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Definition of Solid Waste Compendium



Volume C: Military Munitions

U.S. Environmental Protection Agency
Office of Resource Conservation and Recovery
Materials Recovery and Waste Management Division



Navigation Tips

To improve document navigation:

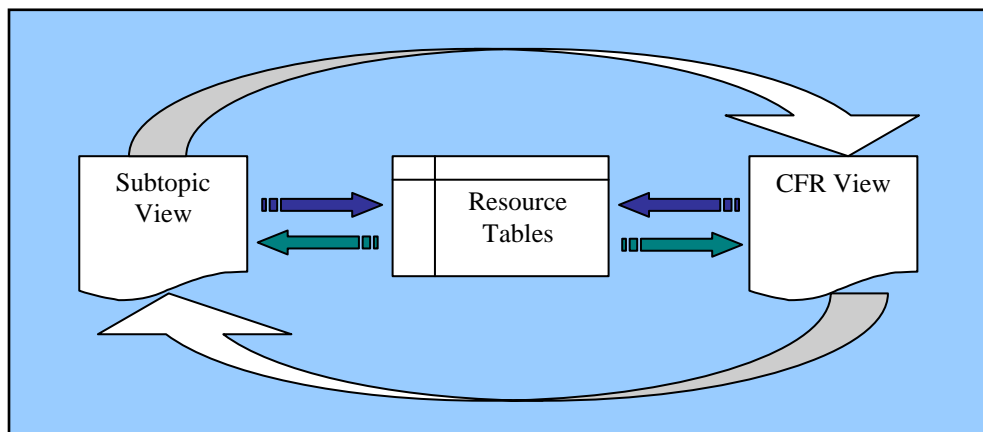
Using Microsoft Word

1. Use the  (back) and  (forward) buttons to navigate between document locations accessed via hyperlinks. These buttons can be accessed from the Navigation toolbar (View > Toolbars > Navigation). Alternatively, use ALT + Left (back) and ALT + Right (forward).
2. Use the Document Map. To show the Document Map, go to View > Document Map.

Using Adobe Reader (PDF)

1. Use the  (back) and  (forward) buttons to navigate between document locations accessed via hyperlinks. These buttons are found on the Navigation bar at the bottom of the document window.
2. Use the Bookmarks listed in the Bookmarks tab (located on the left-hand side of the document window).

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Introduction

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About the Compendium

The Definition of Solid Waste Compendium serves as a user-friendly reference to assist Environmental Protection Agency (EPA) and state staff, industrial facilities generating and managing solid and hazardous wastes, as well as the general public, in locating resources addressing specific regulatory issues within the federal Definition of Solid Waste regulations. Please note that this reference is designed to be web-based; therefore, the usefulness of the document is maximized when it is viewed on a computer that is connected to the internet.

A frequently mentioned comment from stakeholders is the need for EPA to improve the user-friendliness of the existing regulations. Commenters note that the applicable Definition of Solid Waste regulations and relevant guidance materials are difficult to locate and use. As a result, stakeholders have difficulty in understanding the regulations and identifying solid waste. The objective of this document is to address some of the commenters' concerns by consolidating and streamlining the Definition of Solid Waste into a helpful reference tool that features a user-friendly format, including references to EPA FAQs (Frequently Asked Questions), letters, memoranda, and guidance documents that EPA has provided to the public through the years to help stakeholders interpret the Definition of Solid Waste. This document does not change any of the existing solid or hazardous waste requirements.

