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DESCRIPTIVE RECORD

TITLE

Military Munitions Final Rule Response to Comments
Background Document

IDENTIFICATION NUMBER

F-97-MMF-S0001

ABSTRACT

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. This document provides a summary of the public comments the Agency received on the proposed military munitions rule followed by the Agency's responses. EPA received and reviewed comments from 124 organizations and individuals on the proposed rule, including DOD, other Federal agencies, States, universities, associations, corporations, citizen groups, and individuals. This document is organized by the subjects addressed in the comments received. Similar comments have been consolidated, although some repetition still exists.

CONTROLLED VOCABULARY

LOCAL SUBJECT INDEX

Hazardous Waste - Subtitle C/Military Munitions; explosives; Department of Defense (DOD); chemical munitions; conventional munitions; transportation of munitions; storage of munitions; hazardous waste manifest

ORIGINATOR

Permits and State Programs Division
Office of Solid Waste (5303W)
401 M Street, SW
Washington, DC 20460

POINT OF CONTACT FOR FURTHER INFORMATION

RCRA/Superfund Hotline
703/412-9810 or TDD 703/412-3323 (hearing impaired)
Long distance callers may call 800 424-9346 or TDD 800
553-7672

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Office of Solid Waste (5305W)
401 M Street, SW
Washington, DC 20460

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Call:

RCRA/Superfund Hotline
703/412-9810 or TDD 703/412-3323 (hearing impaired)
Long distance callers may call 800 424-9346 or TDD 800
553-7672

Write:

RCRA Information Center
U.S. Environmental Protection Agency
401 M Street, SW (5305W)
Washington, DC 20460
E-Mail: rcra-docket@epamail.epa.gov

AGENCY SUPPLEMENTAL INFORMATION

None

United States Environmental Protection Agency
Solid Waste and Emergency Response (5305W)
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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.

Military munitions are not a solid waste for regulatory purposes: (1) when a munition is being used for its intended purpose, which includes when a munition is being used for

the training of military personnel; when a munition is being used for research, development, testing, and evaluation; and when a munition is destroyed during range clearance operations at active and inactive ranges; and (2) when a munition that has not been used or discharged, including components thereof, is repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities.

This rule also specifies that used or fired munitions are solid waste when they are removed from their landing spot and then either: (1) managed off-range (i.e., when transported off-range and stored, reclaimed, treated, or disposed of; or (2) disposed of (i.e., buried or landfilled) on-range. In both cases, when the used or fired munition is a solid waste, it is potentially subject to regulation as a hazardous waste. Also, munitions that land off-range, and that are not promptly retrieved, are statutory solid waste.

This rule postpones final action on the statutory status of used or fired munitions at closed or transferred ranges, and the regulatory status of used or fired munitions that are recovered and then treated on-range at a closed or transferred range.

Non-Military and Military

There are three aspects of the rule that extend beyond waste military munitions and the military. The rule sets forth new storage standards for the management of all military and non-military waste munitions and explosives.

Secondly, the rule clarifies that persons responding to time-critical munitions and explosives emergencies are not subject to RCRA Generator, Transporter, and Permitting Requirements.

Lastly, the rule exempts all generators and transporters, not just the military, from the RCRA manifest for transportation of hazardous waste on public or private right-of-ways on or along the border of contiguous properties under the control of the same person, regardless of whether the contiguous properties are divided by right-of-ways.

For More Information

This Fact Sheet and the Final Rule are available on the Internet through EPA Public Access Server. For more information, contact the RCRA Hotline at 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time.

Paper copies of this Fact Sheet and the Final Rule may also be obtained by writing: RCRA Information Center (RIC), U.S. Environmental Protection Agency, Office of Solid Waste (5305W), 401 M Street SW, Washington, D.C. 20460. □