar future issues. Both MEDEP and USEPA agreed this was a good idea. The Navy will provide us with a draft shortly.