



DoD DIRECTIVE 5101.17E

ROLES AND RESPONSIBILITIES ASSOCIATED WITH THE RECOVERY OF CHEMICAL WARFARE MATERIAL

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| Originating Component: | Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics |
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| Approved by: | Robert O. Work, Deputy Secretary of Defense |

Purpose: This issuance:

- Establishes roles and assigns responsibilities for the oversight, coordination, management, and execution of actions involving chemical warfare material (CWM) recovered within and outside the United States.
- Designates the Secretary of the Army as the DoD Executive Agent (EA) for the Recovered Chemical Warfare Material (RCWM) Program within the United States, in accordance with the authorities in the March 13, 1991, Deputy Secretary of Defense Memorandum and DoD Directive (DoDD) 5101.1.
- Authorizes the development of DoD issuances and other supporting guidance, as appropriate, for the DoD's RCWM Program.

TABLE OF CONTENTS

| | |
|----------------------------------------------------------------------------------------------------|----|
| SECTION 1: GENERAL ISSUANCE INFORMATION | 3 |
| 1.1. Applicability. | 3 |
| 1.2. Policy. | 3 |
| SECTION 2: RESPONSIBILITIES | 5 |
| 2.1. Assistant Secretary of Defense for Energy, Installations, and Environment (ASD(EI&E))..... | 5 |
| 2.2. ASD(NCB)..... | 5 |
| 2.3. USD(P)..... | 6 |
| 2.4. USD(P&R)..... | 7 |
| 2.5. USD(C)/CFO. | 7 |
| 2.6. GC DoD. | 7 |
| 2.7. Secretaries of the Military Departments. | 8 |
| 2.8. Secretary of the Army..... | 8 |
| 2.9. Combatant Commanders..... | 9 |
| GLOSSARY | 11 |
| G.1. Acronyms. | 11 |
| G.2. Definitions..... | 11 |
| REFERENCES | 14 |

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance:

a. Applies to:

(1) OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

(2) Situations involving:

(a) Munitions and certain materials of interest, as defined in this issuance, that contain an unknown liquid fill and are recovered within the United States.

(b) Munitions and certain materials of interest, as defined in this issuance, that contain an unknown liquid fill and are recovered outside the United States.

(c) CWM of U.S. origin recovered outside of the United States.

(d) CWM of U.S. origin recovered within the United States (e.g., munitions response, explosives or munitions emergencies, range clearance).

(e) CWM not of U.S. origin recovered within or outside of the United States.

b. Does **not** apply to:

(1) Sea-disposed munitions, unless recovered;

(2) Riot control agents, after verification by non-intrusive assessment, pursuant to Section 1512 of Title 50, United States Code (U.S.C.);

(3) United States’ declared stockpile of chemical agents (CAs) and munitions, in accordance with Section 1521 of Title 50, U.S.C; or

(4) Munitions and certain materials of interest, as defined in this issuance, in a nonpermissive environment.

1.2. POLICY. DoD:

a. Ensures RCWM Program activities associated with RCWM are compliant with the CWC.

b. Provides the maximum protection to people, property, and the environment from the potentially damaging effects of RCWM, in accordance with DoDDs 3025.18, 3200.15, 4715.1E, 6055.9E, DoD Instruction (DoDI) 4715.07, and DoD Manual 6055.09.

c. Destroys CWM recovered within the United States at the location of discovery (i.e., “on-site destruction”) whenever feasible in accordance with applicable law. This requirement does not preclude the movement of RCWM or munitions and certain materials of interest necessary to facilitate storage pending assessment and the subsequent destruction of RCWM on site at the location of storage in accordance with applicable laws.

(1) When munitions or certain materials of interest are recovered in the public domain during an explosives or munitions emergency, and the risk of movement is acceptable, they will be packaged and transported to the nearest DoD military installation within the State of recovery that is capable of safe and secure storage of Security Risk Category II ammunition and explosives, in accordance with DoD Manual 5100.76, pending assessment of their fill and final destruction.

(2) During a munitions response or other activities (e.g., range clearance activities) that do not constitute an explosives or munitions emergency, the munitions and other materials of interest will be secured in place pending assessment and destruction or, if the risk of movement is acceptable, moved to on-site storage pending assessment of its fill and final destruction.

d. Maintains a mobile capability to:

(1) Assess munitions and certain materials of interest to identify the most likely fill.

(2) Provide for the safe packaging and safe and secure storage and transport of RCWM, when required.

