

TOPIC: RCRA Permit Exempt Emergency Responses



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1

The RCRA Emergency Response Regulated Community Includes...

- Fire Fighters
- Police Officers
- Bomb Squads
- Federal Agencies
 - BATF U.S. Customs
 - FBI DOD
- Other Explosive or Emergency Personnel
- RCRA Facilities potentially



Law enforcement agencies are the most common part of the RCRA regulated community that respond to emergencies that are imminent threats. RCRA regulated facilities may also use these regulations if an emergency spill or other threat occurs at a facility.

For RCRA Purposes, the Storage, Transportation,
and Destruction of Explosives in Custody by an
Emergency Response Specialist Fall into Two
Categories:

- ***Pose, or have the potential to pose,*** an imminent or substantial threat to human health or the environment.
- **DO NOT** pose, an imminent and substantial endangerment. A RCRA permit may be required.

Emergency response specialists determine if a threat or a potential for a threat exists. The yes or no answer determines the level of regulations that apply to the response.

Examples of explosives which do not pose an imminent and substantial endangerment include:

- Those that are stored by an agency for laboratory analysis or,
- For investigative/judicial proceedings

An Explosive or other Munition Posing or Potentially Posing An Imminent and Substantial Endangerment Threat

- Are exempt from RCRA permitting under 40 CFR §§264.1(g)(8) and 270.1(c)(3).
- States adopting the Munition Rule into State Law may provide more stringent conditions.
- It is the responsibility of the person in charge of the emergency response to make the determination if an imminent threat is applicable and if a RCRA emergency permit should be requested.

TechLaw February 2002

Day 1 RCRA Emergency Permit Exemption

4

The Military Munitions Rule modified emergency response regulations, added definitions of a munition, an emergency response specialist and established new storage standards for the management of all military and non-military munitions, waste munitions and explosives. (Refer to the February 1997 Military Munitions Rule Fact Sheet (EPA 530-F-97-004) available at www.epa.gov/epaoswer/hazwaste/military/muns_fs.txt).

The State of California is proposing State Law that is more stringent than the U.S. EPA. The proposed law would require greater record keeping and public notices for imminent threats.

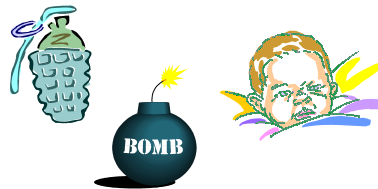
An Explosives or Munitions Emergency Response is:

- All immediate response activities...
- ...by an explosives and munitions emergency response specialist...
- ...to control, mitigate, or eliminate...
- ...the actual or potential threat...
- ...encountered during an explosives or munitions emergency.

An explosives or munitions emergency response is defined in 40 CFR §260.10.

Examples of Imminent Threats

- If a grenade is found in a house and must be disposed; or
- If a bomb or other potential explosive device is found in a public place.
- Any time when children are involved in the proximity of the threat.



There is only a broad definition of an imminent threat. States may have more detailed definitions in their laws.

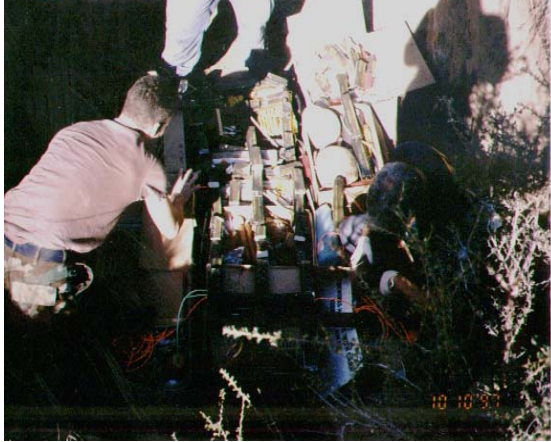
Responses May Include...

- Render-safe procedures



Responses May Include (cont'd)

- Treatment or destruction of the explosives or munitions, and/or



Responses May Include (cont'd)

- Transportation of those items to another location to be rendered safe, treated, or destroyed.



Record keeping is Determined by State Regulations

- U.S. EPA Regulations do not state that notifications for imminent threats are required.
- U.S. EPA Region 9 requests notifications for actions located in Hawaii (RCRA unauthorized State).
- Some States or Regions require notification by phone prior to or after activities under an exempt emergency response.
- Notifications can be used to track how often and what types of emergency responses are occurring.

What is Covered by the Imminent Threat Permit Exemption?

- Timing of the response
- Location of the Response
- Transportation
- Temporary storage
- Activities related to treatment
- Disposal of the material

How Long Do Emergency Exemptions Last?

- An Emergency Response Specialist needs time to evacuate an area, coordinate with other agencies/groups.



