

1 July 1998

Department of Defense
Policy to Implement the EPA's Military Munitions Rule

Foreword

Over the years, Congress has specifically delegated statutory authority to the Department of Defense (DoD) for developing and promulgating explosives safety regulations for the safe storage, handling, and use of munitions. DoD has demonstrated a long and successful history in the management of these hazardous materials. The Resource Conservation and Recovery Act (RCRA) of 1976 established specific regulations for the determination of when an item becomes waste, and how hazardous waste items are to be managed. In 1992, the Federal Facility Compliance Act (FFCA) was signed into law. This law required the U.S. Environmental Protection Agency (EPA), in consultation with DoD and the States, to publish regulations that identify when conventional and chemical military munitions become hazardous waste and subject to Subtitle C of RCRA, and that provide for the safe storage and transportation of such waste. These regulations, entitled the Military Munitions Rule (MR) (62 FR 6621, February 12, 1997), that define when military munitions become waste and how these waste military munitions (WMM) will be managed, became effective at the Federal level on August 12, 1997.

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References

1. Federal Facility Compliance Act (FFCA), Section 107, Public Law 102-386, 1992, 42 USC 3004 (Y).
2. Department Of Defense Ammunition and Explosives Safety Standards, DoD 6055.9-STD.
3. Solid Waste Disposal Act, (A.K.A. Resource Conservation and Recovery Act {RCRA}), 42 USC 6901-6992k.
4. Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC 9601-9675.
5. Federal Water Pollution Control Act, (A.K.A. Clean Water Act (CWA)) 33 USC 1251-1387.
6. Standards For The Management Of Specific Hazardous Wastes And Specific Types Of Hazardous Waste Management Facilities - Military Munitions, 40 CFR, Part 266, Subpart M.
7. MILSTRIP Military Standard Requisitioning and Issue Procedures, DoD Directive 4000.25-1-M.
8. Military Standard Transaction Reporting and Accounting Procedures, DoD Directive 4000.25-2-M.
9. Storage And Disposal Of Non-DoD-Owned Hazardous Or Toxic Materials On DoD Installations, DoD Directive 6050.8.
10. Defense Environmental Restoration Program (DERP), 10 USC 2701 Et Seq.
11. Hazardous Waste Regulations, 40 CFR 260-279.
12. Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, and Disposal Facilities, Hazardous Waste Munitions and Explosives Storage, 40 CFR 264.1200-1202, (Subpart EE). Interim Status Standards at 40 CFR 265.1200-1202.
13. Permit Modifications At The Request Of The Permittee, 40 CFR 270.42(A).
14. Single Manager for Conventional Ammunition, DoD 5160.65-M.
15. Military Munitions Rule, 62 FR 6621, February 12, 1997.
16. War And National Defense: Destruction Of Existing Stockpile Of Lethal Chemical Agents and Munitions, 50 USC 1521.
17. Atomic Energy Act Of 1954.
18. Government Bill Of Lading - GSA Standard Form 1109.
19. Requisition Tracking Form DD-Form 1348.
20. Signature and Talley Record - DD Form 1907.
21. Special Instructions for Motor Vehicle Drivers - DD Form 836.
22. Motor Vehicle Inspection Report - DD Form 626.
23. Armed Forces. Storage and Disposal Of Non-Defense Toxic And Hazardous Materials, 10 USC 2692.

Acronyms

AIN	Ammunition Information Notice
AMO	Authorized Military Official
ARAR	Applicable and Relevant or Appropriate Requirement
ASP	Ammunition Supply Point
ASU	Ammunition Storage Unit
CE	Conditional Exemption
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
DAC	Disposal Authority Code
DDA	Designated Disposition Authority
DDESB	Department of Defense Explosive Safety Board
DLA	Defense Logistics Agency
DMWR	Depot Maintenance Work Request
DoD	Department of Defense
DoE	Department of Energy
DUSD,ES	Deputy Undersecretary of Defense, Environmental Security
EOD	Explosives Ordnance Disposal
EPA	Environmental Protection Agency
ESOHPB	Environmental, Safety and Occupational Health Policy Board
FFCA	Federal Facilities Compliance Act
FR	Federal Register
FUDS	Formerly Used Defense Site
GSA	General Services Administration
IED	Improvised Explosive Device
JLC	Joint Logistics Commanders
JOCG	Joint Ordnance Commanders Group
LEPC	Local Emergency Planning Committee
LOI	Letter of Instruction
MOU	Memorandum of Understanding
MR	Munitions Rule
MRIC	Munitions Rule Implementation Council
MRIP	Munitions Rule Implementation Policy
NAR	Notice of Ammunition Reclassification
OB/OD	Open Burning/Open Detonation
POC	Point of Contact
R ³	Resource Recovery, and Recycling
RCRA	Resource Conservation and Recovery Act
RDT&E	Research, Development, Testing, and Evaluation
REC	Regional Environmental Coordinator
SMCA	Single Manager for Conventional Ammunition
SOP	Standard Operating Procedure
TB	Technical Bulletin
TEU	Technical Escort Unit
TM	Technical Manual
TO	Technical Order
TSD	Treatment, Storage, or Disposal
USC	United States Code
USD(A&T)	Undersecretary of Defense, Acquisition and Technology
UXO	Unexploded Ordnance
WMM	Waste Military Munitions

Chapter 1: Introduction

A. Purpose. This policy interprets the requirements of the Military Munitions Rule (MR) (62 FR 6621, February 12, 1997) and establishes an overarching policy for the management of waste military munitions (WMM) that is consistent among DoD Components.

B. Scope.

1. Federal Regulation. The MR is a Federal regulation, which the U.S. Environmental Protection Agency (EPA) promulgated per the requirements of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §6901 et seq.), as amended by the Federal Facility Compliance Act (FFCA) of 1992. The MR defines special requirements for the management of WMM that differ from how other wastes are managed under the RCRA regulations that govern the management of hazardous waste. As a Federal regulation, it establishes a minimum standard for the management of WMM in the United States and U.S. Trust Territories.

2. State Regulations. Under RCRA, EPA may authorize a State or Territory, instead of the Federal government, to administer and enforce RCRA. While the regulations adopted by a State or Territory have to be at least as stringent as the Federal regulations, RCRA allows States and Territories to impose standards that are more stringent than those in the Federal program. Therefore, compliance requirements may differ from State to State or Territory. (Installation or responsible activity commanders should contact the applicable DoD Component Regional Environmental Coordinators (REC) office to determine what specific compliance requirements apply.)

3. Minimum Requirements. The definitions of when military munitions become WMM (see Chapters 4 and 5) and the Designated Disposition Authority (DDA) Evaluation Process (see Chapter 6) apply at all activities effective immediately. These requirements are not dependent upon a State or Territory's adoption of the Federal MR or adoption of other State or Territory standards.

C. Applicability.

1. U.S. and Trust Territories. This policy applies to the Office of the Secretary of Defense, the Military Departments (to include the Reserve Components and the Coast Guard), the National Guard, the Chairman of the Joint Chiefs of Staff, the unified Combatant Commands, Defense Agencies, and DoD field activities that are located in the United States and U.S. Territories. (For brevity, this policy will refer to these as the "DoD Components.")

2. Retrograde. The retrograde of WMM into the United States (to include the U.S. Trust Territories) from outside the United States is subject to the Federal and States regulations governing the importation of hazardous waste. DoD Components engaged in retrograde of WMM must comply with these requirements.

3. Overseas. DoD Components located outside the United States and U.S. Trust Territories are not subject to RCRA, however, they are subject to other DoD regulations and Status of Forces Agreements (SOFA). (Note: The MR and this policy do not apply to activities outside the United States and U.S. Territories unless enacted by SOFA.)

4. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Responses. RCRA may be an "applicable or relevant and appropriate requirement" (ARAR) at CERCLA responses. When appropriate, CERCLA responses will comply with the substantive provisions of the MR and this policy. Formerly Used Defense Site (FUDS) policy should also be consulted for all actions on FUDS.

D. Policy.

1. DoD Management of Military Munitions.

a. Military munitions, whether or not subject to the MR, must be handled and stored responsibly to minimize the potential for harm to human health and the environment. DoD 6055.9-STD, which establishes explosives safety standards, will govern military munitions.

b. WMM must be managed per the MR, this policy, and any applicable Federal, State, or local regulations. In the event such regulations conflict with DOD 6055.9-STD, DOD Components will follow DOD 6055.9-STD for purposes of explosive safety until the conflict is resolved. State environmental regulations, that do not affect explosive safety, will be followed until any required resolution is effected. Installation or responsible activity commanders will notify their chain of command and appropriate regulatory agency for resolution. DoD Components will also notify both the Chairman, DDESB, through their board member and the applicable REC.

c. The MR integrates the principles of environmental regulation, munitions management, and explosive safety into a regulatory scheme for the management of WMM. To fully understand the MR and to ensure its timely and consistent implementation, ordnance and environmental management personnel must interact effectively and frequently.

2. Consistent Implementation.

a. Designated Disposition Authority (DDA) Evaluation Process. DOD Components will use the evaluation process in Chapter 6 to determine the disposition of unused military munitions:

(1) The DoD has designated the Commanding General, U.S. Army Industrial Operations Command (IOC), who serves as the Single Manager for Conventional Ammunition (SMCA), as the DoD Designated Disposition Authority (DDA).

(2) Each Service will designate, in writing, their DDA.

b. Management. To the maximum extent possible, all DoD Components located within a given State or U.S. Territory will manage WMM in a consistent manner. This requires close coordination among the RECs and the DoD Components within a given State or U.S. Territory.

c. Accountability. To achieve compatibility among the munitions accounting systems, DoD Components will identify WMM with a single condition code that will allow tracking from the point of designation as waste through the final treatment destination.

3. Explosive Ordnance Disposal (EOD) Emergency Responses. It is DoD policy to provide EOD expertise to support an explosives or munitions emergency when military or civilian law enforcement or emergency response authorities request such support. EPA recognized the importance of this support and incorporated into Federal law a long-standing EPA policy exempting "explosives or munitions emergency response specialists" (e.g., EOD personnel) from full compliance with RCRA's generator, transporter, and permitting requirements during an emergency response. (Chapter 9 addresses emergency responses.)

4. Training. Each DoD Component will ensure that all personnel involved in the handling of WMM receive training in all applicable aspects of RCRA regulation, the requirements of both the MR and State regulations, and this policy.

5. Environmental Compliance Evaluations, Inspections and Recordkeeping. DDESB explosive safety surveys and existing DoD Components' explosive safety inspections and environmental compliance evaluations will assess compliance with this policy. EPA and the States may also conduct separate inspections to assess compliance with applicable environmental regulations.

6. Implementation Inquiries. DoD Component POCs for this policy, identified as of the date of publication of this document, are listed in Appendix A.

Chapter 2: Definition of Military Munitions

A. General. The MR defines the term “Military Munitions” (see Glossary); defines conditions under which military munitions become WMM; and establishes management standards for WMM. To determine whether the MR regulates an item, the responsible activity must first determine if the item is a military munition. (Figure 1 provides a flowchart of this determination process.)

B. Military Munitions Determination. The process for determining if an item is a military munition has three steps:

1. Determine if the item is an “ammunition product or component.”
2. If it is, determine if the item was “produced or used by or for” DoD or U.S. Armed Services.
3. If it is, determine if the production or use was “for national defense and security.”

C. Specific Application of the Definition of Military Munitions.

1. Manufacturing, Research, Development, Testing, & Evaluation (RDT&E), and Renovation. These processes sometimes result in certain items that fail to meet specifications (rejects) or in the generation of materials that are incidental to the process (residues). Only those rejects and residues that are military munitions are subject to this policy.

a. Rejects or Residues that are Military Munitions. A reject or residue from manufacture, RDT&E, or renovation activities is a military munition if it is an ammunition product or component produced for or used by or for DoD or Armed Services for national defense and security. As a general rule, these items are products of manufacturing, RDT&E, or renovation processes; or are undergoing quality, performance, and safety testing; and are managed within the DoD munitions accounting systems. For example, an explosive produced specifically for use in artillery ammunition that would be issued to the DoD Components would be a military munition even if the explosive did not meet production specifications. Likewise, complete ammunition items produced for use by DoD that do not meet production specifications would be military munitions. If the reject or residue is a military munition, then it is subject to the MR and the waste evaluation process described in Chapter 6.

b. Rejects or Residues that are not Military Munitions. Materials that are produced incidental to manufacturing, RDT&E, or renovation processes are not military munitions. For example, wastewater or sludge from the production of explosives would not be military munitions because their production was incidental to the production of the explosives and are not intended to be used for national security or defense. If the reject or residue is not a military munition, then it must be evaluated to determine if it is a solid waste under RCRA regulations for non-munitions wastes or the analogous State regulations.

2. Foreign Military Munitions. As part of treaty and defense agreements with other nations, DoD Components conduct operations (i.e., training, testing, and etc.) with foreign military organizations at installations and activities located in the United States or U.S. Territories. These operations may result in the use of foreign military munitions. Foreign munitions used in such operations and those acquired specifically for DoD use meet the criteria for “military munitions” as described above and are subject to the MR and this policy.

3. Amnesty Program. If an item recovered through an installation’s amnesty program:

a. Is determined to be a military munition, by the criteria described above, it will be managed per the MR and this policy. (See Chapter 4.)

b. Is determined not to be a military munition and will be disposed of, the installation must manage the item per applicable hazardous or solid waste regulations.

D. Exclusions from the Definition of Military Munitions. The MR excludes certain items from the definition of military munitions. These include wholly inert items, nuclear weapons and components, and improvised explosive devices (IEDs). (See the Glossary for further clarification.)

E. Non-Military Munitions.

1. Civilian Ammunition and Explosives. Military organizations sometimes come into possession of civilian ammunition and explosives. When acquired for use by DoD Components for national defense or security, they are "military munitions" and will be managed per the MR and this policy. When not acquired for DoD use (e.g. Military Police seize small arms ammunition from trespassers illegally hunting on a military installation) such ammunition and explosives are not "military munitions" and when disposed of, are subject to applicable RCRA regulations.

2. Law Enforcement. Military organizations also may manage ammunition or explosives for Federal, State, or local law enforcement agencies. Unless these munitions are produced for or used by or for DoD or the Armed Services (e.g., the ammunition is for security or law enforcement organizations located on military or DOE installations), for national defense or security these munitions are not "military munitions," and if discarded, are subject to applicable RCRA regulations.

Chapter 3: When Military Munitions Are Not Waste Military Munitions

A. General. Military munitions in the active inventory are available for issue and use, training, demonstrations, and RDT&E. These military munitions are not WMM and are not subject to RCRA.

B. Munitions Used for Intended Purpose.

1. Training. Use of military munitions in the training of military personnel, to include emergency response specialists, is considered use of the military munitions for their intended purpose. These activities are not considered waste management operations and are not subject to regulation under RCRA. Training includes, but is not limited to:

a. Destruction of Unused Propellant. During live fire training exercises, not all propellant charges or charge increments are used. Unused propellant presents an explosives safety hazard and a tactical threat in combat situations. The training of personnel in the safe management and expedient destruction of unused propellant by open burning is a required element of training and not a waste management activity.

b. Emergency Destruct and Combat Disposal. EOD personnel, ammunition technicians and combat engineers require proficiency training in both the emergency destruction of ammunition and explosives that may be located in forward deployed areas and combat disposal of captured enemy or unserviceable munitions that accumulate in Ammunition Storage Points (ASP) during either contingency or combat operations. Units may conduct this training on an EOD range, on test or training ranges, or at RCRA interim status or permitted open burn/open detonation (OB/OD) sites. (Should EOD conduct training on RCRA interim status or permitted OB/OD sites, this training must comply with the interim status requirements or conditions of the permit.)

2. Test and Evaluation:

a. Ammunition and explosives, which are recovered and transported from an active or inactive range, for either examination or testing are not considered waste and are not subject to RCRA until required evaluation or testing is completed and a decision is made the munition item cannot be repaired or reused.

b. The use, recovery, collection, transport, and storage of military munitions for RDT&E (e.g., safety, developmental testing, surveillance function testing, static fire, or quality control or assurance testing) is considered use for intended purpose and not subject to regulation under RCRA.

3. Recovered, Collected, and Destroyed on Ranges During Range Clearance Activities at Active or Inactive Ranges.

a. The MR recognizes range management is necessary for the safe use of DoD ranges and that range clearance activities are an intrinsic part of range management. When military munitions are used as intended, a percentage may fail to function properly (malfunction). Range clearance, conducted to destroy military munitions that may pose an explosive safety hazard, can include destruction in place or collection and destruction elsewhere on the range.

b. Under the MR, recovery, collection, and on-range destruction of military munitions (e.g., unexploded ordnance {UXO} and munitions fragments) during range clearance activities on active and inactive ranges are not waste management. The flashing, crushing or shredding of used or fired munitions on the range where the munitions were used is an integral part of range clearance activities and are exempt from RCRA regulation. This activity may, however, be subject to other Federal, State, or local environmental regulations.

