

NAFB 0002

Pam A.

AHNTECH

Innovation Through Technology

22 July 2001

Log: HOLBG-02-0022

FROM: Al Ball, Holloman Ranges, Site Manager

SUBJECT: Transport of expended target munitions

REF: PTR Contract F44650-00-C0004

TO: ACC/DOR
Mr. Larry Hoppes, Quality Assurance Evaluator
49OSS/OSTP

Info: HQ ACC CONS/OCB, Capt Greg Mazul
HQ ACC/DORI, Mr. Omar Kelih

1. This letter is in response to ACC/DOR's request for Ahntech to check with the State of New Mexico for any permits which might be required to move expended target munitions from Centennial Range to Oscura Range for PROCESSING.

2. IAW Munitions Rule (MR), Chapter 6, para A, 1B - Expended munitions that are transported off a range for the purpose of processing prior to disposal are considered Waste Military Munitions (WMM) and must be managed as waste per RCRA and Munitions Rule policy.

Chapter 7, para B, 2 provides a conditional exemption for transport of WMM in those states that have implemented the Munitions Rule. New Mexico has adopted and implemented the Munitions Rule (MR) and has no additional requirement for permitting.

3. Ahntech will comply with the requirements outlined in MR, Chapter 7 for transporting the expended munitions. We have a driver with a commercial drivers license with Hazmat Certification. We have all the required forms and checklists.

4. The expended munitions are certified and documented by Holloman AFB EOD as being safe and will be transported in closed, locked steel containers.

5. Attached is a fax from the Manager of the State of New Mexico Environment Department, stating that said office has adopted the Munitions Rule.

6. Please contact 572-5717 if you have any further questions.



Al Ball
Site Manager
AHNTECH, INC

Co: Anita Turner
Dahl Mclean

Attachment



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building I
Santa Fe, New Mexico 87505
Telephone (505) 428-2500
Fax (505) 428-2567
www.nmenv.state.nm.us



PETER MAGGIORE
SECRETARY

FAX COVER SHEET

TO: Al B...
COMPANY: Al...
TELEPHONE NUMBER: 505-572-5716
FAX NUMBER: 505-572-5913
DATE: 7/26/02
FROM: Debby Brinkerhoff
TELEPHONE NUMBER: 505-428-2528

PAGES SENT after this cover sheet: 0

ADDITIONAL INFORMATION: The facts as you stated in your memo dated July 23, 2001 (sic) from yourself to Mr. Larry Hopper are correct. New Mexico has adopted the Military Munition Rule and it does apply to expended target munitions. If wastes from the OBOD area are being addressed you must get a specific ruling from Cheryl Frischkorn of our office at 428-2550.

You may need to check with the New Mexico Taxation and Revenue - Motor Vehicle Section at 1-888-MVD-INFO or 827-0991, 827-1005, 827-0847 issues permits for hazardous waste haulers.



GARY E. JOHNSON
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PETER MAGGIORE
SECRETARY

FAX COVER SHEET

TO: Al Ball
COMPANY: Onyx - Holloman AFB
TELEPHONE NUMBER: 572-5717
FAX NUMBER: 572-5953
DATE: 7-18-02
FROM: D. Dale Brenkerhoff
TELEPHONE NUMBER: 428-2528
PAGES SENT after this cover sheet: _____

ADDITIONAL INFORMATION:
The NMED - Hazardous Waste Bureau has adopted by reference the military munitions rule - 40CFR-266 Subpart M, in July of 1999.
D. Dale Brenkerhoff

AHNTECH

Innovation Through Technology

FROM: AL BALL / AHNTECH SITE MANAGER
SUBJ: MOVEMENT OF WMM (WASTE MILITARY MUNITIONS)
TO: C HENRY L FRISCHKORN / HAZARDOUS WASTE BUREAU
505-428-2567

C Henry,

ATTACHED ARE THE THREE FAXES BETWEEN
ME + DEBBIE.

THANKS FOR YOUR HELP!

Al Ball
A

§ 266.204 Standards applicable to emergency responses.

Explosives and munitions emergencies involving military munitions or explosives are subject to 40 *CFR* 262.10(i), 263.10(e), 264.1(g)(8), 265.1(c)(11), and 270.1(c)(3), or alternatively to 40 *CFR* 270.61.

§ 266.205 Standards applicable to the storage of solid waste military munitions.

(a) *Criteria for hazardous waste regulation of waste non-chemical military munitions in storage.* (1) Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under 40 *CFR* Part 261, are listed or identified as a hazardous waste (and thus are subject to regulation under 40 *CFR* Parts 260 through 279), **unless** all the following conditions are met:

- (i) The waste military munitions are not chemical agents or chemical munitions.
- (ii) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).
- (iii) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.
- (iv) Within 90 days of August 12, 1997 or within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the Director of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in paragraph (a)(1) is claimed.
- (v) The owner or operator must provide oral notice to the Director within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of paragraph (a)(1) that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within 5 days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of paragraph (a)(1) of this section.
- (vi) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of paragraph (a)(1) of this section, and must maintain records of the findings of these inventories and inspections for at least three years.
- (vii) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

(2) The conditional exemption in paragraph (a)(1) of this section from regulation as hazardous waste shall apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

(3) The conditional exemption in paragraph (a)(1) of this section applies only so long as all of the conditions in paragraph (a)(1) of this section are met.

