

WATER AND WASTE ADVISORY BOARD MEETING
 UNIVERSITY OF WYOMING OUTREACH CENTER
 CASPER WY
 APRIL 23, 2002

The chairman, Mr. Gene George, started the meeting by asking for comments on the November 14, 2001 meeting minutes. Lorie Cahn stated that on the last page about six lines from the bottom her name was misspelled. Mr. Quentin Skinner made a motion to approve the November 14, 2001 meeting minutes as corrected and Lorie Cahn seconded the motion. A vote on the motion to approve the meeting minutes was unanimous. Mr. George then asked if there were any edits to the meeting minutes of the joint meeting between the Land Quality Advisory Board and the Water and Waste Advisory Board. No corrections were submitted for consideration. A motion was made by Mr. Harry LaBonde to approve the joint meeting minutes and again there was a unanimous vote to approve the minutes.

Each of the video conference centers were polled to identify participants and whether any participant wanted to comment on Hazardous Waste Management Rules and Regulations. The following individuals were present:

Participant	Company	Video Conference Center
Diane Connally, Regional Counsel	Department of Defense	Cheyenne
Janet Moss	OCI	Green River
Bob Lamborne	P&M Coal	Green River
Doug Rydell		Sheridan

There were no participants at the Gillette, Jackson or Powell video conference centers. Ms. Connally stated that she was available to answer questions on comments submitted by the Department of Defense. Marisa Latady with the Solid and Hazardous Waste Division began her presentation on the Hazardous Waste Management Rules and Regulations by explaining that the rules had not been revised since 1998 and since that time there had been numerous changes to federal rules which the Division must adopt. Ms. Latady stated that she intended to move through the package page by page to identify major revisions. Ms. Latady began with page 1, Chapter 1, Section 1(e) and proceeded through a number of definitions. Mr. Colby Drechel at the Casper site asked a question about how long hazardous waste could remain in a staging pile. Ms. Latady responded that waste could be stored a year.

After about an hour of going though page by page, the Board members stated that it appeared there was not enough time to go through the entire 14 chapters and asked Ms. Latady to address written comments. Ms. Latady stated that the Division received comments from the Department of Defense and Frontier Refining. The Division had prepared a memorandum addressing the Division's response to each comment. The memorandum was dated April 22, 2002 from Dave Finley to the Water and Waste Advisory Board. The first comment from the Department of Defense concerned a provision that states that a fired munition is a waste material when it is managed off the range. The

Division provided a copy of the federal Military Munitions preamble Section I which clearly stated that the Environmental Protection Agency (EPA) intended that fired munitions be considered a waste material and potentially subject to hazardous waste regulation. (Chapter 12, Section 19(c)(iii)(A))

The question was posed by an Advisory Board member: “My question is are you intending that the State of Wyoming become actively involved in the management of these types of wastes on military sites?”

The Division’s response was that the none of the Wyoming military facilities managed waste munitions. The Wyoming military facilities managed active inventories of munitions. If these facilities did manage waste munition then yes, they would be subject to this rule.

An Advisory Board Member requested that the Division address the differences between the Wyoming proposed rule and the federal Military Munitions Rule.

Ms. Latady went on to the second comment in the April 22, 2002 memorandum concerning the automatic reinstatement of a conditional exemption for transportation (Chapter 12, Section 19(d)(ii)). The rule established an exemption from having a manifest for transporting waste munitions. If the Department of Defense failed to comply with the requirements of the exemption then the Department of Defense would lose the conditional exemption. The Department of Defense would then have to apply for reinstatement of the conditional exemption for transportation. Ms. Latady explained that the federal rule stated that if the EPA Regional Administrator failed to respond to an application for reinstatement within 60 days, the application was deemed granted. The Division disagreed with this provision in the federal rule and sought to remove this provision. Ms. Latady explained that if a generator of hazardous waste failed to confirm that a shipment has been received within the required time period it was a serious violation. The Division would respond in a timely manner to any application that returned the facility to compliance. The Division did not chose to be subject to a requirement that the Division must respond within 60 days or else the application was granted

An Advisory Board Member asked what is considered a reasonable time frame for the Division to respond to an application.

Ms. Latady responded that the Division will respond to an application in a timely manner without being subject to a specified time period. Ms. Latady asked whether the Board would consider the application denied if the Division did not respond within 60 days.

Ms. Diane Connally from the Department of Defense responded that the Department of Defense is concerned about having some closure and would consider a longer time period for the Division to respond. Ms. Latady and Mr. Carl Anderson responded to several more questions posed by Advisory Board Members and Ms. Connally regarding specifying a time frame to respond to a reinstatement for a conditional exemption request. Mr. Anderson stated that it was not anticipated that requests for reinstatement of conditional exemptions would be frequent. Also the Division expected to respond in a timely manner to any request for reinstatement of a conditional exemption. The Division was concerned about any instance where there was an automatic assumption that because the Division does not respond the request was presumed approved.