4. Resource Recovery and Recycling (R3). Unused munitions and their components that are being processed for R3 are not considered waste and are not subject to RCRA. The disassembly or reconfiguration of military munitions to recover usable components or reconfigure the munition to a usable state is considered R3 and not subject to RCRA.

(This RCRA exemption does not apply to R3 activities that are “use constituting disposal” [as defined under 40 CFR §261.2(c)(1)] or “burning for energy recovery” [as defined under 40 CFR §261.2(c)(2)].)

5. Waste Materials Generated by Resource Recovery and Recycling (R3) activities may generate materials that will be discarded. If the material is a military munition, it is subject to the MR and this policy. If the material is not a military munition, traditional Federal and State RCRA regulations apply.

Chapter 4: When Unused Military Munitions Become Waste Military Munitions

A. General. Unused military munitions include those that have not been fired, dropped, launched, placed, or otherwise used. Examples include military munitions that are:

1. In the active inventory that are available for issue and use in training or operations.
2. Issued to a using unit, but were not used and will be returned to storage. (This includes unused military munitions recovered from amnesty boxes.)
3. Rejected during the manufacturing process or prior to use. (Note: This example can include rejected munitions and residues that meet the definition of a military munition in Chapter 2.)

B. Military munitions become waste under any of the conditions indicated below. (Figure 1 provides a flowchart of this process.) When the military munitions are:

1. Declared a Waste by an Authorized Military Official (AMO). (Note: Although the MR states that an AMO can declare a military munition to be waste, DoD limits the AMO's authority to designating entire classes of munitions as waste.)

2. Abandoned by being disposed of by being: buried, landfilled, or dumped at sea; burned; detonated, the exception is when detonated as a consequence of intended use; incinerated; or treated prior to disposal. This MR provision is a factual determination that is not dependent on a DDA's or AMO's specific declaration as a WMM. Specific examples of munitions that become a waste under this provision of the MR include:

- a. Open burning or open detonation (OB/OD) that is not conducted as part of emergency response activities or training.

- b. Incineration of munitions.

- c. Burial of unused munitions as a field expedient means of disposal. (This practice is strictly prohibited.) The buried military munition becomes a waste at the time of burial.

3. Removed from a Storage Facility for Disposal or Treatment Prior to Disposal (Igloo Door Rule). Military munitions in storage that have not been declared WMM become WMM when removed from storage for the purpose of disposal or treatment prior to disposal. (This includes military munitions shipped to another installation for the purpose of disposal or treatment prior to disposal.) Once removed from storage for disposal or treatment prior to disposal, these munitions must be transported, stored, or managed as WMM.

4. Damaged or Deteriorated. Military munitions that are damaged or deteriorated to a point they cannot be made serviceable or recycled for other purposes are WMM. Munitions custodians will conduct a preliminary evaluation of damaged or deteriorated military munitions through either visual inspection or a more in-depth surveillance and report the condition to the Item Manager or the inventory management official and the DDA, as appropriate. If the Item Manager or inventory management official determines that the munitions cannot be returned to serviceable condition or used for another purpose, they must coordinate this determination with and request disposition instructions from the appropriate DDA. This waste determination must be completed within the time constraint allowed for the DDA evaluation process in Chapter 6.

- a. Emergency Response. If the munitions custodian finds the military munition is damaged or deteriorated to the point it poses a potential explosives safety hazard, the munition will be handled per Chapter 9 of this policy.

b. Emergency Destruction. Munitions become WMM immediately upon issuance of a Notice of Ammunition Reclassification (NAR), Ammunition Information Notice (AIN), Technical Order (TO), or similar document that requires treatment of the item within 60 days and states that after 60 days the item presents a safety hazard for handling, transportation, or continued storage. (A munition item that fails stability testing is an example of such.)

(1) Item or Program Managers must coordinate the issuance of this type of NAR, AIN, or TO with the DoD Component DDA prior to its issuance.

(2) The local installation will contact the applicable Component DDA immediately upon receipt of a NAR, or similar document, for disposition instructions. Munitions identified in such documents (e.g., NARs, AINs, TOs and etc.) should be given highest priority for treatment in a RCRA permitted or interim status unit.

(3) If treatment in a RCRA permitted or interim status unit cannot be conducted within the time frame directed in the NAR, AIN, or TO, or the item is unsafe to transport, the installation or responsible activity commander will request a RCRA emergency permit allowing treatment from the EPA or State regulatory agency. Request for an emergency permit is authorized only after all efforts have been exhausted through the process described in paragraph (2) above.

Chapter 5: When Used Military Munitions Become Waste Military Munitions

A. General. Used or fired munitions include:

1. Military munitions that have been fired, dropped, launched, projected, placed, or otherwise used.
2. Military munitions that, when used as intended, malfunction, or misfire (e.g., fail to fire or detonate).
3. Munitions fragments, such as shrapnel, casings, fins, and other components, such as arming wires and pins, that result from the use of military munitions.

B. Used military munitions become WMM under any of the circumstances indicated below. (Figure 1 provides a flowchart of this information.)

1. **Transport Off-Range.** Used military munitions that are transported off range or from the site of use, when the site of use is not a range, for reclamation, treatment, disposal or for storage prior to reclamation, treatment or disposal are WMM. Used munitions transported off-range to be repaired or reused or that undergo additional evaluation (e.g., testing for RDT&E purposes, malfunction or misfire investigations, and evaluation of possible repair or reuse) are not waste, but may become waste after the required evaluation is completed.

2. **Recovered, Collected, and then Disposed of by Burial, or Landfill.** Used military munitions that are recovered and subsequently buried or landfilled, at any location, are WMM. (Used military munitions that were buried, at any time, became waste immediately upon burial.) Under this Policy, the burial or landfill of used munitions is permissible only when done in full compliance with DoD regulations and applicable Federal, State, or local environmental regulations.

3. **Used or Fired Munitions Landing Off-Range.** Under the MR, military munitions that as a result of use land off-range become WMM if not promptly rendered safe or retrieved. (The “promptness” of an action is situationally dependent and will require a thorough analysis of the threat to human health and the environment.)

a. Upon notification a used munition has landed off-range, the responsible DoD Component personnel will take immediate action to assess the extent and nature of the threat to human health and the environment and to conduct an appropriate response. Response actions may include destruction on site, render-safe and removal to storage for either evaluation or temporary storage prior to destruction, or transport for immediate destruction.

b. Should the munition not be able to be rendered safe, retrieved, or destroyed, it becomes WMM. When this occurs the installation or responsible activity commander responsible for range operations will maintain a record of the event until the munition item is recovered or destroyed. At a minimum, the record will include:

- (1) The date the munition was fired off-range or the date the installation or responsible activity commander became aware that a munition was fired off-range.
- (2) The type and quantity of munitions fired off-range.
- (3) The location of the munition (if the exact location is unknown, the area where the munitions are believed to be located).
- (4) The date and nature of the response actions taken.
- (5) The nature of any remaining threat, including an estimate of how long that threat will remain.

C. Management of Used or Fired Munitions.

1. Until inspected and certified as containing no items of a dangerous nature (e.g., explosives), all used military munitions, to include residue (e.g., cartridge cases, shrapnel, misfires or malfunctions) from used military munitions, will be considered explosive material.

2. When demilitarization is required, it must be performed per item specific technical guidance (e.g., DMWRs, LOIs, TOs, TMs, TBs, instructions, and etc.) provided by the responsible engineering proponent and inspected and certified, by qualified personnel, as being free of explosives and releasable to the general public.

3. The flashing, crushing, or shredding of used munitions on the range (at the site of use) is an integral part of range clearance activities and are exempt from RCRA regulation. These activities may, however, be subject to other Federal, State, or local environmental regulations.

4. The commingling of used or fired munitions and non-munitions materials is not permitted.

Chapter 6: DDA Evaluation Process

A. The Evaluation Process For Determining When Military Munitions Become WMM:

1. Most military munitions will not be considered WMM without a specific DoD DDA's or Component DDA's designation as such. (In rare cases, the AMO may declare an entire class of munitions as WMM.) However, in limited circumstances, local, qualified munitions handlers are authorized to classify a munition as a WMM. These involve MR provisions that define a munition as waste without a specific designation by a DoD Component DDA or DoD DDA and include:

a. An unused munition that is abandoned by being disposed of by burial; burned; detonated, the exception is when detonated as a consequence of intended use; incinerated; or treated prior to disposal.

b. A used munition that is:

(1) Transported off a range or from the site of use for the purposes of reclamation, treatment, disposal, or storage prior to or instead of reclamation, treatment, or disposal.

(2) Recovered, collected, and then disposed of by burial, or landfill either on or off a range.

c. Ammunition that lands off range and is not promptly destroyed in place rendered safe or retrieved.

2. Local Authorization to Treat WMM:

a. Unused WMM. Except in the case of an explosives or munitions emergency, installations are not authorized to treat or dispose of unused military munitions without prior DDA approval.

b. Used or Fired WMM. Used munitions that are classified as WMM must be managed as waste per RCRA and this policy. (See Chapter 7.)

3. Designated Disposition Authority (DDA). (Figure 2 provides DDA points of contact.)

a. Authority to Designate Munitions as a Waste. DDA's are the only personnel authorized to declare unused military munitions as WMM, the exceptions are explosives or munitions emergencies, abandoned (e.g., buried) munitions, or an AMO's declaration of a class of munitions as WMM. DDAs will declare munitions to be WMM in the following circumstances:

(1) When the unused military munition is removed from storage for disposal or treatment prior to disposal.

(2) When the unused military munition is damaged or deteriorated to the point it cannot be returned to serviceable condition and cannot reasonably be recycled or used for other purposes. (This includes emergency destruction as described in Chapter 4.)

(3) When a used munitions is involved in a misfire or malfunction investigation and cannot be returned to serviceable condition.

b. DDA Evaluation Considerations. DDAs will maintain records documenting the evaluation used prior to the DDA's issuance of disposition instructions. As part of their evaluation, DDA will consider:

(1) Safety. (See Chapter 9 for emergency responses.)

(2) Use for Intended Purpose. Prior to directing demilitarization, DDAs will consider opportunities (e.g., training or selling, to include consideration for Foreign Military Sales or RDT&E) that would prevent the need for demilitarization.

(3) Resource Recovery and Recycling (R3). DDA's will determine whether munition items scheduled for demilitarization can be processed through R3, prior to declaring them WMM. Unused military munitions processed through R3 are not WMM.

(4) Treatment and Disposal. The DDA will consider the availability and location of treatment facilities.

c. DDA Disposition Instructions. When the DDA declares munitions as WMM, the DDA must provide the installation or responsible activity specific instructions for either local treatment (if the local installation has a RCRA permitted or interim status treatment unit) or for the timely shipment of the WMM to a DoD Component, SMCA or commercial treatment facility.

d. Unique Accountability Identifier. For consistency and to provide visibility of WMM in existing munitions management systems, the Joint Ordnance Commanders Group (JOCG) has requested the Defense Logistics Agency (DLA) assign WMM a unique Condition Code identifier. Until DLA assigns WMM a new Condition Code, installations and responsible activities will use a Disposal Authority Code (DAC) of M to identify WMM.

B. DDA Disposition Process.

1. Local Activity Request for Disposition. Local activities will request disposition when it determines the munitions are excess or unusable at the local level. Local activities will request disposition instructions from the appropriate DoD Component DDA (see Figure 2) and coordinate this request with the item manager as appropriate. Disposition requests should include the following:

a. Statement, if known, of other uses (e.g., training) for these munitions.

b. If applicable, an explanation of the circumstances, to include the date, under which the munitions were classified as WMM (e.g., emergency destruction and buried munitions).

c. A statement regarding the regulatory status (e.g., conditionally exempt storage, less than 90-day storage, or permitted or interim status storage) of the WMM storage facility. (See Chapter 7, Section C.)

d. Statement regarding the availability or non-availability of RCRA-interim status or RCRA-permitted hazardous waste treatment or disposal units located on the installation.

2. DoD Component or DoD DDA will:

a. Maintain accountability of all disposition requests and be able to provide status of evaluation upon request.

b. Evaluate the munitions and document the evaluation. (See paragraph A3b of this chapter.)

c. Provide disposition instructions within 60 days. When the DoD Component DDA must subsequently request disposition instructions from the DoD DDA, the DoD Component DDA will advise the local activity that the request has been forwarded.

3. DDA disposition instructions will include:

- a. Instructions for application of the WMM accountability identifier, if applicable.
- b. The date the military munitions were designated as WMM, if applicable.

(1) For munitions that automatically became a waste (e.g., buried unused munitions), the date of the action that made them waste will be used.

(2) For munitions that become a waste upon removal from storage for treatment or disposal, the disposition instructions will state that the military munitions becomes WMM on the date it is removed from storage for treatment or disposal.

(3) For damaged or deteriorated munitions, the date the DDA determined the item cannot be put into serviceable condition and cannot be recycled or used for other purposes.

(4) For all other military munitions, the date the DDA determined them to be WMM.

c. Specific Instructions:

(1) If the munitions are to be shipped off-site for treatment or disposal, disposition instructions will designate the facility to which the munitions are to be sent, the date by which shipment must occur, and the receiving installation's point of contact (POC).

(2) DoD Component DDA's will only direct "local treatment" at installations that have a RCRA permit, an interim status treatment facility that is permitted to treat the WMM, or has been granted an emergency permit by either EPA or the State. If treatment in a RCRA permitted or interim status unit cannot be conducted within the time frame directed by the DDA or the item is unsafe to transport to a RCRA facility, the installation or responsible activity commander will request a RCRA emergency permit from the EPA or State regulatory agency allowing treatment. (See Chapter 9, A4b for more information on emergency permits.) The term "local disposal" will no longer be used.

Chapter 7: Management of Waste Military Munitions

A. RCRA Requirements for Generators of Hazardous Waste:

1. General. Under RCRA Subtitle C, every installation and responsible activity is required to determine whether any WMM generated is a hazardous waste and how much hazardous waste is generated. Generator requirements do not apply to WMM that are determined to be hazardous and are managed under the Conditional Exemption (CE) for either transportation or storage. (See paragraph A5 of this chapter.) Generator requirements apply when installations and responsible activities do not manage hazardous WMM under CE. In addition, immediate responses to explosives or munitions emergencies (see Chapter 9) are not subject to RCRA generator requirements.

2. Types of Generators. Compliance requirements applicable to generators of hazardous WMM depend on how much hazardous waste (of all types) the installation or responsible activity produces in a calendar month. There are three categories of hazardous waste generators. These are large quantity generators (LQG), small quantity generators (SQG), and conditionally exempt small quantity generators (CESQG). Installations and responsible activities located in non-authorized States and U.S. Territories where EPA enforces RCRA (Alaska, Hawaii, Iowa, Puerto Rico, Virgin Islands, N. Mariana Islands, and American Samoa) should refer to 40 CFR Parts 260-272. Installations and responsible activities located in authorized States (see Glossary) should, refer to the requirements found in regulations adopted by the responsible State agency.

B. RCRA Requirements for Transporters of hazardous WMM:

1. General. The MR made three changes to RCRA hazardous waste transportation requirements. The MR provides:

- a. That transportation required during immediate responses to explosives or munitions emergencies are not subject to RCRA requirements. (See Chapter 9.)
- b. An exemption from the requirement to use a RCRA hazardous waste manifest for transportation of hazardous WMM over “on-site” public rights of way. (See paragraph B3a of this chapter.)
- c. That under certain circumstances hazardous WMM are conditionally exempt (CE) from RCRA hazardous waste requirements. (See paragraph B2 of this chapter.)

2. CE for Transportation of WMM. The MR provides a CE for the transportation of hazardous WMM. This CE may only be used for shipments of WMM in non-authorized States and in those authorized States that have either implemented the Federal MR or adopted CE. DoD policy is that WMM will only be shipped under CE when all States along a planned shipment route have either implemented the Federal MR or adopted CE. (Although installations have flexibility in the use of CE for transportation of WMM, DoD policy requires CE be used if available and applicable to a particular transportation requirement. Should an installation elect not to use CE, it must comply with RCRA transporter requirements to include use of a hazardous waste manifest.)

a. A CE is provided to WMM, which would normally be considered hazardous waste and subject to RCRA, when the following conditions are met:

(1) The WMM are not chemical agents or chemical munitions. (See Glossary.)

(2) The WMM must be transported from a military owned or operated installation or activity to a military owned or operated treatment, storage, or disposal facility. (Note: shipments to a commercial facility are not eligible for CE.)