(3) Provide for the destruction of RCWM.

e. Provides support to federal, State, tribal, and local civil authorities that request support in accordance with DoDD 3025.18.

f. Ensures the safe, cost-effective, and efficient use of available resources to avoid a duplication of effort within DoD and with other federal, State, or local agencies.

g. When authorized by the Secretary of Defense, provides assistance to:

(1) Other federal agencies, foreign governments, and international organizations to eliminate the threat or counter proliferation of CWM while ensuring activities are compliant with the CWC and DoDI 2040.02.

(2) Combatant Commanders requesting assistance to eliminate the threat or counter proliferation of CWM encountered during operations outside the United States or on behalf of a foreign government.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR ENERGY, INSTALLATIONS, AND ENVIRONMENT (ASD(EI&E)). Under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), the ASD (EI&E):

- a. Serves as the DoD Designated Agency Safety and Health Official, in accordance with DoDD 4715.1E.
- b. Acts as the principal civilian advisor to the Secretary of Defense and the USD(AT&L) on policy and planning for DoD munitions responses at sites known or suspected to contain CWM (CWM sites) within the United States, in accordance with DoDI 4715.07.
- c. Coordinates with the DoD EA for the RCWM Program for planning (e.g., annual work plan) and implementation of munitions response activities conducted within the United States.
- d. Coordinates the development of an appropriate funding profile for the RCWM Program support functions with the DoD EA for the RCWM Program, Under Secretary of Defense (Comptroller)/Chief Financial Officer Department of Defense (USD(C)/CFO), Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs (ASD(NCB)), Under Secretary of Defense for Policy (USD(P)), General Counsel of the Department of Defense (GC DoD), and Under Secretary of Defense for Personnel and Readiness (USD(P&R)).
- e. Coordinates with the Secretaries of the Military Departments and the DoD EA for the RCWM Program to ensure munitions response activities within the United States, not including those associated with the RCWM support functions, are adequately funded.
- f. Responds to congressional, inter-agency, and inter-governmental requests for information related to munitions response activities for CWM sites within the United States.

2.2. ASD(NCB). Under the authority, direction, and control of the USD(AT&L), the ASD(NCB):

- a. Acts as the DoD Treaty Manager for implementation of and compliance with the CWC in accordance with DoDD 2060.1 and the principal civilian advisor to the Secretary of Defense and the USD(AT&L) for chemical defense in accordance with DoDD 5134.08.
- b. Reviews and endorses policies and plans associated with RCWM for implementation of and compliance with the CWC.
- c. Coordinates, as necessary, to resolve CWC compliance issues with the USD(P), USD(P&R), ASD(EI&E), GC DoD, Chairman of the Joint Chiefs of Staff, and USD(C)/CFO.

d. Coordinates the development of an appropriate funding profile for the RCWM Program support functions with the DoD EA for the RCWM Program, ASD(EI&E), USD(C)/CFO, USD(P), GC DoD, and USD(P&R).

e. Funds the RCWM Program support functions from the Chemical Agent and Munitions Destruction, Defense account until completion of the Assembled Chemical Weapons Alternatives program mission.

2.3. USD(P). The USD(P):

a. Acts as the principal civilian advisor to the Secretary of Defense and the USD(AT&L) on the policy and planning for:

(1) The disposition of CWM of U.S. origin recovered outside the United States.

(2) The disposition of CWM not of U.S. origin recovered within or outside of the United States.

(3) Explosives or munitions emergency support of civil authorities, in accordance with DoDD 3025.18 and DoDI 3025.21.

b. Establishes policy governing the disposition of CWM not of U.S. origin recovered within or outside of the United States; CWM of U.S. origin recovered outside the United States; explosives or munitions emergencies and other support to civil authorities that involve munitions and certain materials of interest.

c. Coordinates within DoD:

(1) Policy for the disposition of CWM not of U.S. origin recovered within or outside of the United States.

(2) Implementation of activities related to requests for support from foreign governments and international organizations and with other federal and State agencies, as appropriate.

d. Responds to congressional, inter-agency, and inter-governmental requests for information related to the disposition of CWM not of U.S. origin recovered within or outside the United States; CWM of U.S. origin recovered outside the United States; explosives or munitions emergencies and other support to civil authorities that involves munitions and certain materials of interest.

e. Coordinates with the USD(C)/CFO, GC DoD, and the DoD EA for the RCWM Program to ensure activities related to the disposition of CWM not of U.S. origin recovered within or outside the United States, CWM of U.S. origin recovered outside the United States, explosives or munitions emergencies, and other support to civil authorities are adequately funded.