(b) *Notice of termination of waste storage.* The owner or operator must notify the Director when a storage unit identified in paragraph (a)(1)(iv) of this section will no longer be used to store waste military munitions.

(c) *Reinstatement of conditional exemption.* If any waste military munition loses its conditional exemption under paragraph (a)(1) of this section, an application may be filed with the Director for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of paragraph (a)(1) of this section. If the Director finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the Director may reinstate the conditional exemption under paragraph (a)(1) of this section. If the Director does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the Director may terminate a conditional exemption reinstated by default in the preceding sentence if he/she finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation, or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under paragraph (a)(1) of this section, the Director may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

(d) *Waste chemical munitions.* (1) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under 40 *CFR* Part 261, are listed or identified as a hazardous waste and shall be subject to the applicable regulatory requirements of RCRA Subtitle C.

(2) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under 40 *CFR* Part 261, are not subject to the storage prohibition in RCRA Section 3004(j), codified at 40 *CFR* 268.50.

(e) *Amendments to DDESB storage standards.* The DDESB storage standards applicable to waste military munitions, referenced in paragraph (a)(1)(iii) of this section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on

United States Environmental Protection Agency
Solid Waste and Emergency Response (5305W)
EPA530-F-97-004
February 1997

Office of Solid Waste

Environmental Fact Sheet: EPA Finalizes Regulations under RCRA for Military Munitions

The Environmental Protection Agency (EPA) has finalized regulations that clarify when conventional and chemical military munitions become a hazardous waste under the Resource Conservation and Recovery Act (RCRA). Additionally, this rule amends existing regulations regarding emergency responses and RCRA manifest requirements.

Background

Section 107 of the Federal Facilities Compliance Act of 1992 requires EPA, in consultation with the Department of Defense (DOD) and the states to issue a rule identifying when conventional and chemical military munitions become hazardous waste under RCRA, and to provide for protective storage and transportation of that waste.

Action

The following summarizes how this rule will impact the military and non-military sectors.

Military

This rule establishes the regulatory definition of solid waste as it applies to three specific categories of military munitions: (1) unused munitions; (2) munitions being used for their intended purpose; and (3) used or fired munitions.

The rule conditionally exempts: (1) from RCRA Manifest Requirements and Container Marking Requirements, waste non-chemical military munitions that are shipped from one military-owned or -operated Treatment, Storage, or Disposal Facility to another in accordance with DOD military munitions shipping controls; (2) from RCRA Subtitle C storage regulations, waste non-chemical military munitions subject to the jurisdiction of the DoD Explosives Safety Board storage standards.

This rule identifies four specific circumstances under which an unused munition is considered to be a solid waste for regulatory purposes: (1) the unused munition is "abandoned by being disposed of, burned, or incinerated, or treated prior to disposal;" (2) the unused munition is removed from storage for purposes of disposal or treatment prior to disposal; (3) the unused munition is deteriorated, leaking, or damaged to the point that it can no longer be put back into serviceable condition, and cannot be reasonably recycled or used for other purposes; or (4) the munition has been determined by an authorized military official to be a solid waste.

Subpart M—Military Munitions

Source: 62 FR 6654, Feb. 12, 1997, unless otherwise noted.

§ 266.200 Applicability.

- (a) The regulations in this subpart identify when military munitions become a solid waste, and, if these wastes are also hazardous under this subpart or 40 *CFR* Part 261, the management standards that apply to these wastes.
- (b) Unless otherwise specified in this subpart, all applicable requirements in 40 *CFR* Parts 260 through 270 apply to waste military munitions.

§ 266.201 Definitions.

In addition to the definitions in 40 *CFR* 260.10, the following definitions apply to this subpart:

Active range means a military range that is currently in service and is being regularly used for range activities.

Chemical agents and munitions are defined as in 50 U.S.C. Section 1521(j)(1).

Director is as defined in 40 *CFR* 270.2.

Explosives or munitions emergency response specialist is as defined in 40 *CFR* 260.10.

Explosives or munitions emergency is as defined in 40 *CFR* 260.10.

Explosives or munitions emergency response is as defined in 40 *CFR* 260.10.

Inactive range means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

Military means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

Military munitions is as defined in 40 *CFR* 260.10.

Military range means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

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.

§ 266.202 Definition of solid waste.

(a) A military munition is not a solid waste when:

(1) Used for its intended purpose, including:

- (i) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or
- (ii) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or
- (iii) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(2) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in 40 *CFR* 261.2(c)(1), or burning for energy recovery as defined in 40 *CFR* 261.2(c)(2).

(b) An unused military munition is a solid waste when any of the following occurs:

- (1) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in paragraph (a) of this section), incinerated, or treated prior to disposal; or
- (2) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal, or
- (3) The munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

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24 JULY 02

TO: Debby BRINKERHOFF / Environment Dept
FR: AL BALL / AHNTech INC. Holloman AFB N.M.

Dear Debby,

Please review my letter and if you agree,
please comment on it for me & return.
Your help will be greatly appreciated.

Sincerely,

Alfred Ball
AHNTech Site Manager

AHNTech FAX # 505-572-5953
Phone # 505-572-5717

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22 July 2001

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