The resources referenced in the Compendium may include Federal Register (FR) notices, documents from [Resource Conservation and Recovery Act \(RCRA\) Online](#) (e.g., RCRA Hotline Q&A's, letters, and memoranda issued by EPA), and other resources, as well as relevant Code of Federal Regulations (CFR) language. We have attempted to identify the relevant resources for each Compendium volume topic. However, please note that EPA could have inadvertently overlooked a relevant document and did not reference it. Certain available resources, such as superseded RCRA Online documents and items that were judged to be not pertinent, have not been referenced. Most of the referenced resources are not included or reproduced in the Compendium; instead, hyperlinks to the resources are provided. As an exception, we have included a version of relevant sections of the most current CFR language (as of the date on the cover of the Compendium) that we have reformatted to make it easier to read and find citations of interest. In addition, we also provide links to the [Government Printing Office's Electronic Code of Federal Register Web site](#) (e-CFR), which is updated almost daily.

Please note that this document is also not a rulemaking in any way. As well, the included reformatted CFR language is not a substitute for the CFR itself or the requirements in the CFR. The Government Printing Office frequently updates the e-CFR

Web site; where appropriate, hyperlinks to the respective CFR section at the e-CFR Web site are provided.

This reference document presents only the federal Definition of Solid Waste. Most states are authorized to manage their own solid and hazardous waste generator regulatory program. Therefore, states may have their own set of regulations that apply in lieu of federal regulations, and while most state solid and hazardous waste regulations are based on the federal requirements, some states have developed regulations more stringent than the federal program. We direct you to the following Web site to determine if the state regulatory program is different from the federal program:

<http://www.epa.gov/epawaste/wyl/stateprograms.htm>.

The Definition of Solid Waste includes multiple subtopics, and is codified under 40 CFR. To help users of the Compendium more quickly identify the information they need, and to make the Compendium more user-friendly in an electronic environment, the Compendium has been divided into multiple volumes. These volumes are available through EPA's Definition of Solid Waste Web site at <http://www.epa.gov/epawaste/hazard/dsw/compendium.htm>. Because regulations are promulgated throughout the year, EPA intends to update the Compendium volumes periodically to remain up-to-date with regulations relating to the Definition of Solid Waste.

About the Military Munitions Volume

This volume of the Compendium references resources that address the determination of whether a military munition is a solid waste. While "military munition" is referenced at 40 CFR 261.2 (Definition of Solid Waste), the substantive language that identifies those military munitions that are solid wastes is found at 40 CFR 266.200-266.206.

This document is organized into three main sections:

- *Subtopic View* – lists subtopics for resources
- *Resources* – lists resources for each subtopic
- *CFR View* – CFR language we've reformatted for easy reading

The *Subtopic View* section lists the subtopics among the military munitions resources. The *Resources* section is comprised of a table, arranged by subtopic, that provides basic details about and a hyperlink to each resource. The *CFR View* section provides reformatted versions of the relevant CFR language. As noted previously, this reproduced language is not a substitute for the CFR itself or the requirements in the CFR. Additionally, the Government Printing Office frequently updates the e-CFR Web site to which the document is linked; where appropriate, hyperlinks to the respective CFR section at the e-CFR Web site are provided. These three main sections are cross-referenced, where each section includes hyperlinks to the other sections. Please see the "Navigation Tips" section for document navigation guidance.

This reference document does not provide guidance on solid waste or hazardous waste regulations beyond issues relating to military munitions as this topic pertains to the Definition of Solid Waste. For more information regarding the various regulations applied to facilities generating or managing hazardous waste, see [Hazardous Waste Generators: A User Friendly Reference Document](#).

The Compendium volumes are also available in Microsoft Word format from EPA upon request. For more information on these versions and any other questions or comments concerning this document, please contact EPA's Office of Resource Conservation and Recovery:

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Subtopic View

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Military Munitions [§§266.200-266.206]

Resource Index:

- [Resources applicable to all subtopics](#)
- Resources specific to subtopic:
 - [Characteristic wastes](#)
 - [Treatment](#)
 - [Other](#)