2.4. USD(P&R). The USD(P&R):

- a. Acts as the principal civilian advisor to the Secretary of Defense on policy and planning to ensure recovered CWM and munitions and certain materials of interest encountered in the United States during range clearance activities are managed in compliance with RCWM Program policies and procedures.
- b. Coordinates with the USD(C)/CFO and the DoD EA for the RCWM Program to ensure range clearance activities involving CWM and munitions and certain materials of interest, not including those associated with the RCWM support functions, are adequately funded.
- c. Coordinates with the DoD EA for the RCWM Program, ASD(EI&E), Military Department environmental program managers, and range managers on the development of an annual work plan for the RCWM Program.

2.5. USD(C)/CFO. The USD(C)/CFO:

- a. Coordinates with the ASD(NCB), ASD(EI&E), USD(P&R), GC DoD, and USD(P) to ensure adequate funding of CWM recovery activities.
- b. Coordinates with the ASD(NCB) and ASD(EI&E) regarding adequate resources for the RCWM Program support functions.

2.6. GC DOD. The GC DoD:

- a. Provides authoritative legal advice and counsel to OSD organizations and, as appropriate, other DoD Components regarding CWM- and RCWM-related issues, including, but not limited to:
 - (1) Legal obligations in accordance with the CWC and the CWC Implementation Act of 1998 (Chapter 75 of Title 22, U.S.C.).
 - (2) Limitations on the use of the Defense Environmental Restoration Program, Defense Threat Reduction Agency, Defense Support of Civil Authorities, Chemical Agent Munitions Destruction, Defense, and other DoD funding sources.
 - (3) The applicability of Chapter 32 of Title 50, U.S.C.
- b. Determines the DoD position on specific legal matters related to RCWM, including litigation and defenses raised, pursuant to DoDD 5145.01 and DoDI 5030.7.
- c. Responds to congressional, inter-agency, and inter-governmental requests for information related to RCWM litigation or legal matters.

2.7. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

- a. Provide to the DoD EA for the RCWM Program an inventory of locations within the United States under their purview that are known or suspected to contain CWM.
- b. Maintain a current inventory of the locations identified in Paragraph 2.7.a. and provide the DoD EA for the RCWM Program updated information on potential new CWM sites as soon as they are identified and as available.
- c. Manage and fund those activities (e.g., munition responses, range clearance activities) to be conducted within the United States in the year of execution and from appropriations normally available for such purposes. These activities do not include the RCWM Program Support Functions.
- d. Coordinate with the DoD EA for the RCWM Program the scheduling of munitions responses and other activities (e.g., range clearance activities) where CWM may be encountered. Include this information in the annual work plan for the RCWM Program.
- e. Request support from the DoD EA for the RCWM Program when CWM or munitions and certain materials of interest are encountered during munitions responses and other activities (e.g., range clearance activities).

2.8. SECRETARY OF THE ARMY. The Secretary of the Army is designated as the DoD EA for the RCWM Program within the United States. In addition to the responsibilities in Paragraph 2.7., and in his or her capacity as the DoD EA for the RCWM Program in the United States, the Secretary of the Army:

- a. May further delegate DoD EA RCWM Program responsibilities, as necessary, in accordance with DoDD 5101.1.
- b. Establishes guidance, as needed, to implement the RCWM Program within the United States. This includes safeguarding RCWM and munitions and certain materials of interest, pending their assessment and determination of their fill, in accordance with applicable DoD policy, applicable federal and State laws, and the CWC.
- c. Executes the RCWM Program in a cost-effective manner in accordance with applicable DoD policy, applicable federal and State laws, and the CWC.
- d. Ensures RCWM Program-related actions are executed in compliance with the CWC and applicable federal and State laws and regulations, to include permitting requirements pertaining to the treatment of RCWM.
- e. Approves an annual work plan for the RCWM Program that is developed in coordination with the ASD(EI&E), USD(P&R), and Military Department environmental program managers and range managers. The RCWM Program annual work plan will provide the basis for

determining the funding required to execute the plan and any applicable RCWM Program support functions.

f. Coordinates with the ASD(NCB), ASD(EI&E), USD(P&R), GC DoD, and USD(C)/CFO to determine an appropriate funding profile for the RCWM Program support functions.

g. Develops and maintains for the RCWM Program a consolidated and detailed inventory of locations within the United States that are known or suspected to contain CWM.

h. Establishes a CWM National Inventory Control Point and designates a CWM accountable officer.

i. Maintains the capability to provide RCWM Program support functions where munitions and certain materials of interest have been encountered.

j. Ensures RCWM Program support functions are managed in a manner that meets known Defense Agency and DoD Component support requirements and ensures their availability to support explosives or munitions emergencies. The management of these assets must consider the need to support other requirements (e.g., support of CWM encountered outside the United States), which must be approved by the USD(P) and may require reimbursement.

k. Coordinates RCWM Program-related actions with the Department of Health and Human Services' Centers for Disease Control and Prevention, in accordance with applicable laws.

l. Supports federal, State, tribal, and civil authorities, to include law enforcement agencies, when requested and authorized in accordance with this issuance, DoDD 3025.18, and DoDI 3025.21.

m. Upon approval of the Joint Staff, publishes request procedures for Combatant Commanders encountering CWM or suspected CWM.

n. Obtains Joint Staff approval on procedures to receive reimbursement for services rendered to eliminate the threat or counter proliferation of CWM.

