

**MILITARY MUNITIONS RULE (MR)
and
DoD EXPLOSIVES SAFETY BOARD (DDESB)**



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The Requirement

Section 107 of the Federal Facilities Act of 1992 required EPA to publish rules that identify when military munitions (conventional and chemical) become solid waste and provide for the safe management of such waste.

The Rule Development

The Environmental Protection Agency (EPA), in consultation with DoD and state officials, developed the Military Munitions Rule (MR). After several meetings and proposals, the MR was provided for public comment.

The EPA published the final rule with comments in the Federal Register on February 12, 1997. The MR defined "military munitions" and identified when they become solid waste. The rule also provides for safe storage and transportation of waste military munitions (WMM). The MR is a Federal regulation implementing the Resource Conservation and Recovery Act, 40 CFR Part 260 et al, and was effective on August 12, 1997. Also amended were existing regulations regarding emergency responses that involve both military and non-military munitions and explosives.

The MR provides for two approaches for storing WMM - Permitted Subpart EE storage, and Conditional Exemption (CE).

Subpart EE storage is RCRA permitted storage of hazardous WMM. Installations must permit the storage of all waste chemical munitions and conventional munitions not under CE.

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CE applies only to non-chemical WMM that are subject to the jurisdiction of the DDESB. The EPA determined that the DDESB standards for the management of military munitions meet or exceed RCRA standards in virtually all respects. The applicability of these standards to WMM is the major reason for EPA's belief that - under the conditions of the exemption - it is not necessary to subject WMM to RCRA storage regulation. CE WMM may be on military installations or contractor facilities. Authorized states, states with EPA granted authorities to implement RCRA, must adopt CE before installations within that state can use CE. Alaska, Hawaii, Iowa, Puerto Rico, and Guam do not have implementation authority and CE is automatically available. Several states (Georgia, Mississippi, Alabama, Oklahoma, Nevada, Arizona, Oregon, and Idaho) have adopted CE while others are considering it. Still others are waiting to see the complete DoD MR implementation policy before giving consideration to CE.

The Partnering

DoD developed a partnering initiative to involve states, several American Indian tribes, and environmental interest groups early in the policy development process. The partnering group developed recommended language to cover gaps between RCRA regulations and DoD 6055.9-STD, DoD Ammunition and Explosives Safety Standards.

The Rule and The Standard

EPA, in the development stage of MR, made a comparison between RCRA storage requirements and the DoD storage requirements for military munitions. One of the standards that EPA considered was DoD's Explosive Safety Standards, DoD 6055.9-STD, which are founded in public law, Title 10, Section 172. EPA recognized the success of the DoD Explosives Safety Board. It also recognized that the DDESB Standards for munitions storage were as stringent and protective of human health and the environment as the RCRA waste storage requirements, with a few exceptions. In its review, EPA identified specific gaps (e.g., no requirements to coordinate with local authorities or storage unit closure requirements) between RCRA regulations and the DDESB Standard.

The Board Action

With the partnering group's and other agencies' input, the DDESB approved, at its 315th Meeting on January 21, 1998, several

changes (Attachment 1) to DoD 6055.9-STD. These included a new Chapter 14, Special Storage Procedures for Waste Military Munitions; amendments to Chapter 8, Hazard Identification for Fire Fighting; and amendments to Chapter 12, Real Property Contaminated With Ammunition, Explosives or Chemical Agents. A "Notice of Change" to the Standard was published in the Federal Register March 23, 1998.

The Board Changes

The changes addressed the gaps between RCRA procedures and the Standard and institutionalized a process for closing a facility where ammunition and explosives were once stored.

The new Chapter 14 included:

- * CE storage procedures.
 - Record maintenance
 - Physical separation of waste from non-WMM
 - Marking WMM
 - Storage facility standards of no waivers or exemptions of quantity-distance criteria
 - Standard operating procedures (SOPs) or plans to provide safety, security, and environment protection. The SOPs or plans have to be coordinated using the new requirements in chapter 8.
- * Conditions which will result in loss of CE.
 - Any unpermitted or uncontrolled detonation, release, discharge, or migration of WMM out of a storage unit including loss or theft
 - Withdrawn by Federal or state environmental regulatory authorities based on review or inspection of non-compliance with requirements
 - DoD Components may, at any time, restrict an activity from using CE.
- * Actions to take when states' regulatory regulations conflict with DDESB or DoD Component explosives safety standards.

- * Reporting telephonically and in writing of any unpermitted or uncontrolled detonation, release, discharge, or migration of WMM out of any storage unit.

- * Closure of facilities under CE.

- Notify appropriate federal or state environmental regulatory authority in writing at least 45 days before closure begins.

- Upon completion of closure (see Chapter 12), prepare certificate of closure and submit to appropriate federal or state regulatory authority within 90 days of completing closure activities.

- * Closure of facilities under a RCRA permit. In addition to Chapter 12 process, comply with permit procedures.

Chapter 8 was amended to change the title to include Emergency Planning. A new paragraph was added establishing criteria requiring SOPs or plans to provide safety, security, and environment protection be coordinated with appropriate federal/state/local emergency response authorities and established planning committees.

Chapter 12 was amended to add a process for termination of facilities storing ammunition and explosives. This included:

- * Empty facilities
- * Clean and remove any visible explosive residue
- * Visually inspect the facility
- * Remove all fire and chemical hazard symbols
- * Secure the facility
- * Notify appropriate emergency response and regulatory authorities of the change
- * Document the facility inspection with the date of the inspection and the name and position of the inspector, and place the documentation with real estate records.

The DoD MR Implementation Policy

As EPA was finalizing the MR, the Joint Ordnance Commanders Group (JOCG) chartered the Joint Munitions Rule Implementation Council (MRIC) to create and coordinate DoD Joint Service procedures for the implementation of the MR. The MRIC published DoD's Interim Policy for Implementation of the MR on February 21, 1997, just 9 days after EPA published the final MR. Since then, the MRIC has engaged the Services, States, American Indian Tribes, and public interest groups in an extensive coordination effort to revise the implementation policy. On July 13, 1998, the MRIC released the DoD Policy to Implement the EPA's Military Munitions Rule. The MRIC expects each Service to implement this policy by early August 98. The MRIC will then forward the policy through the JOCG to USD(A&T) to be made official DoD policy.

The revised policy contains the DDESB's Special Storage Procedures for Waste Military Munitions in their entirety. In addition, the policy provides:

- * Guidance for the application of the MR's definition of military munitions and when military munitions, both used and unused, become WMM.

- * Guidance for the application of the MR's emergency response exemption, transportation CE, and the Designated Disposition Authority evaluation process.

- * Service points of contact for MR related issues.

The Conclusion

The DoD can effectively implement the MR. The MR's Conditional Exemption is dependent, in part, on the federal or state regulatory authority, but, once granted, it is dependent on the installation's ability to comply with DoD criteria. By following both DoD Policy to Implement the EPA's Military Munitions Rule and the DDESB's Special Storage Procedures for Waste Military Munitions, activities can comply with the MR without hindering their mission.