Resources by Subtopic

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Subtopic	Resource	Document Date	Type	Topic is Focus?	Link to EPA Summary	Link to Resource
Resources applicable to all subtopics	1. 60 FR 56468 - Military Munitions (Proposed) [All pages]	11/8/1995	Federal Register	Yes	N/A	PDF
	2. 62 FR 6621 - Military Munitions (Final) [All pages]	2/12/1997	Federal Register	Yes	N/A	PDF
	3. §266.200 - Applicability	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
	4. §266.201 - Definitions	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
	5. §266.202 - Definition of solid waste	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
	6. §266.203 - Standards applicable to the transportation of solid waste military munitions	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
	7. §266.204 - Standards applicable to emergency responses	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
	8. §266.205 - Standards applicable to the storage of solid waste military munitions	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
	9. §266.206 - Standards applicable to the treatment and disposal of waste military munitions	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
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Characteristic wastes	1. DISCARDED CLASS C EXPLOSIVES	6/2/1988	Memo	Yes	Summary	PDF
	2. CLARIFICATION OF DISCARDED AMMUNITION OF 0.50 CALIBER	11/3/1994	Letter	No	Summary	PDF
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Subtopic	Resource	Document Date	Type	Topic is Focus?	Link to EPA Summary	Link to Resource
Treatment	1. DOD MUNITIONS BECOME SOLID WASTE SUBJECT TO RCRA WHEN THERE IS AN INTENT TO DISPOSE OR DESTROY THEM	10/3/1985	Letter	Yes	Summary	PDF
	2. DETONATING EXPLOSIVE WASTES	11/30/1987	Letter	No	Summary	PDF
	3. LEAKING OR DAMAGED EXPLOSIVES	11/30/1988	Letter	No	Summary	PDF
	4. REGULATORY DETERMINATION OF THE PRIMER NEUTRALIZATION UNIT "POPPING FURNACE"	9/19/1994	Letter	No	Summary	PDF
	5. CLARIFICATION OF DISCARDED AMMUNITION OF 0.50 CALIBER	11/3/1994	Letter	No	Summary	PDF
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Other	1. SHOOTING RANGES, APPLICABILITY OF RCRA TO	9/6/1988	Letter	Yes	Summary	PDF
	2. QUESTIONS AND ANSWERS REGARDING THE HANDLING OF EXPLOSIVES AND COMMERCIAL FUELS	9/19/1988	Memo	No	Summary	PDF
	3. MUNITIONS REGULATED AS HAZARDOUS WASTES	8/21/1990	Memo	Yes	Summary	PDF
	4. Environmental Fact Sheet: EPA Proposes Regulations Under RCRA for Military Munitions	11/1/1995	Fact Sheet	Yes	N/A	HTML
	5. Environmental Fact Sheet: EPA Finalizes Regulations Under RCRA for Military Munitions	2/1/1997	Fact Sheet	Yes	N/A	HTML
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CFR View Index

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NOTE: The CFR links in the below index are internal to this document.

CFR Location	Title/Topic
266.200	Applicability
266.201	Definitions
266.202	Definition of solid waste
266.203	Standards applicable to the transportation of solid waste military munitions
266.204	Standards applicable to emergency responses
266.205	Standards applicable to the storage of solid waste military munitions
266.206	Standards applicable to the treatment and disposal of waste military munitions

CFR View

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NOTE: The CFR language outline has been formatted

§266.200: Applicability.

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(a) The regulations in this subpart identify when military munitions become a solid waste, and, if these wastes are also hazardous under this subpart or 40 CFR part 261, the management standards that apply to these wastes.

(b) Unless otherwise specified in this subpart, all applicable requirements in 40 CFR parts 260 through 270 apply to waste military munitions.

§266.201: Definitions.

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

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

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

Director is as defined in 40 CFR 270.2.

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

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

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

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

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

Military munitions is as defined in 40 CFR 260.10.

§266.201: Definitions (cont.).

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

Unexploded ordnance (UXO) means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

§266.202: Definition of Solid Waste.