2.9. COMBATANT COMMANDERS. The Combatant Commanders:

a. To the extent operational conditions allow, ensure that activities associated with suspected CWM or CWM encountered are compliant with CWC and Chairman of the Joint Chiefs of Staff Instruction 2030.01D.

b. Request Army support through the Joint Staff and USD(P) upon encountering suspected CWM or CWM that requires explosive ordnance disposal support, when unable to address such CWM safely and in a manner consistent with applicable laws, regulations, and international agreements.

c. In coordination with the Joint Staff and USD(P), provide assistance to a foreign government's request to the Department of State to address CWM of U.S. or non-U.S. origin. Such support must be coordinated with and authorized by the Joint Staff and USD(P).

d. Request Defense Threat Reduction Agency support to address CWM, chemical warfare agent samples, and medical or environmental samples recovered in the Commanders' area of responsibility to ensure CWC compliance. Such support must be coordinated with the Joint Staff and USD(P).

GLOSSARY

G.1. ACRONYMS.

| | |
|------------|-----------------------------------------------------------------------------------------|
| ASD(EI&E) | Assistant Secretary of Defense for Energy, Installations, and Environment |
| ASD(NCB) | Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs |
| CA | chemical agent |
| CFR | Code of Federal Regulations |
| CWC | Chemical Weapons Convention |
| CWM | chemical warfare material |
| DoDD | DoD directive |
| DoDI | DoD instruction |
| EA | Executive Agent |
| GC DoD | General Counsel of the Department of Defense |
| RCWM | recovered chemical warfare material |
| U.S.C. | United States Code |
| USD(AT&L) | Under Secretary of Defense for Acquisition, Technology, and Logistics |
| USD(C)/CFO | Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense |
| USD(P) | Under Secretary of Defense for Policy |
| USD(P&R) | Under Secretary of Defense for Personnel and Readiness |

G.2. DEFINITIONS. These terms and their definitions are for the purpose of this issuance.

CA. Defined in Section 1521 of Title 50, U.S.C.

chemical agent identification sets. Defined in Part 179.3 of Title 32, Code of Federal Regulations (CFR).

CWC. Defined in Section 1521 of Title 50, U.S.C.

CWM. Items generally configured as a munition containing a chemical compound that is intended to kill, seriously injure, or incapacitate a person through its physiological effects.

CWM includes V- and G-series nerve agents or H-series (mustard) and L-series (lewisite) blister agents in other-than-munition configurations; and certain industrial chemicals (e.g., hydrogen cyanide, cyanogen chloride, or carbonyl dichloride configured as a military munition.

Due to their hazards, prevalence, and military-unique application, chemical agent identification sets are also considered CWM.

CWM does not include: riot control devices; chemical defoliants and herbicides; industrial chemicals (e.g., hydrogen cyanide, cyanogen chloride, or carbonyl dichloride) not configured as a munition; smoke and other obscuration producing items; flame and incendiary producing items; or soil, water, debris or other media contaminated with low concentrations of chemical agents where no CA hazards exist as defined in Part 179.3 of Title 32, CFR.

destruction. Defined in Section 1521 of Title 50, U.S.C.

military munitions. Defined in Section 101 of Title 10, U.S.C.

munitions and certain materials of interest. When recovered, includes munitions that contain an unknown liquid fill; certain materials (e.g., laboratory vials, closed cavity containers encountered at a CWM site) that contain an unknown liquid fill; and chemical agent identification sets.

munitions response. Defined in Part 179.3 of Title 32, CFR.

munitions response sites. Defined in Part 179.3 of Title 32, CFR.

