

US EPA ARCHIVE DOCUMENT

Revision Checklist 156 Summary

Rule Title: Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties; Final Rule

Checklist Title: Military Munitions Rule

Reference: 62 FR 6622-6657

Promulgation Date: February 12, 1997

Effective Date: August 12, 1997

Cluster: RCRA Cluster VII

Provision Type: Non-HSWA

Linkage: None

Optional: No; however, certain provisions are optional

Summary: This rule is a response to the Federal Facility Compliance Act of 1992 which amended RCRA by adding a new section 3004(y). That Act mandated EPA to promulgate regulations that identify when conventional and chemical military munitions become a hazardous waste under RCRA, Subtitle C, and provide for the safe storage and transport of such waste. In addition, this rule amends existing regulations regarding emergency responses involving both military and non-military munitions and explosives. This amendment clarifies that EPA considers immediate or time-critical responses to explosives or munitions emergencies to be an immediate response to a discharge or imminent and substantial threat of a discharge of a hazardous waste under 40 CFR 264.1(g)(8), 265.1(c)(11), and 270.1(c)(3).

In addition, this rule exempts all generators and transporters of hazardous waste, not just the military, from the RCRA manifest system requirements for the transportation of hazardous waste on public or private right-of-ways on or along the border of contiguous properties, under the control of the same person, regardless of whether the contiguous properties are divided by right-of-ways. This exemption arose in the context of military munitions because many military installations are on properties that are split by public roads. This revision is expected to reduce the amount of paperwork for generators whose property is divided by right-of-ways without loss in protection of public health.

State Authorization: This rule is placed in RCRA Cluster VII. The State modification deadline is July 1, 1998 (or July 1, 1999 if a State statutory change is necessary). In authorized States, non-HSWA requirements will not be applicable until the States revise their programs to adopt equivalent requirements under State law. Only final authorization is available for the non-HSWA provisions.

For those Federal changes in this rule that are less stringent, States do not have to modify their programs. The less stringent portions of this rule are the following: (1) the manifest exemption for transport on right-of-ways on contiguous properties (§ 262.20(f)), (2) the RCRA manifest

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exemption for the off-site shipment of unused waste munitions from one military installation to another (§ 266.203), and (3) the conditional exemption for waste munitions storage (§ 266.205).

The following provisions are considered more stringent than current requirements: (1) the requirement that military installations retrieve munitions fired off-range or keep a record of the event (§ 266.202(d)), and (2) the requirement that military personnel responding to immediate threats involving military munitions maintain records of the response (§§ 264.1(g)(8)(iv), 265.1(c)(11)(iv), and 270.1(c)(3)(iii)). Authorized States must adopt these requirements as part of their State programs and apply to EPA for approval of their program revisions. All other provisions are neither more nor less stringent than current requirements.

The State Revision Application must include applicable regulations, AG statement addendum, Revision Checklist 156, other associated checklists and other application materials, i.e. a program description and an MOA, as determined by the Regional office.

Attorney General's Statement Entries: The following entries should be placed at Subsection XV (X)-(Z) in the Model Revision Attorney General's Statement.

X. State statutes and regulations identify when conventional and chemical military munitions become a hazardous waste under RCRA and provide for the safe storage and transport of such waste. They also clarify that emergency responses involving both military and non-military munitions and explosives are considered an immediate response to a discharge or imminent and substantial threat of a discharge of a hazardous waste as indicated in Revision Checklist 156.

Federal Authority: RCRA § 2002, 3001-3007, 3010, and 7003; 40 CFR 260.10; 261.2(a)(2)(iii)-(iv); 262.10(i); 263.10(e)&(f); 264.1(g)(8)(i)(D), (g)(8)(iv), and (i); 264.70; 264.1200 through 264.1202; 265.1(c)(11)(i)(D), (c)(11)(iv), and (f); 265.70; 265.1200 through 265.1202; 266.200(a)-(b); 266.201, 266.202, 266.204, 266.206, 270.1(c)(3)(i)(D), and 270.1(c)(3)(iii) as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

Y. [OPTIONAL: This is a reduced requirement.] State statutes and regulations provide for a manifest exemption for off-site shipment of unused waste munitions from one military installation to another as indicated in Revision Checklist 156.

Federal Authority: RCRA § 3001, 3003, 3004(y); 40 CFR 266.203 as amended on February 12, 1997 (62 FR 6622).

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Z. [OPTIONAL: This is a reduced requirement.] State statutes and regulations provide for conditional exemption for waste munitions storage as indicated in Revision Checklist 156.

Federal Authority: RCRA § 3001 and 3004(y); 40 CFR 266.205 as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and AdoptionRemarks of the Attorney General

The following entry should be placed at Subsection VII (G) in the Model Revision Attorney General's Statement.

G. [OPTIONAL: This is a reduced requirement.] State statutes and regulations provide that generators and transporters of hazardous waste are exempt from the RCRA manifest system requirements for the transportation of hazardous waste on public or private right-of-ways on or along the border of contiguous properties, under the control of the same person, regardless of whether the contiguous properties are divided by right-of-ways, as indicated in Revision Checklist 156.

Federal Authority: RCRA § 3003 and 3004(y); 40 CFR 262.20(f) as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and AdoptionRemarks of the Attorney General

The following entry should be placed at Subsection XVI (AA) in the Model Revision Attorney General's Statement.

AA. State statutes and regulations provide that a permittee may accept military munitions even when barred from accepting off-site wastes if certain conditions are met as indicated in Revision Checklist 156.

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Federal Authority: RCRA § 3004(y) and 7004; 40 CFR 270.42(h), (h)(1)-(3), and (i) as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

Incorporation by Reference Guidance:

There is no special guidance for States that incorporate by reference with respect to this Revision Checklist.