

3745-266-205 **Standards applicable to the storage of waste military munitions.**

(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 in Chapter 3745-51 of the Administrative Code, are listed or identified as a hazardous waste (and thus are subject to regulation under Chapters 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57, 3745-65 to 3745-69, 3745-205, 3745-256, 3745-266, 3745-270, 3745-273, and 3745-279 of the Administrative Code), unless all the following conditions are met:

- (a) The waste military munitions are not chemical agents or chemical munitions.
- (b) The waste military munitions ~~must~~shall be subject to the jurisdiction of the department of defense explosives safety board (DDESB).
- (c) The waste military munitions ~~must~~shall be stored in accordance with the DDESB storage standards applicable to waste military munitions.
- (d) Within ninety days after December 7, 2004 or within ninety days after a storage unit is first used to store waste military munitions, whichever is later, the owner or operator ~~must~~shall 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) of this rule is claimed.
- (e) The owner or operator ~~must~~shall provide verbal notice to the director within twenty-four hours after 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 rule that may endanger health or the environment. In addition, a written submittal describing the circumstances ~~must~~shall be provided within five days after 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 rule.

- (f) The owner or operator ~~must~~shall inventory the waste military munitions at least annually, ~~must~~shall inspect the waste military munitions at least quarterly for compliance with the conditions of paragraph (A)(1) of this rule, and ~~must~~shall maintain records of the findings of these inventories and inspections for at least three years.
- (g) Access to the stored waste military munitions ~~must~~shall be limited to appropriately trained and authorized personnel.
- (2) The conditional exemption in paragraph (A)(1) of this rule from regulation as hazardous waste applies only to the storage of non-chemical waste military munitions. ~~The exemption~~ 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 rule applies only so long as all of the conditions in paragraph (A)(1) of this rule are met.
- (B) Notice of termination of waste storage. The owner or operator ~~must~~shall notify the director when a storage unit identified in paragraph (A)(1)(d) of this rule will no longer be used to store waste military munitions.
- (C) Reinstatement of conditional exemption. If any waste military munition loses ~~its~~the conditional exemption under paragraph (A)(1) of this rule, 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 rule. 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 rule. If the director does not take action on the reinstatement application within sixty days after receipt of the application, then reinstatement is 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~~the director 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 rule, the director may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

(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 in Chapter 3745-51 of the Administrative Code, are listed or identified as a hazardous waste and are subject to the "hazardous waste rules" as defined in rule 3745-50-10 of the Administrative Code.
- (2) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste in Chapter 3745-51 of the Administrative Code, are not subject to the storage prohibition in rule 3745-270-50 of the Administrative Code.

(E) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in paragraph (A)(1)(c) of this rule, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards").

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-50-11 of the Administrative Code titled "Incorporated by reference."]

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