National Inventory Control Point. An Army activity responsible for wholesale inventory management of assigned items, either for Department of the Army only or DoD as a whole. These activities are Army Materiel Command Major Regional Commands, the U.S. Army Communications Security Logistics Activity, and the U.S. Army Electronic Materiel Readiness Activity.

nonpermissive environment. An environment in which some level of lawlessness or heightened risk is assumed due to a breakdown in host country military and law enforcement capability.

non-stockpile. Declared RCWM and both treaty and non-treaty items, such as unfilled munitions, support equipment, and devices designed for use with chemical weapons. These include complete assembled munitions without chemical fill and with or without bursters and fuzes, stimulant-filled munitions, inert munitions, dummy munitions, bursters and fuzes, empty rocket warheads and motors, projectile cases, other metal and plastic part components, research and development compounds, chemical samples, and ton containers.

RCWM. CWM used for its intended purpose or previously disposed of as waste that has been discovered during a CWM response or by chance (e.g., accidental discovery by a member of the public), that DoD has secured in place or placed under DoD control. CWM placed under DoD control is normally stored in a DoD Explosive Safety Board approved storage location or interim holding facility, pending final disposition.

RCWM Program. A DoD program executed within the United States by the Secretary of the Army, on behalf of the Office of the Secretary of Defense, to:

Respond to explosive and munitions emergencies involving munitions and certain materials of interest that contain an unknown liquid or a CA fill encountered by the public.

Investigate and, as required, conduct munitions responses at CWM sites in accordance with the DoD Explosive Safety Board -approved site plan.

Investigate and, as required, conduct range clearance activities on operational ranges where munitions and certain materials of interest that contain an unknown liquid or a CA fill are encountered.

Non-intrusively assess recovered munitions and certain materials of interest that contain an unknown liquid or CA fill and chemical agent identification sets to determine the most likely fill.

Destroy, normally on site, RCWM using an approved technology or procedure.

RCWM Program support functions. Functions performed in support of the RCWM Program, including:

Procurement and maintenance of mobile equipment and operational capabilities required for the assessment of munitions and certain materials of interest that contain an unknown liquid fill and the destruction of recovered RCWM.

Sustainment of the personnel and equipment required for the assessment of munitions and certain materials of interest that contain an unknown liquid fill and the destruction of RCWM.

Research, development, test, and evaluation of, and associated improvements to, current technologies and the evaluation of off-the-shelf technologies available to meet RCWM Program requirements.

Support of explosives or munitions emergencies that involve munitions and certain materials of interest that contain an unknown liquid fill or CWM and chemical agent identification sets.

Archival research of CWM sites.

stockpile. See Section 1521 of Title 50, U.S.C.

United States. The several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, Midway and Wake Islands, the U.S. Virgin Islands, any other territory or possession of the United States, and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.

REFERENCES

- Chairman of the Joint Chiefs of Staff Instruction 2030.01D, “Chemical Weapons Convention Implementation and Compliance Policy Guidance,” September 4, 2015
- Code of Federal Regulations, Title 32, Part 179.3
- Deputy Secretary of Defense Memorandum, “Demilitarization of Non-Stockpile Chemical Warfare Munitions, Agents and By-Products,” March 13, 1991¹
- DoD Directive 2060.1, “Implementation of, and Compliance with, Arms Control Agreements,” January 9, 2001, as amended
- DoD Directive 3025.18, “Defense Support of Civil Authorities (DSCA),” December 29, 2010, as amended
- DoD Directive 3200.15, “Sustaining Access to the Live Training and Test Domain,” December 18, 2013
- DoD Directive 4715.1E, “Environment, Safety, and Occupational Health (ESOH),” March 19, 2005
- DoD Directive 5101.1, “DoD Executive Agent,” September 3, 2002, as amended
- DoD Directive 5134.08, “Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs (ASD(NCB)), January 14, 2009, as amended
- DoD Directive 5145.01, “General Counsel of the Department of Defense (GC DoD),” December 2, 2013, as amended
- DoD Directive 6055.9E, “Explosives Safety Management and the DoD Explosives Safety Board,” August 19, 2005
- DoD Instruction 2040.02, “International Transfers of Technology, Articles, and Services,” March 27, 2014
- DoD Instruction 3025.21, “Defense Support of Civilian Law Enforcement Agencies,” February 27, 2013
- DoD Instruction 4715.07, “Defense Environmental Restoration Program (DERP),” May 21, 2013
- DoD Instruction 5030.7, “Coordination of Significant Litigation and Other Matters Involving the Department of Justice,” August 22, 1988
- DoD Manual 5100.76, “Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives (AA&E),” April 17, 2012
- DoD 6055.09-M, Volume 1, “DoD Ammunition and Explosives Safety Standards: General Explosives Safety Information and Requirements,” February 29, 2008, as amended
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC), January 13, 1993
- United States Code, Title 10, Section 101
- United States Code, Title 22, Chapter 75
- United States Code, Title 50

¹ Contact the Office of the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs for a copy of the memorandum.