Ms. Latady moved to respond to the third comment from the April 22, 2002 memorandum (Chapter 12, Section 19(d)(iii)). The proposed rule corrected an error in the federal rule concerning Department of Defense shipping documents. The Department of Defense offered further corrections which the Division agreed were appropriate. Ms. Latady then addressed the fourth comment from the April 22, 2002 memorandum (Chapter 12, Section 19(f)(i)(A)(IV)) as to when a storage unit is first used to store waste munitions under the conditional storage exemption. The Division stated that the federal rule was very clear that the Department of Defense must make a timely application to be granted the conditional exemption. The fifth comment (Chapter 12, Section 19(f)(i)(A)(VIII) and (IX)) concerned limits on the conditional storage exemption, specifically a facility must only store waste munitions generated or present at the facility unless due to a transportation incident there was a need to store waste munitions from another facility or any circumstance approved by the Director. The sixth comment from the April 22, 2002 memorandum dealt with the reinstatement language for the conditional storage exemption (Chapter 12, Section 19(f)(iii)). The issues were the same as presented for the reinstatement language for the conditional transportation exemption.

Comment number seven concerned changes to the Department of Defense storage standards (Chapter 12, Section 19(f)(v)). The federal rule required that if there is a change in the Department of Defense Explosive Safety Board regulations governing storage of waste munitions that the Department of Defense would publish a Federal Register announcing revisions. The proposed rules required the Division to review the new Department of Defense storage standards and determine whether they continue to be protective. The Department of Defense noted an error in the proposed rule and the Division agreed to fix the rule as suggested.

The eighth comment from the April 22, 2002 memorandum dealt with whether the wastes stored under the conditional storage exemption must be included to determine a facility's generator status (Chapter 2, Section 1(e)(vi)). The Division explained that large quantity generators and treatment, storage and disposal facilities have detailed requirements. It is not appropriate for the Department of Defense to be able to change their generator status due to a conditional storage exemption. This provision would make the Division's rules less stringent which is not allowed. The Department of Defense stated that they were seeking clarification because the rule did not specify one way or another whether waste munitions would be counted toward a facility's generator status. The Division responded that it would not be appropriate for the Division to make this change.

Comment nine from the April 22, 2002 memorandum concerned adding language that any generator of waste munitions must comply with the new waste munition storage standards (Chapter 8, Section 3(e)(i)(A)(V)). The Division agreed with the Department of Defense change.

The Advisory Board asked the Division to address comments for which there is disagreement with the Department of Defense. Ms. Latady stated that comment ten of the April 22, 2002 memorandum was the last item that the Division and the Department of Defense disagreed on. The Department of Defense proposed that waste stored in compliance with the new storage standards be exempt from the storage prohibition contained in Chapter 13, Section 5(a) of the hazardous waste rules and regulations. The Division explained the reasons for the storage prohibition and stated that if the Division adopted this provision it would be less stringent than the federal rule which is not allowed.

Ms. Latady stated that the comments from Frontier Refining were comments on rules already adopted and not on proposed rules being considered by the Advisory Board at this meeting. She asked the Board Members whether they would like the Division to go through each comment addressed in the April 22, 2002 memorandum and asked whether a representative from Frontier Refining was present at the Cheyenne video conference site. The Chairman asked if there was anyone present at the Cheyenne site that would like to comment. There was no response from the Cheyenne site. The Chairman asked whether any of the Board members wished to discuss or comment on the Frontier Refining comments. There was no response to the question.

The Chairman then polled each of the video conference sites asking for comments. Ms. Diane Connally with the Department of Defense stated the following: "I'm with DOD and I would just like to say briefly that we appreciate your consideration of the military munitions rule. I feel it is self evident that the DOD has a national interest in national uniformity and treatment of munitions. It makes it easier for our service men and women and our civilian employees to comply with the requirements of the munitions rule and it makes interstate transportation of munitions more efficient and we appreciate your consideration. Thank you." There was no responses from the following video conference sites: Green River, Jackson, Lander, Powell, or Sheridan. There was no one at the Casper location that indicated they wished to comment.

There was discussion between the Board Members and the Division regarding the size of the proposed rules, the comments received from the Department of Defense, and whether the Board Members had an opportunity to adequately review the proposed rules. The Board Members asked the Division to work with the Department of Defense to resolve comments and bring the proposed rules back to the Water and Waste Advisory Board at a later meeting.