

(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.

(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.**

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.

**Subpart N—Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal.**

SOURCE: 66 FR 27262, May 16, 2001, unless otherwise noted.

## TERMS

**§ 266.210 What definitions apply to this subpart?**

This subpart uses the following special definitions:

*Agreement State* means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

*Certified delivery* means certified mail with return receipt requested, or equivalent courier service, or other means, that provides the sender with a receipt confirming delivery.

*Director* refers to the definition in 40 CFR 270.2.

*Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)* is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations.

*Exempted waste* means a waste that meets the eligibility criteria in 266.225 and meets all of the conditions in § 266.230, or meets the eligibility criteria in 40 CFR 266.310 and complies with all the conditions in § 266.315. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 40 CFR 261.3.

*Hazardous Waste* means any material which is defined to be hazardous waste in accordance with 40 CFR 261.3, "Definition of Hazardous Waste."

*Land Disposal Restriction (LDR) Treatment Standards* means treatment standards, under 40 CFR part 268, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

*License* means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under

authority of the Atomic Energy Act of 1954, as amended.

*Low-Level Mixed Waste (LLMW)* is a waste that contains both low-level radioactive waste and RCRA hazardous waste.

*Low-Level Radioactive Waste (LLW)* is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2)

*Mixed Waste* means a waste that contains both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

*Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)* means radioactive materials that:

(1) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(2) Are produced by an accelerator. NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.

*NRC* means the U. S. Nuclear Regulatory Commission.

*We or us* within this subpart, means the Director as defined in 40 CFR 270.2.

*You* means a generator, treater, or other handler of low-level mixed waste or eligible NARM.

## STORAGE AND TREATMENT CONDITIONAL EXEMPTION AND ELIGIBILITY

**§ 266.220 What does a storage and treatment conditional exemption do?**

The storage and treatment conditional exemption exempts your low-level mixed waste from the regulatory definition of hazardous waste in 40 CFR 261.3 if your waste meets the eligibility criteria in § 266.225 and you meet the conditions in § 266.230.

**§ 266.225 What wastes are eligible for the storage and treatment conditional exemption?**

Low-level mixed waste (LLMW), defined in § 266.210, is eligible for this conditional exemption if it is generated