(3) The WMM are transported per the DoD and Department of Transportation (DOT) shipping controls applicable to the transport of military munitions in effect on 8 November, 1995. (Any amendments to these shipping controls become effective, for purposes of the CE, on the date DoD publishes a notice in the *Federal Register* that these shipping controls have been amended.) The DoD and DOT shipping documents cited in the MR are shown below. These differ from those DoD and DOT currently require for the shipment of military munitions. DoD has taken action to address those forms the MR incorrectly titled or listed.

(a) Signature and Tally Record (DD Form 1907).

(b) Motor Vehicle Inspection Report (Transporting Hazardous Materials)
(DD Form 626).

(c) Government Bill of Lading (GSA Standard Form 1103). (Note: The MR incorrectly cites this form as “GSA Standard Form 1109.” DoD and DoT only require this form for shipments by commercial transport.)

(d) Shipping Paper and Emergency Response Information for Hazardous Materials Transported by Government Vehicles (DD Form 836). (Note: The MR incorrectly cites this form as “Special Instructions for Motor Vehicle Drivers.” DoD and DoT require this form for shipments by military transport.)

(e) DoD Single Line Item Release/Receipt Document (DD Form 1348-1A).
(Note: The MR inadvertently omitted this form from the list of DoD and DoT shipping controls. DoD and DoT require this form for shipments by military transport.)

(f) Requisition Tracking Form (DD Form 1348). (Note: Although this form is not a DoD shipping control applicable to the transport of military munitions, the MR cited it as such. DoD has requested technical amendments to the MR to correct these errors in the list shipping controls.)

(4) The transporter provides the appropriate Federal or State environmental regulatory authority:

(a) An oral notice, within 24 hours, from the time the transporter becomes aware of either any loss or theft of the WMM or any failure to meet one of the above conditions that may endanger health or the environment.

(b) A written submission, within 5 days, from the time the transporter becomes aware of any such incident that describes the circumstances of loss or theft of the WMM or failure to meet one of the above conditions.

b. The CE applies to WMM transported by either military personnel or commercial carriers, who have signed a contractual agreement with the Military Traffic Management Command and who operate under the DoD and DOT system of shipping controls.

c. If a receiver does not receive the WMM shipped under CE within 45 days of the day it was shipped, the owner or operator of the receiving facility must report this to EPA or the appropriate State agency within 5 days (i.e., 50 days from the shipment date).

d. Loss of CE. Failure to comply with any of the conditions listed above will result in the immediate loss of CE. The loss of CE will subject the hazardous WMM to RCRA hazardous waste regulation and could result in an enforcement action (e.g., fine or penalty, from the date of the violation).

e. Reinstatement of CE. When CE is lost for any hazardous WMM, the installation or responsible activity may, after meeting all requirements for CE, apply to the appropriate Federal or State environmental regulatory authority for reinstatement. (Note: The installation should send the application for reinstatement by certified mail and retain proof of its receipt by the regulatory agency.) If the regulatory authority finds that reinstatement is appropriate, based on a satisfactory explanation of the violation's circumstances or a demonstration the violations are not likely to recur, it may reinstate CE. Regulatory authorities may add additional requirements for CE to the reinstatement. Should the appropriate environmental regulatory authority not act on the reinstatement application within 60 days of its receipt, then reinstatement, retroactive to the date of the application, is considered as granted. In this event, the installation should inform the regulatory authority, by letter, that it had not received a response to its application and that it considered CE to be retroactively reinstated. The appropriate Federal or State environmental regulatory authority may, however, terminate the automatic reinstatement of CE, if it considers the reinstatement inappropriate based on the requester's failure to either explain the circumstances that led to the loss of CE or demonstrate the violation will most likely not recur.

3. RCRA Requirements for Transportation of WMM Declared to be Hazardous.

a. On-site Transportation. Transportation of WMM that are determined to be hazardous wastes within the boundary of an installation is not subject to RCRA requirements. In addition, the MR adopted a new manifest exemption for intra-facility shipments (e.g., within the boundaries of a given installation or activity) of all hazardous waste, not just for WMM determined to be hazardous. If the shipment occurs on a public or private right-of-way that is within or along the border of the installation, a RCRA manifest is not required.

b. Off-site Transportation. Off-site transportation of WMM that are considered hazardous waste and are not shipped under CE must comply with all applicable Federal, State, local requirements for the transportation of hazardous waste.

C. RCRA Requirements for Storage of WMM.

1. General.

a. Ammunition and explosives, regardless of whether WMM or not, must be stored per DoD 6055.9-STD and DoD Component implementing regulations and policies.

b. The EPA recognized that ammunition and explosives present unique explosives safety concerns not fully

addressed in typical RCRA regulations for storage. As a consequence, the EPA's MR endorsed DoD 6055.9-STD, Department of Defense Explosives Safety Standards, for the storage of ammunition and explosives and set forth two approaches for the storage of ammunition and explosives determined to be WMM. (DoD 6055.9-STD, Chapter 14, Special Storage Procedures for Waste Military Munitions, specific requirements for the storage of WMM.) (Appendix C provides a checklist that field activities can use as concise reference tool to ensure proper storage of waste military munitions.) These approaches, which are discussed below, include:

(1) A CE from certain RCRA requirements for conventional WMM stored under the jurisdiction of the DDESB.

(2) A new RCRA unit standard (40 CFR Parts 264 - 265, Subpart EE, *Hazardous Waste Munitions and Explosives Storage*) for storage of hazardous WMM that are not stored under CE and require RCRA permits. This unit standard is in addition to other unit design and operating standards.

2. Requirements for CE. WMM may be stored under CE only when the following conditions are met:

a. Administrative Requirements:

(1) In authorized States (see Glossary), the State allows the use of CE for the storage of WMM.

(2) The WMM is not a chemical agent or chemical munition. (See Glossary.)

(3) DDESB standards and DoD Component implementing regulations govern the storage unit. Waivers and exemptions to DoD 6055.9-STD are not authorized for units storing WMM under CE. (See paragraph C2(b)(3) of this chapter.)

(4) The installation or responsible activity notifies the appropriate Federal or State environmental regulatory authority of the location of any storage facility used to store WMM within 90 days of the date the unit was first used to store WMM under CE.

(5) The installation or responsible activity keeps written records of all WMM stored under CE. DoD Components will determine the format for these records. Installations and responsible activities will make these records available to the appropriate Federal or State environmental regulatory authority, when requested. These records, which will be maintained for 3 years from the date WMM were last stored under CE, will contain the following information:

(a) The type of WMM stored by standard nomenclature, Lot Number, Federal Supply Class (FSC), National Stock Number (NSN), Department of Defense Ammunition Code (DODAC), and condition code.

(b) The quantity of each type waste military munition stored.

(c) The date that each military munitions, by type, was identified as waste.

(d) The last storage date for each, by type, waste military munition.

(e) The storage location or locations (e.g., building number or storage pad, and grid coordinates) used.

(f) The disposition (e.g., destroyed, demilitarized, shipped) and date of action, by type, of the waste munitions.

(g) When applicable, the sending and receiving sites for those WMM received from or shipped to off-site sources.

(6) The installation or responsible activity inventories any WMM stored under CE at least annually and maintains records of this inventory for at least 3 years.

(7) The installation or responsible activity inspects any WMM stored under CE, at least quarterly, for compliance with the conditions of CE and maintains records of the findings of these inspections for at least 3 years.

(8) The installation or responsible activity complies with the reporting requirements described in paragraph C1(c) below.

(9) All storage units, including those that store conditionally exempt WMM, will be subject to installation, or responsible activity-specific Standard Operating Procedures (SOPs) or plans designed to provide safety, security, and environmental protection. Emergency response SOPs or plans will be coordinated with the appropriate Federal, state, and local emergency response authorities (e.g., law enforcement, fire departments, hospitals, etc.) and any established Local Emergency Planning Committees (LEPC). At a minimum, these SOPs or plans shall include:

(a) Specific sections and guidance that address emergency preparedness, contingency planning, and security. With respect to security, these SOPs or plans will include provisions that limit access to trained and authorized personnel. (See paragraph C2(b)(2) of this chapter for further information.)

(b) Procedures that minimize the possibility of an unpermitted or uncontrolled detonation, release, discharge, or migration of military munitions or explosives out of any storage unit when such release, discharge, or migration may endanger human health or the environment.

(c) Provisions for prompt notification to emergency response and environmental agencies and the potentially affected public in the event of an actual or potential detonation or uncontrolled release, discharge, or migration (that may endanger human health or the environment).

(d) Provisions for complying with the Emergency Planning and Community Right-To-Know Act (EPCRA), Sections 302 - 312 and DoD or Component implementing policies.

b. Design and Operational Requirements:

(1) The installation or responsible activity will ensure it implements procedures and measures to prevent the loss or theft of WMM.

(2) Access to units used to store WMM will be limited to appropriately trained, specifically authorized personnel. Federal and State environmental regulatory agency personnel, who require access to determine whether WMM are stored per CE who have been briefed on explosives safety concerns and cleared for access, are considered trained and authorized. These personnel will be escorted by DoD personnel trained in the management and handling of ammunition and explosives.

(3) Storage of WMM under CE will comply fully, without waiver or exemption, with DoD 6055.9-STD. Each unit storing CE WMM or explosives must be included in an DDESB-approved explosives safety site plan that the installation or responsible activity keeps on file. Those portions of the site plan addressing units storing WMM under CE shall be made available to the appropriate Federal or State environmental regulatory authority upon request. (Note: Under certain circumstances waivers and exemptions are available for units storing WMM and explosives under RCRA permits; however, after 31 December 1999, the Military Department's Secretary responsible for safety, environment and installations, must approve all such waivers and exemptions, both existing and new. This approval may not be delegated.)

(4) Physically separate (e.g., on a separate pallet or shelf, and etc.) WMM from non-WMM when both are stored in the same storage unit or area.

(5) Clearly mark the separated WMM as such to ensure proper identification.
(Note: Marking of the area {e.g., shelf, pallet, storage facility} in which WMM are physically separated is sufficient to meet this requirement. Therefore, it is not necessary to unpackage WMM to mark each round or box.)

(6) Installations and responsible activities will manage WMM and any WMM residues to ensure there is no migration of contaminants out of storage units.

(7) For non-chemical agent WMM that contain liquids (e.g., munitions or missiles that use liquid propellants), the facility used to store the WMM must have either a secondary containment system, which ensures that any released liquids are promptly detected and detained until properly removed from the area, or a vapor detection system, which ensures that any released liquids or vapors are promptly detected so that an appropriate response is taken. (An appropriate response may include additional containment, such as repair of the container, over packing, or removal from the storage area.) For these WMM, the storage of non-leaking weapons in their shipping or storage container is considered a means of secondary containment.

(8) Upon being taken out of service permanently as a munitions or explosives storage unit, or upon a decision to permanently cease using a unit to store CE WMM or explosives, the unit will be closed per the requirements of paragraph D, below.

c. Reporting Requirements for CE. In addition to other applicable MR reporting requirements, installations and responsible activities will notify their chain of command, the DDESB Chairman (through DoD Component channels), the appropriate Federal or State environmental regulatory authority, and established Local Emergency Planning Committee's (LEPCs), as follows:

(1) Telephonically or, in the case of the DoD Component and DDESB, electronically (by e-mail message or facsimile and using the format specified in Chapter 13, DoD 6055.9-STD) within 24 hours from the time the installation or responsible activity becomes aware of any unpermitted or uncontrolled detonation, release, discharge, or migration of WMM out of any storage unit (e.g., loss or theft, or as a result of fire or explosion, and etc.) that may endanger human health or the environment.

(2) In writing, if the initial report was telephonic, within 5 days from the time the installation or responsible activity becomes aware of any unpermitted or uncontrolled detonation, release, discharge, or migration of WMM out of any storage unit (e.g., loss or theft, or as a result of fire or explosion, etc.) that may endanger human health or the environment. (Follow-up reports to the DoD Component and DDESB are only required when pertinent information, which was not previously reported, becomes known. Such reports, to include a report of investigation, will comply with the requirements in Chapter 13, DoD 6055.9-STD.)

d. Loss of CE. The unpermitted or uncontrolled detonation, release, discharge, or migration of WMM out of any storage unit that might endanger human health or the environment will result in the immediate loss of CE for those WMM. Incidents of this nature and the loss of CE require reporting per paragraph C1(c) above. The appropriate Federal or State environmental regulatory authorities may withdraw CE based on review or inspection of the installation's or responsible activity's compliance with the requirements for storage of WMM under CE. The DoD Components also may, at any time, restrict an activity from using CE. In addition, the DDESB (or DoD Components), upon discovery of a condition that could warrant loss of CE, will report the condition to the appropriate Component and to the commander of the installation or responsible activity. If CE is lost, the WMM that was stored under CE become subject to other RCRA hazardous waste regulations. The installation or responsible activity must obtain any required RCRA permits because of the loss of CE. Alternatively, installations and responsible activities may apply for reinstatement of CE (see paragraph C2{e} of this chapter) or change operations to preclude the necessity of storing WMM and explosives under CE.

e. Reinstatement of CE. Should an installation or responsible activity wish to have the regulatory authority reinstate CE, it must submit an application to the appropriate Federal or State environmental regulatory authority once the storage of WMM meets all CE requirements. When possible, the request for reinstatement should be submitted with the written report (reference paragraph C2{c}{2} above) that details the incident or violation that caused the loss of CE. (Note: The installation should send the application for reinstatement via certified mail and retain proof of its receipt by the regulatory authority.)

(1) The request for reinstatement must:

(a) Explain the circumstances of the violation (e.g., storage in a waived or exempted structure, a violation of quantity distance requirements, the incompatible storage of ammunition and explosives, or loss or theft of the WMM, or etc.).

(b) Describe the nature of the correction made to return storage to full compliance with CE requirements (e.g., rewarehouse the WMM to a non-waived structure, reduce the net explosive weight {NEW} stored, correct the incompatible storage).

(c) Provide an assessment of the likelihood of a recurrence.

(2) When CE is lost for any WMM, the activity may, when it meets all requirements for CE, apply to the appropriate Federal or State environmental regulatory authority for reinstatement. If the regulatory authority finds that reinstatement is appropriate based on a satisfactory explanation of the violation's circumstances or a demonstration the violations are not likely to recur, it may reinstate the CE. However, it may add additional requirements for CE to the reinstatement. Should the appropriate environmental regulatory authority not act on the reinstatement application within 60 days of its receipt, then reinstatement, retroactive to the date of the application, is considered as granted. In this event, the installation should inform the regulatory authority, by letter, that it had not received a response to its application and that it considered CE to be retroactively reinstated. The appropriate Federal or State environmental regulatory authority may, however, terminate the automatic reinstatement of CE, if it considers the reinstatement inappropriate based on the requester's failure to either explain the circumstances that led to the loss of CE or demonstrate the violation will most likely not recur.

3. Requirements for Storage of Hazardous WMM Under RCRA Subtitle C.

a. When WMM cannot be stored under CE (e.g., an authorized State does not allow CE), storage of hazardous WMM must comply with applicable RCRA requirements. For the non-authorized states, in which EPA enforces RCRA, these regulations are found in RCRA Subtitle C (40 CFR Parts 260-272). In authorized States, State laws and regulations stipulate the requirements.

b. Installations and responsible activities that store hazardous WMM for more than 90 days must have a RCRA permit or interim status. (Note: Certain classes of generator facilities, such as small quantity generators or conditionally exempt small quantity generators may, under certain circumstances, store wastes for longer than 90 days without a permit or interim status.) Additionally, they must comply with all applicable provisions of 40 CFR Parts 264 - 265, Subparts A-H, and one of the following specific unit standards: Subpart EE - *Hazardous Waste Munitions and Explosives Storage*; Subpart DD - *Containment Buildings*; Subpart I - *Management of Waste in Containers*; or comparable regulations adopted by authorized States. (Munitions and explosives, regardless of whether waste or not, must also be stored per the requirements of DoD 6055.9-STD and DoD Component implementing regulations and policies. Although DoD 6055.9-STD allows storage units that are permitted under RCRA to possess waivers or exemptions to its standards, this practice is discouraged.)

c. Specific standards for hazardous WMM stored under Subpart EE are described in 40 CFR 264.1200 - .1202 and 40 CFR 265.1200 - .1202. Hazardous WMM stored under Subpart EE standards will meet the following requirements:

(1) Hazardous WMM stored outdoors or in open storage areas must not be in standing water. (The use of dunnage, pallets, or other appropriate methods to elevate WMM will meet this requirement.)

(2) Storage units must be designed and operated with containment systems, controls, and monitoring that:

(a) Minimize the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated run-off, to the soil, ground water, surface water, and atmosphere. (Storage per DoD 6055.9 and DoD Component criteria meet most, if not all, of these requirements.)