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

- (1) Used for its intended purpose, including:
 - (i) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or
 - (ii) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or
 - (iii) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, “use for intended purpose” does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.
- (2) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in 40 CFR 261.2(c)(1), or burning for energy recovery as defined in 40 CFR 261.2(c)(2).

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

- (1) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in paragraph (a) of this section), incinerated, or treated prior to disposal; or

§266.202: Definition of Solid Waste (cont.).

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(2) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal, or

(3) The munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

(4) The munition has been declared a solid waste by an authorized military official.

(c) A used or fired military munition is a solid waste:

(1) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

(2) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

(d) For purposes of RCRA section 1004(27), a used or fired military munition is a solid waste, and, therefore, is potentially subject to RCRA corrective action authorities under sections 3004(u) and (v), and 3008(h), or imminent and substantial endangerment authorities under section 7003, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

§266.203: Standards applicable to the transportation of solid waste military munitions.

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(a) *Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation.*

(1) Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under 40 CFR part 261, are listed or identified as a hazardous waste (and thus are subject to regulation under 40 CFR parts 260 through 270), unless all the following conditions are met:

(i) The waste military munitions are not chemical agents or chemical munitions;

§266.203: Standards applicable to the transportation of solid waste military munitions (cont.).

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(ii) The waste military munitions must be transported in accordance with the Department of Defense shipping controls applicable to the transport of military munitions;

(iii) The waste military munitions must be transported from a military owned or operated installation to a military owned or operated treatment, storage, or disposal facility; and

(iv) The transporter of the waste must provide oral notice to the Director within 24 hours from the time the transporter becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of paragraph (a)(1) of this section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within 5 days from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of paragraph (a)(1) of this section.

(2) If any waste military munitions shipped under paragraph (a)(1) of this section are not received by the receiving facility within 45 days of the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Director within 5 days.

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

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

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

§266.203: Standards applicable to the transportation of solid waste military munitions (cont.).

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(c) *Amendments to DOD shipping controls.* The Department of Defense shipping controls applicable to the transport of military munitions referenced in paragraph (a)(1)(ii) of this section are Government Bill of Lading (GBL) (GSA Standard Form 1109), requisition tracking form DD Form 1348, the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the Department of Defense shipping controls shall become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in paragraph (a)(1)(ii) of this section have been amended.

§266.204: Standards applicable to emergency responses.

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

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

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(a) Criteria for hazardous waste regulation of waste non-chemical military munitions in storage.

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

(i) The waste military munitions are not chemical agents or chemical munitions.

(ii) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).

(iii) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.

(iv) Within 90 days of August 12, 1997 or within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the Director of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in paragraph (a)(1) is claimed.

§266.205: Standards applicable to the storage of solid waste military munitions (*cont.*).

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(v) The owner or operator must provide oral notice to the Director within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of paragraph (a)(1) that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within 5 days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of paragraph (a)(1) of this section.

(vi) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of paragraph (a)(1) of this section, and must maintain records of the findings of these inventories and inspections for at least three years.

(vii) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

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

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

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

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

§266.205: Standards applicable to the storage of solid waste military munitions (*cont.*).

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(d) Waste chemical munitions.

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

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

(e) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in paragraph (a)(1)(iii) of this section, are DOD 6055.9–STD (“DOD Ammunition and Explosive Safety Standards”), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards shall become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in paragraph (a)(1) of this section have been amended.

§266.206: Standards applicable to the treatment and disposal of waste military munitions.

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The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 40 CFR Parts 260 through 270.

*****End of Military Munitions CFR Excerpts *****

Glossary of Acronyms

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Acronym	Meaning
CFR	Code of Federal Regulations
DDESB	Department of Defense Explosives Safety Board
DOD	Department of Defense
DOE	Department of Energy
e-CFR	electronic Code of Federal Regulations
EPA	Environmental Protection Agency
FR	Federal Register
GBL	Government Bill of Landing
RCRA	Resource Conservation and Recovery Act
UXO	Unexploded ordnance