



Final Military Munitions Rule

Status

- ◆ Proposed November 8, 1995 (60 FR 56468-56495).
- ◆ Final Rule:
 - * Signed February 3, 1997 -- the Court-ordered deadline.
 - * Published February 12, 1997 (62 FR 6622-6657).
 - * Effective date: August 12, 1997. NON-IISWA.

MILITARY

General

- ◆ Definition of 'military munition' (§260.10) and 'military' (new, §266.201).
 - * Includes DOD, DOE, Coast Guard, & National Guard, and contractors & other Federal agencies acting as agents for the foregoing.
 - * DOE sanitization of nuclear weapons is exempt.
- ◆ Does not pre-empt States from being more stringent or broader in scope.
- ◆ New subpart M in part 266 for military munitions.
 - * Chemical agents & munitions are defined as in 50 U.S.C. 1521(j)(1).

When Unused Military Munitions Become a Solid Waste (§266.202(b))

- 1-Disposed (buried) or burned;
- 2-Damaged, deteriorated, leaking & cannot be repaired or recycled
 - * E.g., overpacked chemical weapons;
- 3-Declared by authorized military official (e.g., M55 rockets); or
- 4-Removed from storage for treatment or disposal.

When Unused Military Munitions Are Not a Solid Waste (§266.202(a))

- 1-Intended use:
 - A-Training
 - B-Testing, R&D
 - C-Range clearance of UXO and munitions fragments at active or inactive ranges.
- 2-Disassembly operations involving materials recovery.

Ranges

- ◆ Closed & transferred ranges--Postponed pending DOD final range rule.
 - * Status quo in meantime.

When Used Munitions Are a Solid Waste

- ◆ Disposed of on-range, or taken off-range -- regulatory solid waste (§266.202(c)).
- ◆ Land off-range & not promptly retrieved -- statutory solid waste (§266.202(d)).

Transportation (§266.203)

- ◆ Conditional exemption for:
 - * Shipments of non-chemical munitions in accordance with the DOD munitions shipping standards, from one military installation to another.



Storage (§266.205)

- ◆ Conditional exemption for:
 - * Non-chemical military munitions subject to and stored in accordance with the DDESB storage standards.
 - * Includes notification requirements.
- ◆ For waste chemical munitions and agents:
 - * Inapplicability of storage conditional exemption (see subpart EE below).
 - * Inapplicability of RCRA storage prohibition in RCRA 3004(j) -- in 40 CFR 268.50.

Permit Mods for Receipt of "Off-Site" Wastes (§270.42(h))

- ◆ Class 1 followed by a Class 2 solely for receipt of off-site waste.
 - * Class 1 mod request must be submitted by 8-12-97; Class 2 by 2-12-98.
 - * All other changes, e.g., different wastes or increased quantities must get Class 2 or 3 mod with no Class 1 option.

NON-MILITARY As Well As MILITARY

Storage

- ◆ Subpart EE (parts 264 & 265): for all munitions and explosives.
 - * Combines aspects of DDESB & RCRA standards.
 - * Allows vapor detection & response system or secondary containment for liquid wastes.

Explosives or Munitions Emergencies (§§262.10(i), 263.10(e), 264.1(g)(8), 265.1(c)(11), and 270.1(c)(3))

- ◆ Definitions (§260.10):
 - * Explosives or munitions emergency
 - * " " " " " response
 - * " " " " " specialist
- ◆ Time-critical emergencies are exempt from RCRA, including emergency permit & manifest.
 - * Non-time critical activities are not exempt, e.g., Spring Valley, Wash, D.C. (§270.61)
- ◆ For military munitions, responder's unit must keep a record of the incident for 3 years.
- ◆ Residuals are responsibility of owner of the material, not specialist.

Redefinition of "On-site"

- ◆ Instead of a redefinition, the final rule exempts, from the RCRA manifest and container marking requirements, the transportation of hazardous waste on a right-of-way on or along the border of contiguous properties under the control of the same person, even if the contiguous properties are cut by right-of-ways (§262.20(f)).
 - * Even so, in the event of a hazardous waste discharge during transportation, the transporter is still subject to the RCRA immediate action and discharge cleanup requirements of §§263.30 & 263.31.

Implementation

- ◆ Rule is more stringent in two areas:
 - 1-retrieval of off-range munitions or keep record; and
 - 2-for emergency responses involving military munitions, keep record of event for 3 years.
- ◆ Less stringent in three areas:
 - 1-manifest exemption for transport on right-of-ways on contiguous properties under control of same person;
 - 2-manifest conditional exemption for transport between military installations using DOD's shipping controls;
 - 3-conditional exemption for waste munitions storage.
- ◆ Rest of rule is viewed as clarifications, but some State's stds may be different.
- ◆ EPA "strongly encourages States to adopt" the full rule.