(b) Provide a primary barrier, which may be a container or tank, designed to contain the hazardous waste. (Note: The design of certain ammunition and explosive items meets this primary barrier requirement, unless they have deteriorated to the point that they are no longer functional.) When the primary barrier has been permanently compromised, over packing or replacement of the primary barrier is required.

(c) Require inspections and inventories that ensure the controls and containment systems are working, as designed, and that releases that may adversely impact human health or the environment are not escaping from the storage units. (Inspections and inventories required by this policy, DoD 6055.9-STD, and DoD Component implementing regulations meet the requirements for monitoring of waste munitions that do not contain liquids.)

(d) For units storing hazardous WMM that contain liquids, provide (in addition to the above) a secondary containment system that ensures that any released liquids are contained and promptly detected and removed from the waste area, or a vapor detection system that ensures that any released liquids or vapors are promptly detected and an appropriate response taken. (Appropriate responses may include repairing the container, additional containment, over packing, or removal from the waste area.) The storage of non-leaking weapons in their shipping or storage container is considered a means of secondary containment.

(3) Hazardous WMM will be inventoried, at least annually, and will be inspected and monitored as necessary to ensure explosives safety and to ensure there is no migration of contaminants out of the units.

(4) Hazardous WMM must be stored per a SOP or plan specifying procedures to ensure safety, security, and environmental protection. (Note: The storage of WMM must comply with both DoD 6055.9-STD and the appropriate DoD Component's procedures and policies.) If these procedures serve the same purpose as the security and inspection requirements of 40 CFR 265.14, the preparedness and prevention procedures of 40 CFR Part 265, Subpart C, and the contingency plan and emergency procedures requirements of 40 CFR Part 265, Subpart D, then these SOPs or plans will be used to fulfill those requirements.

(5) Hazardous WMM will be packaged per applicable DoD requirements to ensure safety in handling and storage.

(6) Hazardous WMM will be physically separated (e.g., on a different pallet or shelf, etc.) from non-waste ammunition and explosives that are stored in the same unit or area. (Note: RCRA permits issued by the environmental regulatory authorities under Subtitle C may not allow storage of non-waste munitions and explosives in the permitted unit.)

d. Upon being taken out of service permanently as a hazardous WMM storage unit permitted under RCRA Subtitle C, the unit will be closed per the requirements of the closure plan approved as part of the permit. (See also paragraph D of this chapter.)

4. Other Storage Standards. DoD Components will forward to the Chairman, DDESB, a copy of their Component-implementing standards or regulation pertaining to the storage of WMM. Many States regulate waste management activities, including the storage of WMM. In the event state regulations conflict with DDESB or DoD Component explosives safety standards, the affected Component will attempt to resolve the conflict. For those issues that cannot be

resolved, the DoD Components will notify the Chairman, DDESB, through their Board member, of any irreconcilable conflict of State law, regulation, or directive with these or other DoD or Military Component explosives safety standards. The Chairman, DDESB, will review the law, regulation, or directive for any potential impact on explosives safety and will assist the DoD Component, in coordination with the Deputy Under Secretary of Defense (Environmental Security) (DUSD{ES}), in resolving such conflicts. Nothing in this paragraph affects the component's right to seek review of the state law, regulation, or directive.

D. Termination of Use and Closure Requirements for Storage Units.

1. General.

a. This policy and DoD 6055.9-STD establishes a tiered process to ensure that storage units that have been taken out of service permanently, or that will no longer be used to store WMM, do not pose a threat to human health or the environment. This process includes procedures designed to address: storage units that will no longer be used for storage of munitions and explosives; units that stored CE WMM; and, units that stored WMM under RCRA storage permits.

b. Closure activities apply to storage units that stored WMM. Closure activities may have either of two results. In the first, all WMM and residue from WMM, if any, are completely removed from the unit (referred to as “clean closure”). In the second, some WMM or WMM residues will remain in place after closure. If WMM or WMM residues remain in place after closure (e.g., groundwater contamination), then the installation or responsible activity must undertake post-closure activities. These activities could include monitoring and maintenance activities or require additional clean up action during a post-closure care period. Units that stored WMM under a RCRA permit or interim status must undergo RCRA closure (40 CFR Part 264, Subpart G).

c. Although not required by the MR, DoD 6055.9-STD establishes RCRA-like closure requirements for storage units that have been used to store CE WMM.

2. Termination of Use of Facilities Storing Ammunition and Explosives. Each storage facility no longer used to store ammunition and explosives must undergo a closure process to ensure ammunition and explosives and any visible explosives residues are removed within 180 days from the last use of the storage facility. These procedures help ensure that no threat to human health or the environment remain when the unit is no longer to be used to store ammunition and explosives. (Note: Storage units that, at any time, been used to store WMM must also comply with the closure procedures described in paragraph D3, below.) Termination of use procedures include:

- a. Emptying the storage facility of all ammunition and explosives and related materials.
- b. Cleaning the storage facility, as required, to remove any visible explosives residue.
- c. Visually inspecting the storage facility for the presence of remaining ammunition or explosives or visible explosives residue by a knowledgeable individual that the installation or responsible activity commander appoints.
- d. Removing from the storage facility all fire and chemical hazard symbols and marking the storage facility as empty.
- e. Securing the storage facility to prevent inadvertent use or access.
- f. Notifying the appropriate emergency response and regulatory authorities of the change in the storage facility's use.
- g. Recording the date the storage facility was inspected, the name and position of the inspector, and the results in permanent real estate records.

3. Closure of Units That Stored CE WMM. In addition to the explosives safety requirements described in paragraph D2 above, when a unit that stored WMM under CE is permanently taken out of service for the storage of non-waste and WMM, installations and responsible activities will ensure:

a. The appropriate Federal or State environmental regulatory authority is notified, in writing, at least 45 days before the closure activities begin. Initiation of these closure procedures should occur within 180 days after the date that the decision is made to permanently stop using the unit for the storage of military munitions.

b. Security and access controls afforded the facility when it was used for the storage of ammunition and explosives are maintained.

c. The types of WMM (and their constituents) previously stored in the storage facility are reviewed to identify potential contaminants.

d. Sampling and analytical procedures to determine the nature, concentration, and extent of any potential contaminants are conducted per applicable Federal and State requirements. Contiguous areas to the storage facility (e.g., floor drain outfalls) will also be analyzed, as appropriate, for the presence of any potential contaminants.

e. The removal of all munitions and explosives, to include WMM, and the decontamination of any item left in the storage unit as well as the storage unit itself.

f. Any wastes generated during closure will be managed and disposed of per applicable RCRA requirements.

g. If sampling and analysis of the decontaminated unit show that there are no contaminants above applicable regulatory threshold concentrations, the unit may be considered “clean closed.” The installation or responsible activity commander will submit a “certification of closure,” which is signed by the commander or other equivalent-level authority and an independent (i.e., an individual not assigned in the commander’s or other equivalent-level authority’s chain of command) registered professional engineer, to the appropriate Federal or State environmental regulatory authority within 90 days. At a minimum, the certificate of closure must state that each of the explosives safety requirements set out in paragraph D2 above, have been met and that WMM and WMM residues were removed in such a manner as to protect the public and the environment consistent with the planned use of the unit and of the property. If closure certification cannot be rendered, the installation or responsible activity must contact the appropriate Federal and State environmental regulatory agency to determine the appropriate course of action.

h. If a unit that stored CE WMM will no longer be used because it is being excessed and transferred to another use under a Base Realignment and Closure or similar transfer action, the requirements of that transfer or of Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), may be used to satisfy the above closure requirements. Alternatively, the corrective action requirements of RCRA (detailed in 40 CFR Part 264, Subpart F) may be used to satisfy closure requirements if the environmental response actions associated with the property transfer are being managed under that process. Although States should be requested to accept these alternative response actions as meeting closure requirements, State environmental regulatory authorities may require additional, more stringent, closure standards for units that stored CE WMM.

i. When a unit that stored WMM under CE is permanently taken out of service for the storage of WMM but is to continue in service for the storage of non-WMM, installations and responsible activities will ensure that WMM and WMM residues are removed.

4. Closure of RCRA Permitted or Interim Status Storage Units. In addition to those explosives safety requirements detailed in paragraph D2, above, specific requirements for closure and post-closure care for RCRA permitted or interim status units are detailed in 40 CFR Parts 264 - 265, Subpart G - *Closure and Post-Closure Standards*, which the MR established, (or equivalent State regulations) and in the unit standard for the particular type of unit (e.g., containment buildings, containers, or hazardous waste munitions and explosives storage units). The applicable

requirements for a specific storage unit will be specified in a closure plan approved as part of the unit's RCRA permit. 40 CFR standards require the following closure procedures:

a. Remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoil, and structures and equipment contaminated with waste, and manage them as hazardous waste unless the provisions of 40 CFR 261.3(d) apply. (Note: The closure plan and closure activities for closure of magazines or units must meet all of the requirements specified in 40 CFR Parts 264 - 265, Subpart G.)

b. If, after removing or decontaminating all residues and making all reasonable efforts to remove or decontaminate contaminated components, subsoil, structures and equipment as required above, the installation or responsible activity finds that it can not practicably removed or decontaminated all contaminated subsoil can be practicably removed or decontaminated it must perform post-closure care per the post-closure requirements (see 40 CFR 264.310) that apply to landfills.

E. Treatment and Disposal of WMM which are Determined to be Hazardous Waste.

1. Except in cases of immediate response to an explosive or munitions emergency, hazardous WMM will only be treated at facilities with appropriate RCRA permits, to include emergency permits, or interim status. Such treatment will be per applicable Federal or State RCRA regulations. If WMM are deemed unsafe to ship and a RCRA permitted or interim status site is not located on the installation, the installation environmental office must consult with the Federal or State regulatory authority regarding the appropriate course of action, including the possibility of obtaining an emergency permit for treatment.

2. Records on all WMM treatment operations will be maintained per applicable Federal or State RCRA regulations, or facility permits.

F. Receipt of Off-Site Generated WMM at Treatment, Storage and Disposal (TSD) Facilities.

1. General. Permit conditions do not allow many DoD hazardous waste TSD facilities from receiving WMM from off-site sources. The MR allows installations and responsible activities to request the ability to receive WMM from off-site sources by submission, of a Class 1 and Class 2 permit modification requests to the permitting authority. Once it submits the request, the installation or responsible activity may accept WMM from off-site sources until the permitting authority decides on the Class 2-permit modification request. (Note: Installations in authorized States are cautioned to consult with the appropriate regulatory authority to determine the process for removing the restrictions.)

2. Interim Status Facilities. Interim status facilities that have a RCRA permit application pending approval that are to receive waste from off-site sources should review their permit application (e.g., Parts A and B) and amend it, as necessary, prior to its review and approval.

3. Permitted Facilities. The following requirements must be met before an installation or responsible activity is eligible to request the permit modification:

a. The installation's TSD facility had to be in existence and permitted to treat, store, or dispose of the specific type of WMM being received from off-site on the date when the off-site WMM became subject to hazardous waste regulatory requirements

b. The receiving installation had submitted a "Class 1" modification to request removal or amendment of permit provisions that restrict receipt of off-site WMM on or before the date when the off-site WMM became subject to hazardous waste regulatory requirements. (Submission of the Class 1 permit modification allows the installation to receive off-site waste on a temporary basis, pending the regulatory authority's review and decision on the Class 2 permit modification request; see paragraph c, below.)

c. The facility submits a complete “Class 2” permit modification request within 180 days after the date when the off-site WMM became subject to hazardous waste regulatory requirements.

4. Class 3 Permit Modifications. If an installation’s permit modification involves more than a change to receive off-site WMM, such as a change in quantity or type a Class 3-permit modification may be required. Consult the Federal or State regulatory agency to determine the appropriate course of action.

Chapter 8: Special Rules for Chemical Munitions

A. Waste Chemical Munitions and Agents. This section provides specific guidelines for management of waste chemical munitions and agents, to include those recovered under the Non-Stockpile Program and imposes minimum containment, vapor detection, and inspection requirements. In the past, DoD has managed waste chemical munitions and agents under appropriate RCRA requirements, Federal and state, and it intends to continue to do so.

B. Storage. Waste chemical munitions and agents will be stored per DDESB standards. In addition, the MR requires that the storage of waste chemical munitions and agents meet the requirements of 40 CFR 264/265 Subparts EE, DD, I, or J. The CE for storage is not applicable to or authorized for waste chemical munitions and agents.

1. Containment.

a. Primary Containment. Waste chemical munitions and agents require primary containment designed to contain the liquid constituents. The original container or shell casing, an overpack container for a leaking chemical munition, or a storage vessel or container for waste chemical agents normally meet this requirement.

b. Secondary Containment. Waste chemical munitions and agents that contain liquids or are liquid must have a secondary containment system (or vapor detection system, as discussed below) that assures that any released liquids are contained and promptly detected and removed from the waste area. Secondary containment may be achieved through retrofitting storage units with various design features (e.g., drains, sumps, impervious coating, or sloped floors), drip pans, overpacking containers, or other system that will contain any released liquid. However, retrofitting existing storage units to meet secondary containment standards is expensive and, because it requires the movement of the munitions, it increases the risk to the workers, the public, and the environment. In addition, overpacking or other secondary containment options might decrease storage capacity and require permitting of additional storage structures. Therefore, DoD intends to rely on the highly effective vapor detection system instead of secondary containment systems.

2. Vapor Detection System. As an alternative to secondary containment, installations that manage waste chemical munitions and agents may employ a vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response is taken. An appropriate response may include additional containment, such as repair of the container, overpacking, or removal from the waste area. Vapor detection will be conducted at least quarterly for all liquid waste chemical munitions and agents, and more frequently if either the managing Service determines the waste munition to have a greater tendency to leak or RCRA permits require such. This monitoring may be performed remotely by introducing detection sensors or sampling lines from the exterior of the structure. In addition to reducing opportunities for unnecessary exposure, remote detection allows DoD to sample a greater number of units just as effectively.

C. Inspections and Inventories.

1. Inspections. The use of a vapor detection system satisfies the requirements to periodically inspect units storing liquid wastes. In addition, waste chemical munitions and agents and their storage units will be visually inspected quarterly to verify the condition of the waste and the unit and to confirm that there is no migration of contaminants out of the unit.

2. Inventories. Waste chemical munitions and agents will be inventoried annually.

D. Recordkeeping. Records of inspections and inventories of waste chemical munitions and agents will be maintained for 3 years.

E. Response Activities. When evidence of a leaking chemical munition or agent is noted, the source will be located, isolated, and contained as soon as practicable, consistent with all safety, security, and environmental protection requirements. If the source cannot be located immediately, the structure will be closed, filtered continuously, and

monitored until the source is isolated and contained. Army publications contain specific containerization procedures and acceptable overpacks.

F. Transportation. Transportation of waste chemical munitions will comply with the restrictions set forth in Title 50 of the United States Code. If transported off-site, the transportation requirements of 40 CFR Part 263 apply. The Conditional Exemption for transportation is not applicable to the transportation of waste chemical munitions and agents.

Chapter 9: Emergency Responses

A. Explosives or Munitions Emergency Responses (“Emergency Responses”):

1. DoD policy is to provide technical support for explosives or munitions emergency responses (see Glossary) to military, Federal, State, and local law enforcement and emergency response authorities when requested.

2. The MR exempts "explosives or munitions emergency response specialists" (see Glossary) from compliance with RCRA's generator, transporter, and permitting requirements during immediate responses (see A5a of this chapter) to explosives or munitions emergencies. When an immediate response is not required (i.e., the response can be delayed without increasing the risk to human health or the environment), an emergency permit may be required. (See paragraph A5b of this chapter.)

3. An explosive or munitions emergency response specialist (emergency response specialist) can be any appropriately trained personnel attempting to control, mitigate, or eliminate the actual or potential threat posed by an explosive device. The threat posed by the emergency and the expertise required to eliminate this threat will determine the type of emergency response specialist required. (Paragraphs 5a1 and 5b1 below provide examples of emergency response specialists.)

4. When EOD personnel are dispatched, they assume the situation requires, from an explosive safety standpoint, an immediate response, the exception is when they are advised otherwise. Upon evaluation of an explosives or munitions emergency, the EOD or TEU emergency response specialists may determine that:

a. An immediate response is required. In this situation, the MR's immediate response exemption from RCRA applies. (See paragraph A5a of this chapter.)

b. An immediate response is not required, but the situation poses an imminent and substantial risk to human health or the environment. In this situation the MR's immediate response exemption from RCRA may not apply. The responder should consult with the installation's environmental office. (See paragraph A5b of this chapter.)

c. An emergency response is not required. In these situations, continued support by the EOD emergency response specialists may not be required and the item may not be a WMM. The munitions should be:

(1) Evaluated further for return to the active inventory.