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Day 1 RCRA Emergency Permit Exemption

12

Time may be Needed to...

- Haul out, inventory large amounts of explosives.



Time may be Needed to (cont'd)

- Sort and store temporarily chemicals and devices found during a search warrant.



All These Actions are Included in a Response



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Day 1 RCRA Emergency Permit Exemption

15

Timing of Response

- Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the emergency.



Delays may include operational hours limited to daylight. Weather condition delays for open burning or detonation. If there are delays, and the wastes are still a threat (i.e., explosives / munitions) then security should be provided at the location of waste storage.

Where Do Emergency Responses Happen?

- At RCRA industrial facilities



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17

Where do Emergency Responses Happen? (cont'd)

- In public areas
- In private homes



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18

Where do Emergency Responses Happen? (cont'd)

- In the city



- In the country



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19

Where do Emergency Responses Happen? (cont'd)

- In the desert



- Washing up on shores



Transportation

- If the emergency response actions involve transportation to a remote site for destruction, then the transportation as well as the destruction would be included in the imminent threat RCRA permit exemption.
- However, the transportation is exempt only to the extent necessary to respond to the immediate threat.
- Hence, the Agency would expect the transportation would normally cover a relatively short distance.

Treatment

- Under 40 CFR Sections §264.1(g)(8), §265.1(e)(1)(i) and §270.1(c)(3), all activities taken in immediate response to a discharge of hazardous waste, or an imminent and substantial threat of discharge of a hazardous waste, are exempt from the RCRA permitting and substantive requirements.

Treatment Types Covered

- Open Burning



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23

Open burning during an imminent threat permit exemption or a RCRA emergency permit should consider similar safety precautions, since the materials will tend to be identical. Imminent threat situations may have treatment designs that have to be simpler, with readily available local materials purchased and constructed, versus unique dedicated equipment. The example in the photo shows a wooden pan constructed with materials from a local lumber yard.

Open Detonation



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24

Open detonation in an imminent threat response will be similar to that under a RCRA emergency permit. Volumes may vary greatly. Complete destruction of the waste is a treatment goal.

Open detonation may be on the ground or using burial methods. If waste amounts are small, detonation may take place inside containers such as roll-off boxes.

Thermal Treatment



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25

Thermal treatment in an imminent threat response may or may not have pollution controls. This will depend if the unit is designed and constructed by the responders or purchased and brought in to treat the materials.

Anything the Emergency Response Specialist Determines Necessary



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26

Final Disposal of Materials from the Response may Include:

- Burial on-site
- Disposal off-site



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27

Disposal during an imminent threat response may be by burial on-site, or scraped into a container and sent to a solid waste landfill if non-characteristic. Burial on-site is usually coordinated with the property owner. Sampling is typically not performed. Burial on-site is the more typical method of disposal.

Treatment of Emergency Response Wastes at a Military Facility

- In general, destruction of explosive waste by open burning/open detonation is thermal treatment that must be conducted at a RCRA Interim Status or Subpart X .
- The military facility must be RCRA permitted and in compliance with 40 CFR Parts 264, 265, and 270.
- The Emergency Response Specialist should confirm whether the military facility being utilized has interim status or a permit for OB/OD under RCRA prior to transportation to the facility.

There are limited military facilities with RCRA Subpart X permits that allow law enforcement to treat imminent threat wastes. Naval Surface Warfare Center, located in Crane, Indiana has a RCRA Subpart X operating permit that has specific conditions allowing off-site law enforcement wastes to be treated at the RCRA regulated units. Limitations on volumes and types of wastes are written into the permit.

What is Not an Imminent Threat Emergency Response

- Materials in good condition that are determined safe to move, handle, manage.



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29

Materials that are in good condition or determined safe to handle should be required to have either a RCRA emergency permit or an operating permit issued to the facility for treatment.

New Consumer Fireworks (Explosives Class 1.4G)



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30

New consumer fireworks (explosives class 1.4G) that have been confiscated and are in good condition and are manageable, do not meet the definition of an imminent threat emergency response.

Presentation material by Ken Shuster, U.S. EPA Headquarters.

Emergency Response RCRA Permit Exemptions are Only for True Safety Emergencies



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31

Emergency response RCRA permit exemptions should only be issued for true safety emergencies, not for a lack of funding or storage space.

Responders need to plan their resources ahead of time.

Emergency responders should evaluate the types of responses they manage and what RCRA regulations apply. Responders and State RCRA personnel need to work together on applicability of any exemptions, permits, or other requirements, based on their State authorizations and laws. Understanding how response is handled and the safety problems involved will make the process easier to understand and what limitations may be imposed.

End Of RCRA Permit Exemption Session

