

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460**

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Ms. Laura Olah  
Executive Director  
Citizens for Safe Water Around Badger  
E12629 Weigand's Bay South  
Merrimac, Wisconsin 53561

Dear Ms. Olah:

Thank you for your letter of February 23, 1996 to Administrator Browner requesting clarification of a recent announcement by the Department of Defense (DOD). DOD's announcement concerns a rule DOD is developing for closed, transferred, and transferring ranges under their own statutory authorities, and not the military munitions rule being developed by the Environmental Protection Agency (EPA). EPA is currently reviewing the public comments on the proposed military munitions rule. When this task is completed, EPA will develop the final rule.

Specifically, I am responding to your three questions.

1. Is EPA writing the munitions rule or is the Department of Defense?

EPA is writing the military munitions rule, under authority of the Resource Conservation and Recovery Act (RCRA).

2. Who in EPA (reportedly) authorized the Department of Defense to edit, interpret and respond to our (public) comments on the rule?

EPA alone is responding to the public comments on the military munitions rule.

3. How was it decided the Agency will only serve in an advisory capacity?

As stated above, EPA is developing the military munitions rule.

DOD is developing range cleanup standards, under their own statutory authorities, focusing primarily on unexploded ordnance (UXO) and safety. DOD has already developed an extensive set of military munitions standards addressing such areas as storage, inventory control, inspections, transportation, security, and safety. In fact, DOD already has range cleanup standards. EPA has reviewed the DOD standards and generally found them to be quite protective. However, in the area of range cleanup we suggested that the DOD standards (and practices), especially regarding closed,

RO 14225

transferred, and transferring ranges, could be improved. This is one reason that they have embarked on their current rule-making effort. We believe that it is good for DOD to have their own standards by which they operate. Similarly, many industries also have internal operating standards or procedures to help them better manage their materials and wastes.

The main difference between DOD's current rulemaking effort and previous DOD rulemakings is that DOD is developing their range cleanup standards through a public participation and outreach process, which includes EPA, the States, and the general public. Although not required to, DOD is following the Administrative Procedures Act (APA) in developing the range rule. In doing so, DOD hopes to be able to develop a rule that is protective enough of human health and the environment to persuade EPA (and Congress, the States, and the public) that additional RCRA and CERCLA standards for UXO are not necessary. EPA's role in this process is to provide comments on the DOD rule, along with the States and general public, for DOD consideration. The relationship between the DOD rule and EPA's military munitions rule (i.e., RCRA) is for EPA to decide.

I hope this clarifies the situation and answers your concerns.

Sincerely yours,

Michael Shapiro, Director  
Office of Solid Waste