(2) Handled through the DDA disposition process (see Chapter 6), if applicable.

(3) Processed through the host installation environmental office for WMM disposal, if applicable.

5. Requirements for RCRA Compliance. EPA's objectives in clarifying the applicability of RCRA to emergency responses were to remove regulatory impediments to emergency responses and promote the safe and prompt management of emergencies that involved explosives and munitions. RCRA rules exempt emergency responses from permit requirements in two ways. The distinctions between the two are based on the emergency response specialist's determination as to the action required to control or eliminate the actual or potential threat to human health, public safety, or property. These distinctions are:

a. Immediate Responses (Level 1):

(1) DoD policy is that only EOD and TEU personnel conduct Level 1 responses.

(2) EPA established exemptions from RCRA generator, transporter, and permitting (to include emergency permits) requirements during the "immediate response" to an explosives or munitions emergency. This

exemption allows emergency response specialists to take whatever action is necessary to control or eliminate the immediate threat. Such actions include the movement (transport) of an item to a safer location for defusing, detonation, or the performance of render-safe procedures. The EOD or TEU emergency response specialist is the only authority that can determine when a Level 1 response is terminated.

(3) EPA guidance as to what constitutes an immediate response (Level 1) is limited. DoD's position is that these include responses to situations where military munitions that are not properly secured or under DoD control potentially threaten human health, the environment, or property. DoD's intent is that EOD and TEU personnel will use established procedures and good judgment to determine whether a situation requires a Level 1 response.

(4) Reasonable Delays. When extenuating circumstances (e.g., adverse weather, nightfall, safety or etc.) delay actions necessary to terminate an explosives or munitions emergency, the response may be delayed until the necessary action can be completed. EOD or TEU personnel must ensure the explosives or munitions are in a safe and secure environment. If time permits or as agreed upon in an MOU (see paragraph A11 of this chapter), the EOD or TEU personnel will consult with the host installation's environmental office, which will consult with the appropriate Federal, State, or local environmental agency regarding permitting requirements. If the host installation does not have an environmental office, the EOD or TEU personnel should contact the DoD Component REC for assistance. (See Appendix A.)

(4) Once the EOD or TEU personnel determine the Level 1 response is over, remaining WMM, if any, must be managed in compliance with RCRA regulations or an emergency permit. In these situations, EOD or TEU support may no longer be required or the EOD or TEU personnel may be performing operations outside of their emergency response mission.

(5) Prior coordination with local authorities and regulators, regulator familiarization training, use of an MOU (Appendix B), and establishment of ground rules for such responses will minimize controversies arising during or after emergency responses.

b. Imminent and Substantial Endangerment Responses (Level 2):

(1) EPA did not fully exempt from RCRA regulation those situations that do not require an "immediate response" but that pose an "imminent and substantial endangerment to human health and the environment." EOD or TEU personnel must determine whether the response action can be delayed without compromising safety or increasing the risk long enough to obtain an emergency permit. When the response action can be delayed, the EOD or TEU personnel should consult with the host installation's environmental office, which will consult with the appropriate State or Federal regulatory authority. If the host installation does not have an environmental office, the EOD or TEU personnel should contact the DoD Component REC for assistance. (See Appendix A.)

(2) When EOD or TEU support is not required during a Level 2 response, qualified personnel such as quality assurance specialists (ammunition surveillance) (QASAS), weapons officers, ammunition handlers, and trained and certified DoD contractors may conduct Level 2 responses on DoD installations, or as directed.

(3) In Level 2 responses, EPA or the State may issue a temporary emergency permit that allows a response that is not in compliance with normal RCRA requirements.

(a) When requesting an emergency permit, the following information, as a minimum, should be provided:

1 Type of military munitions (hazardous waste) involved, to the extent known.

2 Manner and location of proposed disposal, treatment, or storage.

3 Manner in which the military munitions (waste) will be transported to another site, if

required.

(b) Environmental agencies normally issue such permits telephonically. The regulator is responsible for providing a written emergency permit within 5 days. The requesting installation is required to have the written permit as part of its emergency response records. To ensure appropriate documentation, the installation should submit a written follow-up to its telephonic emergency permit request and include this request in its records.

(c) Procedures for obtaining emergency permits should be included in all MOU's with the regulating authority.

(d) When a response involving non-military munitions or explosives requires an emergency permit, the civilian authority requesting EOD support is responsible for requesting the permit.

6. Coordination with Environmental Regulators. Whenever a response requires coordination with EPA or State environmental regulatory agencies, the host installation's environmental office will, with information provided by the emergency response specialists, ensure such coordination is made.

7. Site Remediation. EOD personnel, who perform an emergency response, are not responsible, under any condition, for remediation actions. As a general rule, if the object of the response is a military munition, then DoD retains responsibility. If the object is non-military, then local authorities are responsible.

8. DoD Sites Used for Emergency Responses. A RCRA operating permit is not required for DoD sites (e.g., EOD ranges) that emergency response specialists use for destruction or render-safe procedures of munitions recovered during emergency responses. For safe use, access to such DoD sites must be controlled and the explosive safety considerations of DoD 6055.9-STD (e.g., the distance to inhabited buildings, public traffic routes, and etc.) must be known. The use of known sites helps ensure recovered munitions, which can be transported safely, are managed in a manner that will not endanger the public or cause collateral damage.

9. Emergency Response Recordkeeping. The MR establishes a new RCRA record-keeping requirement for all explosives or munitions emergency responses. The responding unit must keep these records for at least 3 years. The content, which is similar to existing EOD records, includes:

- a. Date and time of response.
- b. Names and grade of individuals who respond.
- c. Type and description of the munitions (waste) addressed.
- d. Disposition of the munitions.
- e. A written copy of the emergency permit, if issued, and all related documents.

10. Memoranda of Understanding (MOUs). Appendix B provides a sample MOU that should be used as basis for the development of state or regional MOUs.

- a. DoD:

(1) Expects State and local environmental regulatory requirements to vary considerably. Therefore, the senior EOD official, in coordination with the appropriate REC, will prepare and coordinate an MOU or similar written agreement with the appropriate State or Federal authorities to ensure emergency response requirements and procedures are understood.

- (2) MOUs or similar agreements should cover as large a geographic area (e.g., an entire state or EPA

region) as possible. Therefore, EOD units will coordinate any written agreements regarding EOD emergency responses or support to local, state or federal authorities with both their chain of command and the appropriate REC. Signatories to the MOU's should, as appropriate, include the senior EOD official, local, state, or federal law enforcement and environmental regulatory authority, and the DOD Component REC for the area covered by the MOU.

b. For incidents involving non-DoD munitions, DoD policy places responsibility for obtaining required permits and meeting other environmental regulations and requirements with the official that requested EOD assistance.

c. For incidents involving DoD munitions, DoD policy requires its Components to:

(1) Comply with written agreements regarding emergency responses.

(2) Be prepared, in the absence of either a written agreement or agreed to procedures, coordinate with local public safety officials to ensure applicable Federal, State, or local environmental permits and approvals are obtained. The installation's environmental office will ensure such coordination is made. When appropriate, the installation's environmental office will ensure emergency response specialists are directly involved in such coordination.

d. DoD activities will elevate, through their chain of command, issues that cannot be resolved in a written agreement. DoD Components, installations, or EOD activities will, as appropriate, include the requirements of any written agreement in their emergency response procedures.

e. In developing a written agreement, it is important that roles, responsibilities, and authorities of all parties to the agreement be defined. Particular attention should be given to:

(1) Compliance with the provisions of 10 USC §2692, which prohibits bringing non-DoD owned hazardous materials onto DoD installations, except under certain circumstances.

(2) Emergency permits, if required, with special emphasis on the agency responsible for obtaining such permits.

f. Responsibility for Site Remediation. As a general rule, if the object of the response is a military munition, then DoD retains responsibility. If the object is non-military, then local authorities are responsible.

11. Training. In addition to DoD Component mandated explosives training, personnel engaged in munitions or explosive emergency responses (i.e., EOD or TEU personnel involved in Level 1 or Level 2 responses, or QASAS, Weapons Officers, DoD contractors, or other qualified personnel involved in Level 2 responses) should receive training equivalent to 29 CFR 1910.120, "Hazardous Waste Operations and Emergency Response." Installations will maintain training records for personnel who have completed training equivalent to 29 CFR 1910.120. These records may accompany personnel transferred to other installations. The following minimum information, which may already be included in the emergency response specialist's records, should be included in the training files:

a. The individual's name, job title, and start and end date of their assignment.

b. A written job description that describes the requisite skills, education, or other qualifications, and duties for each position.

c. A training plan that provides a written description of the type (e.g., OJT, classroom), frequency, and content of both introductory and continuing training attended or to be provided.

d. A certification or other documents that show that training or experience requirements have been met.

e. The date of last training attended.

f. The date of next required training.

B. Pre-planned EOD Support. Pre-planned activities include support of operations that do not have an immediate or direct effect on public safety or the protection of critical facilities and civilian requests for non-emergency EOD assistance. (Such support requests may be approved through the DoD Component chain of command.) Regardless of whether the requester is military or civilian, the requester or the responsible generator is responsible for obtaining any required treatment, storage, disposal or facility environmental compliance permits. The requester also retains overall responsibility for compliance with the MR, RCRA, and State or local environmental regulatory requirements. DoD policy is that EOD units should only be used as a last resort for non-emergency treatment or disposal (e.g., to operate an OB/OD unit) of WMM. In the event EOD personnel are used for such, the operation must comply with RCRA requirements or applicable State regulations and must not violate the terms of the RCRA treatment permit.

Chapter 10: Range Operations

A. General.

1. DoD Components should evaluate how the MR, which addresses munitions on active and inactive ranges, defines (see Glossary) military ranges (i.e., active, inactive, closed, transferred, and transferring) to determine the impact of these definitions on operational activities.

2. DoD Components should classify ranges as active, inactive, closed, transferred, or transferring ranges per Component guidance. (The DoD Range Rule, currently under development, will address munitions on closed, transferred, and transferring ranges.)

B. Range Management. DoD Components are responsible for managing ranges in a way that minimizes imminent and substantial endangerment to human health or the environment. The environmental stewardship of DoD ranges presents unique challenges because it combines the need for military operations with the need for protection of human health and the environment. DoD's policy is to pursue aggressive range management policies that ensure compliance with existing regulations, promote environmental stewardship, and allow its Components to accomplish their military mission.

C. Range Operations and Activities. Range operations and activities include: training military personnel in the safe and effective employment of military munitions or explosives; testing and evaluation of weapons and weapons systems; EOD training and operations; and range management activities (e.g., range clearance, deployment of targets). The MR excludes application of RCRA to most activities on active or inactive ranges. However, range operations that are potentially subject to RCRA are:

1. Evaluation and Testing. Upon completion of required evaluations or tests, any military munitions involved may, if there are no other use for them, become WMM. (See Chapter 3.)

2. Repair or Reuse. Used munitions that are removed from a range for either repair or reuse or an evaluation, which includes determination of whether or not the munitions can be repaired or reused, are not WMM. Upon a determination that the munitions cannot be repaired or reused, such munitions become WMM. (See Chapter 5.)

3. Reclamation, Treatment, or Disposal. Used munitions, to include malfunctions and misfires, that are taken off-range to allow for subsequent reclamation, treatment or disposal will be managed as WMM. (See Chapter 5.) Therefore, the storage and transportation of these munitions and any reclamation, treatment, or disposal will be per applicable RCRA requirements. (See Chapter 7.)

4. Constituents and Other Contamination. The MR does not consider remediation of munitions' constituents or non-munitions' contaminants (i.e., other than UXO or munitions fragments) as range clearance. These remediation activities are subject to applicable Federal, State, and local environmental laws.

5. Burial. Munitions buried as a result of their intended use (e.g., emplacement, or impact) are not WMM. As previously indicated, unused or used military munitions disposed of by burial or landfill are WMM and subject to the MR.

6. Used Munitions Landing Off-Range. Under the MR, military munitions that land off-range become WMM if they are not promptly rendered safe or retrieved. (See Chapter 5.)

E. Documentation of Range Operations. Installation or responsible activity commanders are responsible for maintaining a record of:

1. All military munitions expenditures (types, quantities, locations, and estimated dud rates) used or fired on ranges per DoD 6055.9-STD.

2. All mishaps attributed to UXO that occurred either on or off the installation per DoD 6055.9-STD.

3. UXO clearance operations conducted on ranges.

4. All areas containing known or suspected UXO on range maps or Installation master planning maps.

Chapter 11: Roles and Responsibilities

A. State Implementation.

1. State adoption of the MR will vary. This policy addresses DoD policy for implementing the MR consistently among its Components. Because RCRA implementation is delegated to the States, each State's interpretation of the MR can vary. Individual states can establish standards that are more stringent than those Federal regulations establish. It is in DoD's best interests to establish an open dialogue and work closely with the States, collectively and individually, to help ensure a baseline implementation of the MR. Accordingly, this policy establishes a process by which DoD and its Components may engage States and other interested parties to reach common understanding and ensure consistent compliance with applicable Federal, State, and local regulatory requirements.

2. Because implementation of the MR will occur to various degrees and at different rates, those most familiar with its day-to-day implications are the installations, RECs, and Federal and State regulatory agencies. DoD expects that these parties will identify areas that require consensus building and resolution. It is imperative that policy development occurs on the largest scale possible. Therefore, DoD anticipates that installations will elevate issues of DoD-wide importance up the chain of command and to the DoD Component REC, so that issues can be addressed on a wide scale. The RECs, in turn, will elevate these DoD-wide issues to the Munitions Rule Implementation Council (MRIC), which until its dissolution will provide both technical assistance and a forum for discussion of issues of National significance. RECs will continue their efforts to assist States in rule adoption through State administrative and legislative processes.

3. This policy assigns roles and responsibilities to installations, RECs, the MRIC, and the DoD Components. In addition, Appendix A provides the REC and MRIC points of contact.

B. Roles and Responsibilities:

1. Office of the Secretary of Defense:

a. Undersecretary of Defense, Acquisition and Technology (USD, A&T). Act as sole DoD Authorized Military Official designated to declare whole classes of munitions as WMM.

b. Deputy, Undersecretary of Defense, Environmental Security [DUSD(ES)]

(1) Support the State implementation process set out in this policy to assure State programs are consistent, to the extent possible, with this policy.

(2) Provide notice in the Federal Register of any changes to DOD 6055.9-STD as required by the MR.

2. Military Departments:

a. The Secretaries of the Military Departments:

(1) Support the RECs as they facilitate the State implementation process

(2) Resolve disputes between the Departments with respect to the implementation of this policy and the MR.

(3) Support DoD Component-consistent implementation of the MR through the MRIC or like group.

(4) Provide sufficient monitoring of this policy throughout the Department to ensure compliance with applicable laws and regulations.

b. The Chiefs of Military Services:

- (1) Implement and monitor the implementation of this policy.
- (2) Ensure DoD and Component explosives safety standards are established and maintained to provide full protection of human health and the environment from risks associated with WMM.
- (3) Support the RECs as they facilitate the state implementation process.
- (4) Ensure Component logistics programs are consistent, to the extent possible, with this policy.
- (5) Ensure installations that handle WMM are permitted for storage and/or treatment of such munitions, as required.
- (6) Ensure Component participation and support of the MRIC until its dissolution.
- (7) Designate DDAs, as appropriate.

c. The Secretary of the Army will ensure that the Single Manager for Conventional Ammunition, as the DoD-level Designated Disposition Authority:

- (1) Carry out the responsibilities as the DoD DDA per the MR and this policy.
- (2) Provide adequate waste treatment capabilities to support the Military Services to include off-site waste receipt and treatment capability where required.
- (3) Ensure that evaluation programs exist for all munitions in the disposition process.

d. The DoD Component POCs will:

- (1) Review the MR and this policy.
- (2) Represent their Component on the MRIC on all matters related to the implementation of the MR.
- (3) Act as primary POC for DoD Component RECs and major commands and claimants on all matters related to the implementation of the MR.
- (4) Assist DoD Component REC and major commands and claimants in responding to State requests for information and in coordinating proposed responses with the other DoD Component POCs on the MRIC.
- (5) Coordinate with the other DoD Component POCs on the regional issues and effects on operations or facilities, as forwarded by the DoD Component and major commands and claimants.
- (6) Forward consolidated list of issues or effects to other DoD Component POCs on the MRIC.
- (7) Monitor DoD REC discussions with State personnel on issues and impacts.
- (8) Immediately elevate any significant or precedent setting issues to the MRIC and coordinate with DoD Component RECs.
- (9) Provide to the MRIC the status of implementation efforts and discussion on a quarterly basis.

(10) Identify and elevate unresolved issues through appropriate command channels for resolution. (Note: Environmental Policy disputes will be presented to the Environment, Safety and Occupational Health Policy Board (ESOHPB) in its capacity as sponsor of the Regional Environmental Coordination program. Logistical and operational policy disputes will be presented through the Joint Ordnance Commanders Group (JOCG) to the Joint Logistics Commanders (JLC) for resolution. Overlapping issues will be coordinated with both groups.)

e. The DoD RECs:

- (1) Review the MR and this policy.
- (2) Identify regional issues and effects on operations or facilities, when forwarded by the DoD Component RECs.
- (3) Provide information briefs to senior State officials with appropriate representation from DoD Components.
- (4) Coordinate proposed responses to state requests for information with the DoD Component RECs and the appropriate DoD Component POCs.
- (5) Forward issues and impacts to the appropriate DoD Component POC.
- (6) Immediately elevate, through command channels, any significant or precedent setting issues to the appropriate DoD Component POC and notify the appropriate DoD Component RECs.
- (7) Facilitate the adoption of State regulations consistent with the MR.
- (8) Provide status of implementation efforts to the MRIC on a quarterly basis.
- (9) Elevate unresolved issues among DoD Components to the appropriate DoD Component POC for resolution.
- (10) Include summary of the MR implementation status as part of DoD REC semi-annual report.
- (11) Respond to installation requests for state specific compliance requirements when state MR regulations deviate from federal regulations and coordinate responses with the appropriate DoD Component POC.

f. DoD Component RECs:

- (1) Review the MR and this policy.
- (2) Identify regional issues and effects on operations or facilities, as initiated by the REC or as forwarded by the field installations.
- (3) Forward consolidated list of issues or effects to the appropriate DoD Component and to the DoD level REC.
- (4) Provide assistance (e.g., data, facility tours, and etc.) as requested by the DoD REC in support of discussions with the State.
- (5) Coordinate proposed resolution of issues as provided by the MRIC or the appropriate DoD Component POC with field installations.

(6) Elevate any significant precedent setting or unresolved issues to the appropriate DoD Component POC and DoD REC and coordinate with field installations.

(7) Provide status of implementation efforts to the DoD REC on a quarterly basis.

g. Field Installations and responsible activities:

(1) Contact their respective RCRA MR regulatory agency (State or EPA) and the appropriate DoD Component REC to determine appropriate regulatory authority and rules governing WMM.

(2) Review the MR and this policy

(3) Identify issues and effects on operations or facilities.

(4) Identify and forward potential deviations from this policy through command channels and to the DoD Component level REC.

(5) Provide support (e.g., data, facility tours, and etc.) as requested by the DoD Component REC for discussions with the State.

(6) Communicate with other field activities, Federal, State, and local regulators on facility issues related to MR implementation. (Note: Facility representatives will not negotiate issues of national or DoD-wide importance directly with a Federal, State, or local agency. For issues of National or DoD-wide importance, DoD representatives shall be appointed to negotiate.)

3. Joint Service Functions:

a. Joint Logistics Command (JLC). Support the MRIC and the implementation of this policy.

b. Joint Ordnance Commanders Group (JOCG). Support the MRIC and the implementation of this policy.

c. The Munitions Rule Implementation Council (MRIC) will, until dissolved (at which time the appropriate office within each Service will absorb its responsibilities):

(1) Act as coordinating body for the DoD Component POCs and RECs on all matters related to the implementation of the MR.

(2) Provide resources necessary to support the DoD REC discussions with States.

(3) Identify and elevate issues or unresolved disputes requiring high level involvement to the ESOHPB or through the JOCG to the JLC, as appropriate, for resolution. Overlapping issues shall be elevated to both groups.

(4) Provide guidance to DoD Component POCs and DoD RECs for response to State requests for information and for use in discussions with the states.

(5) Recommend revisions to DoD's Implementation Policy, as necessary, to address issues raised during discussions with the states.

(6) Provide guidance to DoD RECs on prioritization and responsibilities for addressing issues.

of the MR. (7) Interact with a network of State regulators and DoD representatives to facilitate implementation

Glossary

Explanation of terms. The terms defined herein are provided for uniformity purposes throughout this implementation policy.

Abandoned (40 CFR §266.202(b)): Materials that are discarded by being buried or landfilled, disposed of, burned or incinerated, or otherwise treated prior to disposal.

Active Munitions Inventory: The supply of chemical and conventional military munitions that are available for issue and use for combat, training, demonstrations, or research, development, testing, or evaluation.

Active Range (40 CFR §266.201): A military range that is currently in operation, construction, maintenance, renovation, or reconfiguration to meet current DoD component training requirements and is being regularly used for range activities.

Ammunition and Explosives Storage Facility: Any facility used for the storage of military munitions. This definition includes, but is not limited to: earth-covered magazines, above ground magazines, and open-air storage areas.

Ammunition Storage Unit (ASU): See Ammunition and Explosives Storage Facility.

Ammunition Supply Point (ASP): An area designated to receive, store, issue, and manage military munitions.

Amnesty Program: A Service based program intended to ensure the maximum recovery of standard military ammunition and explosives (A&E) outside the normal supply system. It is not intended to circumvent normal supply issue and turn-in procedures. It is established and implemented so that an individual is not intimidated or prevented from freely turning in A&E that has gotten outside the system.

Authorized Military Official (AMO): A DoD representative with the express written authority to designate an entire class or type of munitions as a waste at one time.

Authorized State: Under RCRA §3006, EPA may authorize a State or U.S. Territory, instead of the Federal Government, to administer and enforce RCRA. (EPA does, however, retain enforcement authority under RCRA §§3008, 3013, and 7003.) While the regulations a State or U.S. Territory adopt have to be at least as stringent as the Federal regulations, RCRA §3009 allows States or U.S. Territories to impose standards that are more stringent than the Federal standards. Thus, compliance requirements may vary from State to State or U.S. Territory. (Authorized states and territories for purposes of the Munitions Rule [MR] include all except the following: Alaska, Hawaii, Iowa, Puerto Rico, Virgin Islands, N. Mariana Islands, and American Samoa.)

Certification for Disposal: The formal documentation that military ordnance personnel have evaluated and provided appropriate disposition instructions for treatment or disposal at a RCRA-permitted treatment or disposal unit. This is a military logistics function indicating the ammunition is no longer useable.

Chemical Munitions and Agents (50 USC 1521 (j)(1)): A munition that through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

Civil Authorities: Civilian law enforcement units at the local, State, or Federal level.

Civilian Munitions Personnel: Civilian employees of the DoD, a DoD Component, or a private entity under contract to DoD or a DoD Component, who have received formal training in the identification, handling, removal, and treatment of pyrotechnics, explosives, and propellant PEP materials.

Closed Range (Proposed Range Rule, 62 Fed. Reg. 50,834 (1997) to be codified at 32 CFR §178.4): A military range that the military has either taken out of service as a range and has either been put to new uses that are incompatible with range activities or the military no longer considers to be a potential range area. A closed range is still under the control of a DoD component.

Code of Federal Regulations (CFR) (Title 40 of the Code of Federal Regulations, Explanation): The compilation of regulations promulgated EPA and other federal agencies promulgate to implement federal laws, including RCRA.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 U.S.C. 9601 et seq): The legislation covering hazardous substance releases into the environment and the cleanup of hazardous substance disposal sites. The regulations are located at 40 CFR 305 and 307.

Conditional Exemption (40 CFR §266.203 and §266.205): An exemption from the regulatory definition of hazardous waste; therefore, from compliance with specific environmental requirements pertaining to the storage and transport of hazardous waste. This exemption is conditional in that compliance with certain criteria and requirements set forth in 40 CFR 266.205 must be met.

Deflagration (DoD 6055.9-STD, DoD Ammunition and Explosives Safety Standards, August 1997, (A-3)): As relating to open burn, deflagration is a rapid chemical reaction in which the output of heat is enough to enable the reaction to proceed and be accelerated without input of heat from another source. Deflagration is a surface phenomenon with the reaction products flowing away the unreacted material along the surface at subsonic velocity. The effect of a true deflagration under confinement is an explosion. Confinement of the reaction increases pressure, rate of reaction and temperature, and may cause transition into a detonation.

Demilitarization: The act of: (1) Disassembling chemical or conventional military munitions for the purpose of recycling, reclamation, or reuse of components; or (2) Rendering chemical or conventional military munition innocuous or ineffectual for military use (i.e., removing the military offensive or defensive characteristics), which may include the disposal of unusable components of the munition. The term encompasses various approved demilitarization methods such as mutilation, alteration, or destruction to prevent further use for its originally intended military purpose.

Department of Defense (DoD) (DoD Directive 5100.1): The Executive Branch agency responsible for providing the military forces needed to deter war and protect the security of the United States. The major elements of these forces are the Army, Navy, Air Force, and Marine Corps. Under the President, who is also the Commander-in-Chief, the Secretary of Defense exercises authority, direction, and control over the Department which includes the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff and the Joint Staff, three Military Departments, nine Unified Combatant Commands, the DoD Inspector General, fifteen Defense Agencies, and nine DoD Field Activities.

Department of Defense Components: The Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Department of the Navy), the Chairman of the Joint Chiefs of Staff, the unified Combatant Commands, the Defense Agencies, the DoD field activities, and the National Guard located in the United States and U.S. Territories.

Department of Defense Explosives Safety Board (DDESB) (DoD Directive 6055.9, DDESB and Component Explosives Safety Responsibilities, July 1996): A Joint Service board composed of a chair, voting representatives from the Services, and a permanent military and civilian Secretariat, to perform Board operational and administrative functions. The DDESB provides impartial and objective advice to the Secretary of Defense and DoD Components on explosive safety matters. (See DoD 6055.9-STD for a detailed assignment of Board functions.)

Designated Disposition Authority (DDA): The only personnel in the DoD authorized to declare unused military munitions as WMM except in the case of an explosives or munitions emergency, abandoned munitions, or a declaration by the Authorized Military Official (AMO). Each Service has at least one DDA and may elect to have more (e.g., a DDA for a particular program or command). The single manager for conventional ammunition (SMCA) is the single DDA at

the DoD level. DDAs are responsible for evaluating munitions that are excess to current requirements or otherwise no longer part of the active inventory for safety, other uses, R3 possibilities, and treatment.

Destruction: The act of detonating non-waste used or unused munitions by means other than the originally designed weapon delivery system. Destruction includes those activities by EOD technicians when conducting range clearance operations, training, responding to EOD emergencies or destruction of off-range UXO. However, it does not include demilitarization methods of open burning or open detonation (OBOD), which are considered a means of treatment for WMM.

Detonation (DoD 6055.9-STD, DoD Ammunition and Explosives Safety Standards, August 1997, (A-3)): As relating to open detonation, detonation is a violent chemical reaction within a chemical compound or mechanical mixture evolving heating and pressure. A detonation which proceeds through the reacted material toward the unreacted at a supersonic velocity. The result of the chemical reaction is exertion of extremely high pressure in the surrounding medium forming a propagating shock wave that originally is of supersonic velocity.

Disposal (40 CFR §260.10): Process involving the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or waters so that such solid or hazardous waste or any constituent may enter the environment (e.g., burial) or be emitted into the air or discharged into any waters, including ground waters.

Explosive Ordnance Disposal: The detection, identification, field evaluation, rendering safe, recovery, and final destruction of UXO or unused munitions as a hazardous material. It may also include the rendering safe or treatment of used or unused munitions.

Explosives or Munitions Emergency (40 CFR §260.10): A situation involving the suspected or detected presence of UXO, damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist.

Explosives or Munitions Emergency Response (40 CFR §260.10): An immediate response by explosives and munitions emergency response personnel to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions or their transport to another location to be rendered safe, treated, or destroyed. Reasonable delay in the completion of an explosives or munitions emergency response, which a necessary, unforeseen or uncontrollable circumstances cause, do not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

Explosives or Munitions Emergency Response Specialist (40 CFR §260.10): Individuals trained in conventional or chemical munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include DoD emergency explosive ordnance disposal (EOD) technicians, technical escort unit (TEU) personnel, DoD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

Hazardous Waste (40 CFR §261.3): In general, a solid waste is a hazardous waste if: (1) It is, or contains, a hazardous waste listed in 40 CFR Part 261 Subpart D, or (2) It exhibits characteristics of ignitability, corrosivity, reactivity, and/or toxicity. Refer to 40 CFR Part 261.3 for further explanation.

Improvised Explosive Devices (IEDs): Devices fabricated in an improvised manner that are designed to destroy, disfigure, distract, or harass and that consist of explosive, destructive, lethal, noxious, pyrotechnic, or incendiary chemicals. These non-standard devices may be made from military or non-military materials.

Inactive Range (40 CFR §266.201): A military range that is not currently being used, but that is still under military control, and which the military both considers to be a potential range area and has not put to a new use that is incompatible with range activities. A potential range area is defined as meeting one of three criteria: These are: (1) (Mobilization and Force Projection) Ranges that are held by a DoD component for the purpose of preparing individuals and units for worldwide deployment, redeployments, or demobilization in response to war, stability, and support operations or projected training requirements that would exceed current active range capabilities; (2) (Force Structure) Ranges held as inactive during realignment, reorganization, stationing, or re-equipping of units projected to use these ranges under new training requirements; or (3) (Future) Ranges that are held by DoD Components for future use in support of the National Security Policy or DOD Component doctrine that ensures the capability to produce, establish, and maintain conditions needed for operational success.

Military (40 CFR 266.201): The Department of Defense, the Armed Services, U. S. Coast Guard, National Guard, Department of Energy, or other parties under contract or acting as an agent of the foregoing who handle military munitions.

Military Magazine: See Ammunition and Explosive Storage Facility.

Military Munitions (40 CFR 260.10): All ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy, and National Guard personnel. The term:

Includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DoD Components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.

Does not include: wholly inert items, improvised explosive devices, and nuclear weapons, devices, and components thereof. (However, it does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.)

Military Range (40 CFR 266.201): A designated land or water area 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, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas. This definition does not include airspace, or water, or land areas underlying airspace used for training, testing, or research and development where military munitions have not been used.

Open Burn (OB) (40 CFR 260.10): Open burning means the combustion of any material without; control of combustion air to maintain adequate temperature for efficient combustion; containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of emission of the gaseous combustion products. Most OB sites are permitted as miscellaneous units as part of the EPA permitting process for Treatment, Storage, and Disposal Facilities. See Deflagration.

Open Detonation (OD): A chemical process used for the treatment of unserviceable, obsolete, and or waste munitions whereby an explosive donor charge initiates the munitions to be detonated. Although surface detonations can be performed under certain circumstances, most munitions are treated in four to six-foot-deep pits for safety purposes. Most OD sites are permitted as miscellaneous units as part of the EPA permitting process for Treatment, Storage, and Disposal Facilities. See Detonation.

Reclamation: Processing to recover a usable product.

Recycle: To employ a munition or munitions component as an ingredient or feedstock to produce a product, or to process a munition or munitions component to recover a usable product.

Regional Environmental Coordinator (REC) (DoDI 4715.2): A senior military officer or DoD civilian assigned to one of ten EPA regions responsible for the dissemination of information and coordination of environmental matters and public affairs within their respective region while fully adhering to the military chain of command.

Resource Recovery and Recycling (R3): A DoD initiative to demilitarize military munitions using methods other than open burning/open detonation. This initiative includes reuse, or sale “as is” (e.g., Foreign Military Sales), conversion to a commercial product for sale or industrial use, or disassembly or modification and partial or whole use for a military application.

Retrograde: The process of moving material counter to the normal direction of distribution flow, such as in returning munitions back to the U.S. from overseas.

Single Manager for Conventional Ammunition (SMCA): The Army, as designated by the Secretary of Defense. The objectives and responsibilities of the SMCA can be found in DD 5160.65.

Transferred Range (Proposed Range Rule, 62 Fed. Reg. 50,834 (1997) to be codified at 32 CFR §178.4): A military range that is no longer under the control of a DoD Component and has been leased, transferred, or returned to another entity, to include federal entities, for use.

Transferring Range (Proposed Range Rule, 62 Fed. Reg. 50,834 (1997) to be codified at 32 CFR §178.4): A military range that is proposed to be leased or transferred from DoD to another entity or disposed of by conveying title to a non-federal entity. An active range will not be considered a “transferring range” until the transfer is imminent.

Treatment (40 CFR 260.10): Any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

Unexploded Ordnance (UXO) (40 CFR 266.201): Military munitions that have been primed, fused, armed, or otherwise prepared for action, and that has been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remains unexploded either by malfunction, design, or any other cause.

Unused Military Munitions: Unused military munitions include those that have not been fired, dropped, launched, placed, or otherwise used (e.g., munitions in the active inventory available for issue and use in training or operations; munitions issued to a using unit, taken into the field by that unit, but which are not used and which the unit returns to the ASP for return to the inventory).

Used or Fired Military Munitions: Used or fired munitions are those military munitions that: (1) have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, placed, or otherwise used; (2) munitions fragments, (e.g., shrapnel, casings, fins, and other components, to include arming wires and pins) that result from the use of military munitions; or (3) malfunctions or misfires (e.g., fail to properly fire or detonate).

Waste Military Munitions (WMM): A military munition is a “waste” military munition if it has been identified as: (1) A solid waste per 40 CFR Subpart M sections §266.202; or (2) A hazardous waste per 40 CFR Part 261 Subpart C or D. In general, WMM are hazardous waste when they exhibit the hazardous waste characteristic of ignitability, corrosivity, reactivity, or toxicity; or are listed as a hazardous waste.

Wholly Inert: Those munitions or munitions components that have never contained reactive materials (e.g., dummy munitions). Note: Once an item is employed as a component of a military munition, it is no longer considered wholly inert.

Appendix A: Points of Contacts

MRIC Members

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EPA Region I

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DoD REC

USN

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Service RECs

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USAF

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USMC

None

EPA Region II

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USMC

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EPA Region III

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EPA Region IV

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DoD REC

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Service RECs

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EPA Region V

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DoD REC

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USMC
None

EPA Region VI

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DoD REC

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USMC

None

EPA Region VII

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USMC

None

EPA Region VIII

(Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)

DoD REC

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Service RECs

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USMC
None

EPA Region IX

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EPA Region X

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USMC

None

APPENDIX B
Sample EOD Memorandum of Understanding

STATE/REGION/SERVICE
MEMORANDUM OF UNDERSTANDING
(MOU)

1. Parties: The parties to this MOU are _____ a Department of Defense (DoD) Explosive Ordnance Disposal (EOD) organization located at _____ and the _____ (Federal/State/Local public safety/law enforcement/environmental regulatory agency or agencies.)

2. Background:

a. DoD Component EOD organizations have personnel specially trained to handle all types of explosives, including improvised explosive devices. Other Federal agencies request assistance from DoD Component EOD organizations in emergencies involving explosives. These situations call for immediate action to abate the safety threat by treatment in place or removal to a safe location for treatment.

b. U.S. EPA's Military Munitions Rule (MR) (62 FR 6622, Feb. 12, 1997) makes it clear that EOD personnel engaged in an explosives or munitions emergency response are exempt from the generator, transporter, treatment, storage, and disposal unit requirements of the Solid Waste Disposal Act (423 USC Sec 6901, et seq.). The standards the MR established govern this MOU, whether the Federal or state government is administering the MR or the Solid Waste Act, in whole or part.

c. Except for providing temporary storage or treatment of explosives to provide emergency life saving assistance to civilian authorities or to assist law enforcement agencies per established agreements between DOD and the Federal agency concerned, the DOD is prohibited by law (10 USC 2692) from using DOD installations for the storage or treatment of non-DOD owned hazardous materials.

3. Purpose: This MOU, which address the roles and responsibilities of all parties regarding notification responsibilities during emergency response operations, is intended to:

a. Minimize the risk to public safety from the DoD Component EOD operations.

b. Maximize the efficiency, safety, and speed of any explosive treatment or retrieval operation.

c. Establish a framework for mutual assistance and consultation among the parties with respect to Component EOD explosives or munitions emergency response operations

4. Scope: This MOU applies to DoD Component EOD explosive or munitions response operations in the public sector.

5. Definitions:

a. Explosives or Munitions Emergency. A situation, which involves the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED),

other potentially explosive material or devices, or other potentially harmful military munitions or devices, that creates an actual or potential imminent threat to human health, to include public safety, or the environment, to include property, as determined by an EOD specialist. The EOD specialist may determine that such situations require immediate and expeditious action to control, mitigate, or eliminate the threat.

b. Explosives or Munitions Emergency Response. All immediate response activities by an EOD response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosive or munitions emergency. An explosives or munitions emergency response may include in-place render safe procedures, treatment or destruction of the explosives or munitions or the transport of the items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance does not terminate the explosives or munitions emergency response. Explosives or munitions emergency response can occur on either private or public lands and are not limited to responses to RCRA facilities.

c. Explosive or Munitions Emergency Response Specialist. An individual trained in munitions and explosives render safe procedures, handling, transportation, and destruction techniques. DoD Component explosive and munitions emergency response specialists include EOD and TEU personnel.

d. Military Munitions. Per 40 CFR 260.10, all ammunition products and components produced or used by or for DoD or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy, and National Guard personnel. The term:

(1) Includes: Confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DoD Components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and any components of such.

(2) Does not include: wholly inert items, improvised explosive devices, and nuclear weapons, devices, and components of such. (However, it does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.)

e. A DoD Component EOD response in the public sector is a response to an event that occurs outside of a military installation.

6. Roles and Responsibilities:

a. DoD Component EOD Organizations are responsible for.

(1) Providing, consistent with the military EOD organization's training and military mission requirements, explosives or munitions emergency response or EOD technical support to other Federal agencies and civil authorities, as requested.

(2) Providing a telephone point of contact for the explosives or munitions emergency response or EOD technical support to civil authorities.

(3) Providing emergency response military munitions or IED-related information necessary for civil authorities to complete post-incident reports, conduct investigations, and other requirements, as well as meeting other information needs.

b. Agencies Requesting Assistance are responsible for:

- (1) Contacting the appropriate environmental regulatory authority, upon identification of an emergency, regarding emergency notification requirements.
- (2) Requesting incident information from the responding EOD organization, as necessary to complete the required reports.
- (3) Completing reports and notifications required by the environmental regulatory authority.
- (4) Site remediation of any residual contamination, if the object of the emergency response is an non-military explosive or munition. (Note: Although EOD organizations performing explosives or munitions emergency responses are not responsible, for remediation action, if the object of the emergency response is a military munition, then DoD normally retains such responsibility.)
- (5) Providing support and security to the site as requested by the responding EOD unit.

c. Environmental Regulatory Authorities:

- (1) Provide a telephone point of contact for emergency response calls.
- (2) Assist in expediting issuance of emergency permits that may be required.

7. Duration/Amendment/Withdrawal. This MOU will remain in effect until amended or terminated by mutual agreement of the parties. Any party may withdraw from the MOU upon 60-days written notice to the other parties. (The signatories below represent the Agency involved; therefore, re-negotiation and signature upon change of a signatory is not required.);

FOR THE CIVIL AUTHORITIES/ENVIRONMENTAL REGULATORY AGENCIES:

_____ DATE _____

_____ DATE _____

FOR THE MILITARY SERVICE:

_____ DATE _____

APPENDIX C

CHECK LIST FOR THE STORAGE OF WMM MANAGED UNDER CE OR SUBPART EE REQUIREMENTS OF THE MR

This checklist is intended to serve as a field guide, an inspection tool, or teaching aid. It is intended that activities will use this checklist, to ensure the proper storage of WMM, along with, not instead of, Chapter 7 of this policy and Chapter 14 of DoD 6055.9-STD.

1. Does the installation manage WMM? If the answer is no, you are done.
2. Does the installation hold WMM for more than 90 days? If the answer is no, you are done.
3. Is the installation a small quantity generator or a conditionally exempt small quantity generator? If the answer is yes, you are done.
4. Has the state, in which the facility is located, adopted the use of Conditional Exemption (CE) for the storage of WMM? If the answer is no, skip to question 7.
5. If managing WMM, was Conditional Exemption claimed? If the answer is no, skip to question 7.
6. If claiming Conditional Exemption (CE) is the facility in compliance with ALL of the conditions for CE as listed below?
 - a. Are only WMM, which are not chemical munitions (50 USC 1521(j)(1)), being stored?
 - b. Are the WMM being stored per DoD 6055.9-STD?
 - c. Is the ammunition storage unit (ASU) being operated free from any waivers or deviations?
 - d. Has the installation notified the environmental regulatory agency within 90 days of when the ASU was first used to store conditionally exempt WMM?
 - e. Are the WMM being inventoried at least annually? Are these inventory records being maintained for a minimum of 3 years? The records must contain the following information:
 - (1) The type of waste military munition stored by standard nomenclature, Lot Number, Federal Supply Code (FSC), National Stock Number (NSN), Department of Defense Ammunition Code (DODAC), and Condition Code.
 - (2) The quantity of each type of waste military munition (WMM).
 - (3) The date that each military munitions, by type, was identified as waste.
 - (4) The last storage date for each, by type, WMM.
 - (5) The storage location or locations used.
 - (6) The disposition (e.g., destroyed, demilitarized, shipped) and date of action, by, of the waste munitions.
 - (7) When applicable, the sending and receiving sites for those WMM received from or shipped to off-site sources.
 - f. Is the ASU inspected at least quarterly for compliance with the conditions for the use of CE? Are these inspection records being maintained for a minimum of 3 years?

g. Is access to the ASU restricted to appropriately trained and authorized personnel?

h. Has the installation notified the environmental regulatory agency orally within 24 hours of any unpermitted or uncontrolled detonation, release, discharge, or migration (e.g., loss or theft, or as a result of fire or explosion, etc.) of WMM out of any storage unit that may endanger human health or the environment? Has this notification been made in writing within 5 days?

i. Has the installation notified the environmental regulatory agency of any ASUs no longer being used to store Conditionally Exempt WMM?

j. Are the WMM physically separated from non-WMM when both are stored in the same ASU?

k. Has a Standard Operating Procedure been prepared for the storage of the WMM which specifies procedures to ensure safety, security, and environmental protection? Have these procedures been coordinated with the appropriate Federal, state, and local emergency response authorities (e.g., law enforcement, fire departments, hospitals, etc.) and established planning committees?

7. If managing WMM, is the installation using permitted or interim status storage? If the answer is no, skip to question 9.

8. Are ALL the conditions of the permit or permit application being complied with?

Note: The requirements will be State/site specific.

9. If managing WMM, is the installation using Subpart EE storage? If the answer is no, you are done.

10. Is the ASU designed to minimize the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated run-off, to the soil, ground water, surface water, and atmosphere?

11. Are there any waivers or exemptions for the ASU? If yes, have they (after 31 Dec 1999) been approved by the Service Secretary responsible for safety, environment and installations?

12. Are WMM that are stored outdoors kept out of standing precipitation?

13. Do liquid WMM have a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area, or a vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken?

14. Has the installation established monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health and the environment are not escaping from the unit?

15. Has a Standard Operating Procedure been prepared for the storage of the WMM which specifies procedures to ensure safety, security, and environmental protection?

16. Are the WMM being inventoried at least annually?

A. Emergency Response (MRIP Chapter 9)

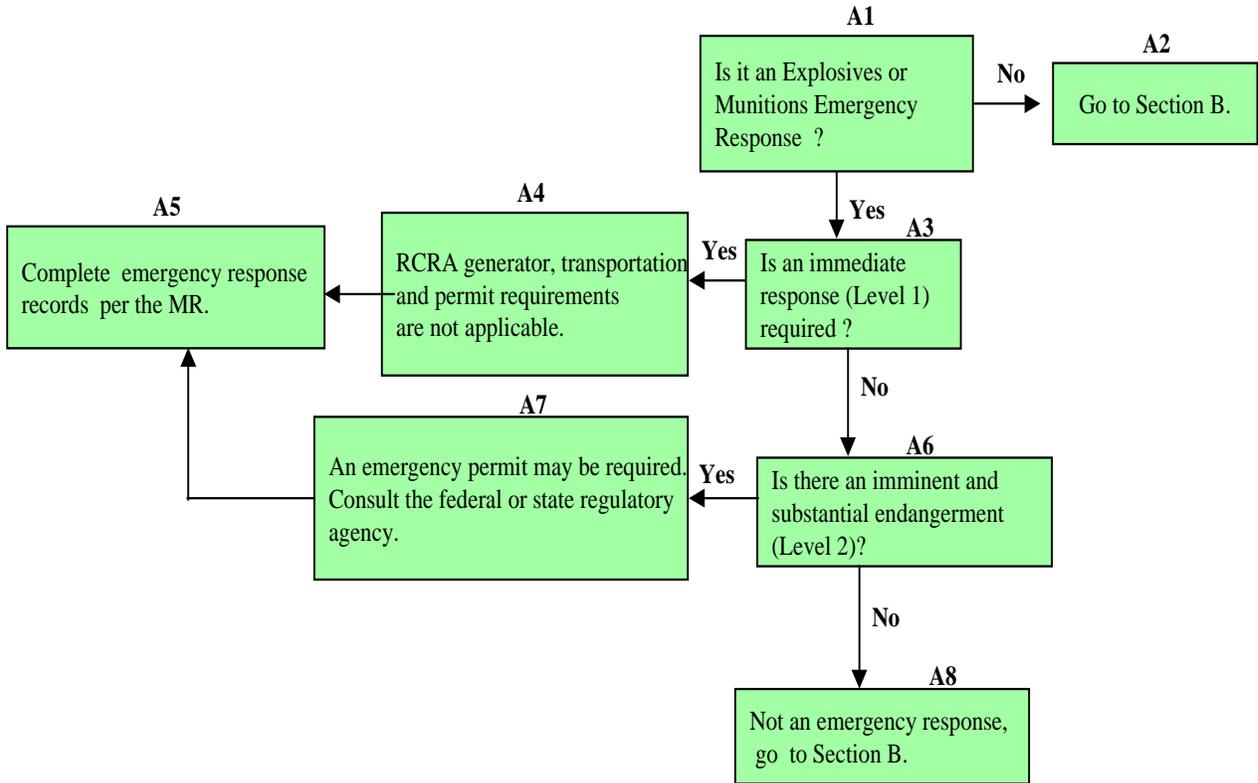
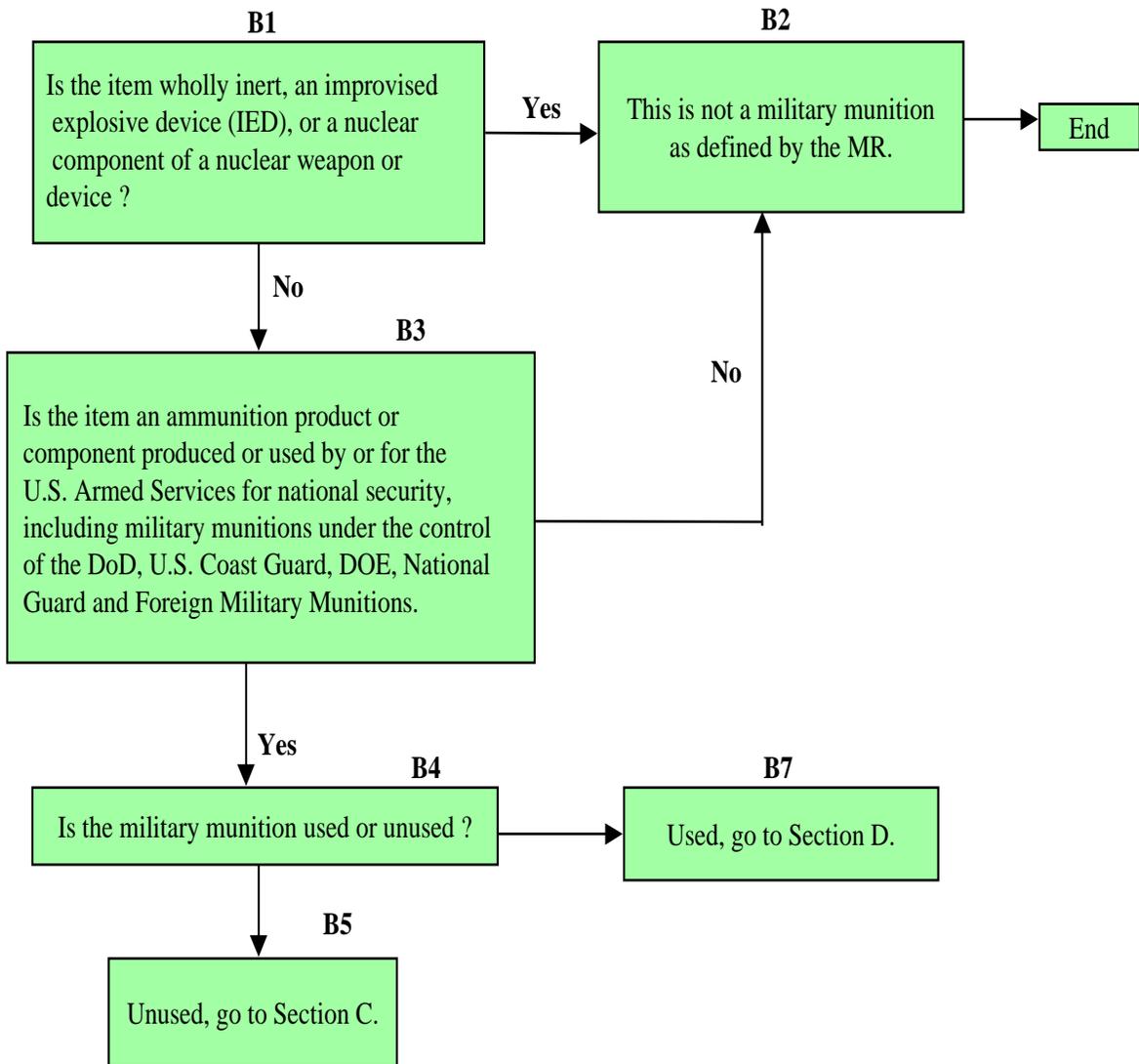


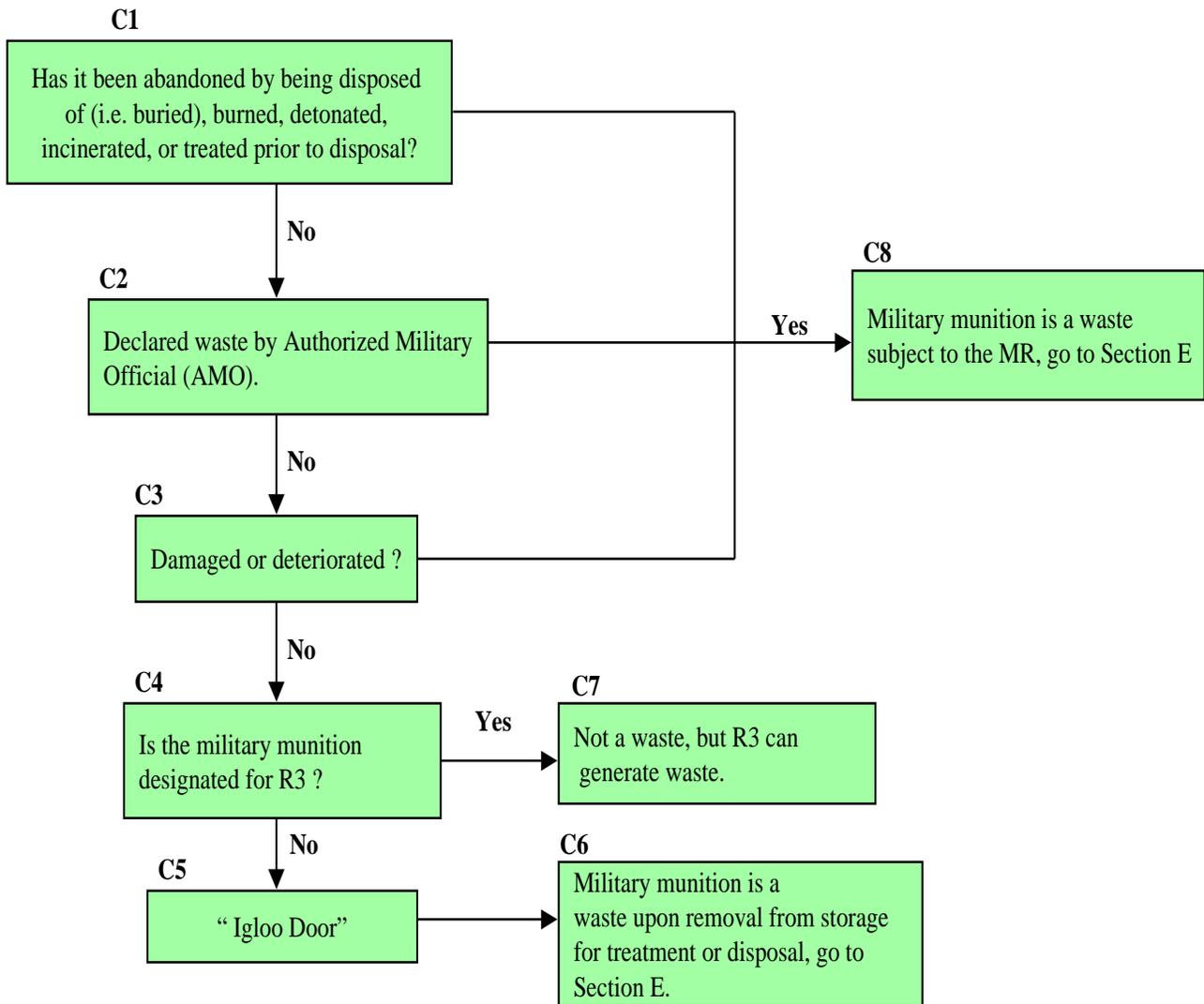
Figure 1:
MR Evaluation Process Schematic

Figure 1 visually depicts the process used to determine when military munitions become WMM. It provides general guidance and should be used as tool in support of implementing the MRIP.

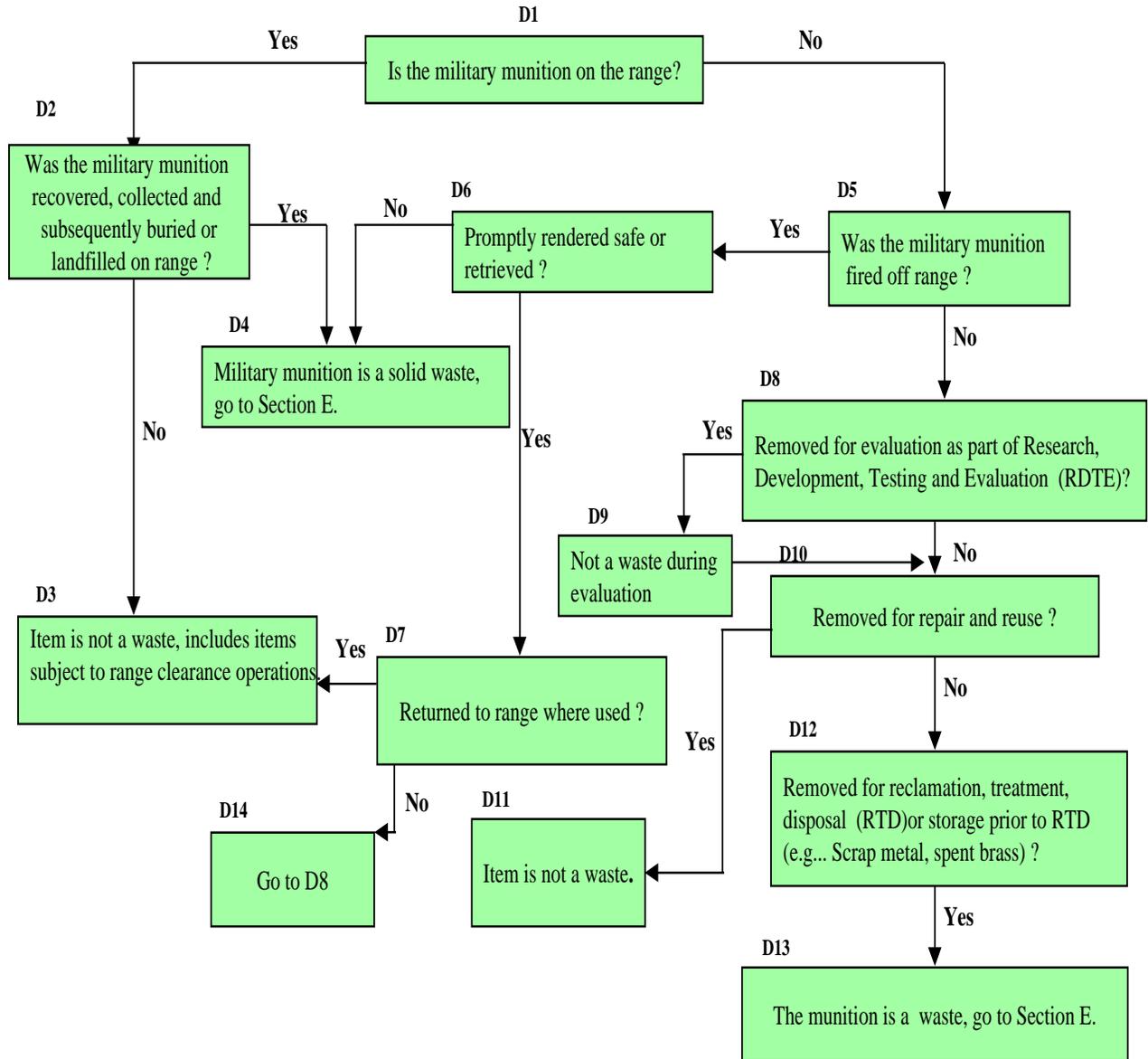
B. Is it A Military Munition ? (MRIP Chapter 2)



C. Is The Unused Munition a Waste ? (MRIP Chapter 4)



D. Is The Used Munition a Waste ? (MRIP Chapter 5)



E. Waste Determination (MRIP Chapter 7)

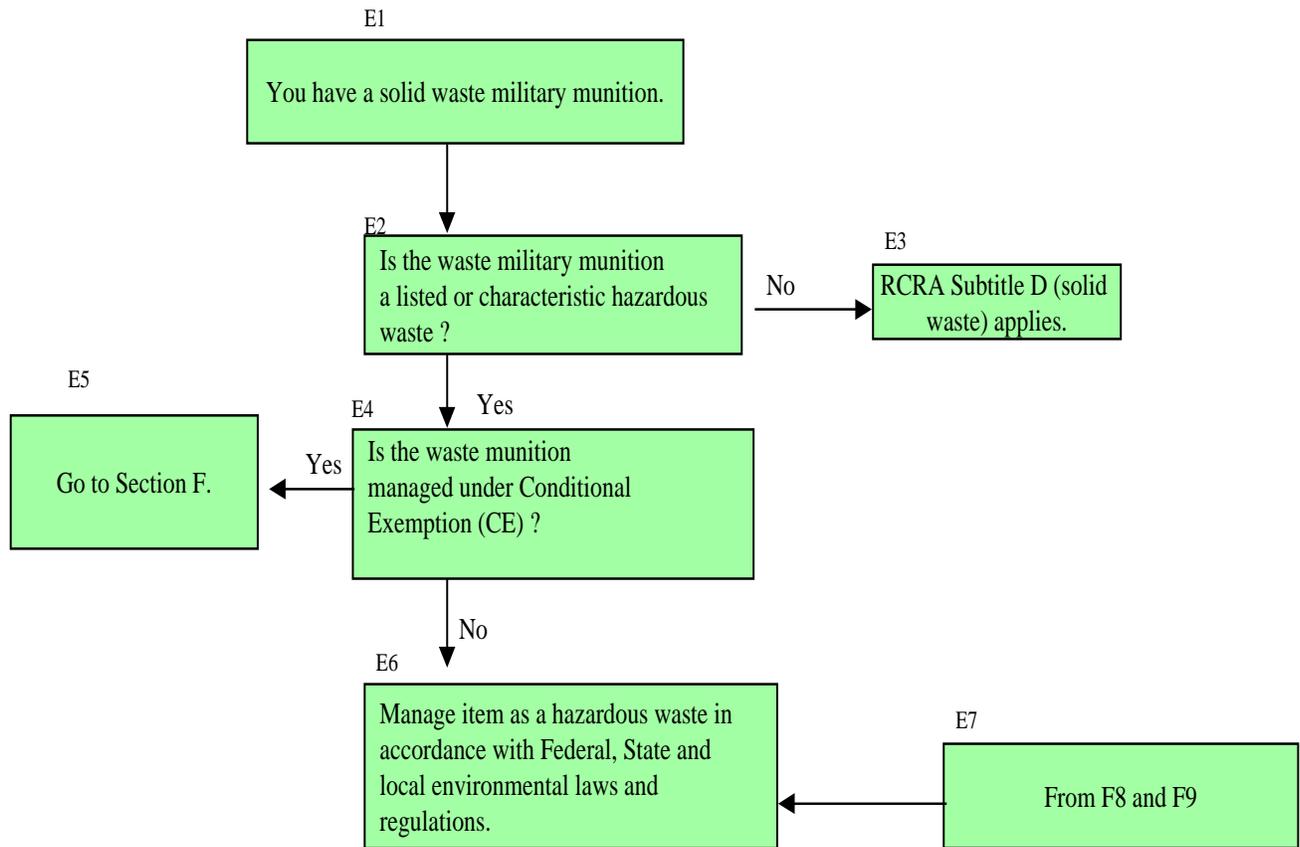


Figure 2 Designated Disposition Authorities

COMPONENT	MUNITIONS	DDA	POC
DOD (SMCA)	Conventional Ammunition	Industrial Operations Command ATTN: AMSIO-CG Rock Island, IL 61299-6000	Gary Radicic w: (309) 782-4704 f: (309) 782-3628 Radicicg@ioc.army.mil
Army	Conventional Ammunition	Industrial Operations Command ATTN: AMSIO-SMK-D Rock Island, IL 61299-6000	Gary Radicic w: (309) 782-4704 f: (309) 782-3628 Radicicg@ioc.army.mil
Army	Chemical	Chemical and Biological Defense Command (CBDCOM) ATTN: AMSCB-SO Aberdeen Proving Ground, MD 21010-5423	Wm. Trooper Studdert w: (410) 612-7238 DSN 584-7238 f: (410) 671-5415 DSN 584-5415 wtstудde@cbdcom.apgea.army.mil
Army	Missiles	Army Aviation & Missile Command (AMCOM) ATTN: AMSAM-DSA- WO, Jerry C. Simmons Redstone Arsenal, AL 35898	Richard Kerr w: (256) 842-0315 DSN 788-0315 f: (256) 876-5507 DSN 746-5507
Army	Test Unique, prototype and Foreign Munitions	Test and Evaluation Command (TECOM) ATTN: AMSTE-SM-LA, Robert Formica Aberdeen Proving Ground, Md	Robert Formica w: (410) 278-1120 DSN 298-1120 f: DSN 298-1138 Rformic@tecl.apg.army.mil
Army	Conventional Ammunition Testing	Tank Automotive and Armament Command (TACOM)-ARDEC ATTN: AMSTA-AR-WEL-A Picatinny Arsenal, Picatinny, NJ 07806-5000	Stephen Schoonmaker w: DSN 880-3452 f: DSN 880-4633 sschoon@pica.army.mil
Navy	Tomahawk Missile system	PEO(CU) ATTN: PMA-280114, Richard Shoemaker NAWC Patuxent River 47123 Buse Road Unit #IPT Patuxent River, MD 20670-1547	Richard Shoemaker w: (301) 757-6351 w: DSN 342-6351 richard_g._shoemaker@pecu.navy.mil Robert Borgelt w: (301) 757-6499

Navy	CAD/PAD items	PEO(T) ATTN: JP, Dennis Chappel NSWC Indian Head 101 Strauss Ave Indian Head, MD 20640-5035	Dennis Chappel w: (301) 743-6499/6493 pm5@command.ih.navy.mil Lt.Col. Joe Schuppel w: (301) 743-6636 jp@command.ih.navy.mil
Navy	Strategic Missiles	Strategic Systems Program (SSP) ATTN: Code SP20161, Fred Chamberlain 1931 Jefferson Davis Highway Arlington, VA 22202	Fred Chamberlain w: (703) 607-1512 f: (703) 607-2175 fred_chamberlain@ssp.navy.mil
Navy	All other items	Navy Demil Office ATTN:PM42, Robert Coyle NSWC Crane Div300 Highway 361 Crane, IN 47522-5000	Robert Coyle w: (812) 854-5501 DSN 482-5501 f: (812) 854-1227 coyle_robert@crane.navy.mil Don Gratzner w: (812) 854-1577
Marine Corps	All ground items	MARCORSYSCOM ATTN: AMEES Thierry Chiapello 3033 Wilson Blvd Arlington, VA 22201	Thierry Chiapello w: (703) 696-0949 f: (703) 696-1171 chiapellot@quantico.usmc.mil
Marine Corps	All air items	Navy Demil Office ATTN:PM42, Robert Coyle NSWC Crane Div 300 Highway 361 Crane, IN 47522-5000	Robert Coyle w: (812) 854-5501 f: (812) 854-1227 coyle_robert@crane.navy.mil Don Gratzner w: (812) 854-1577
Air Force	All items	Ogden Air Logistics Center OO-ALC/LIW Ogden, UT 84056-5819	John Geddes w: DSN 775-2472 f: DSN 775-4375 jgeddes@armament.hill.af.mil James E. Bracey w: DSN 775-4374 f: DSN 775-4375 jbracey@armament.hill.af.mil