



DEPUTY SECRETARY OF DEFENSE
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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF COST ASSESSMENT AND PROGRAM
EVALUATION

SUBJECT: DoD Policy on Cluster Munitions

Ensuring that the U.S. military is ready to fight adversaries now and in the future is fundamental to ensuring our nation's security. Accordingly, it is critically important that the U.S. military has effective weapons that meet its needs and that minimize unintended harm, including to civilians, our own forces, and other friendly forces, from unexploded ordnance. The following establishes the Department's policy regarding cluster munitions and adjusts the previous policy, established by then-Secretary Gates on June 19, 2008, on standards for the procurement of new cluster munitions and the authority to retain and use cluster munitions currently in active inventories.

Cluster munitions provide the Joint Force with an effective and necessary capability to engage area targets, including massed formations of enemy forces, individual targets dispersed over a defined area, targets whose precise location are not known, and time-sensitive or moving targets. Cluster munitions are legitimate weapons with clear military utility, as they provide distinct advantages against a range of threats in the operating environment. Additionally, the use of cluster munitions may result in less collateral damage than the collateral damage that results from use of unitary munitions alone.

Since the inception of the 2008 policy, in the midst of extended combat operations in Iraq and Afghanistan, we have witnessed important changes in the global security environment and experienced several years of budgets that under-invested in replacement systems and the modernization of the Joint Force more broadly. Our adversaries and our potential adversaries have developed advanced capabilities and operational approaches specifically designed to limit our ability to project power.

We must not lose our qualitative and quantitative competitive advantage against potential adversaries that seek operational and tactical advantages against the United States and its allies and partners. Our conventional deterrence and our ability to respond to threats by adversaries must be credible and effective. Although the Department seeks to field a new generation of more highly reliable munitions, we cannot risk mission failure or accept the potential of increased military and civilian casualties by forfeiting the best available capabilities.



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It is for these reasons that the Department will retain cluster munitions currently in active inventories until the capabilities they provide are replaced with enhanced and more reliable munitions. It is DoD policy that:

- Continuing or beginning with their respective FY 2019 budgets, the Military Departments will program for capabilities to replace cluster munitions currently in active inventories that do not meet the standards prescribed by this policy for procuring new cluster munitions. The Department's annual Program and Budget Review will be used to assess the sufficiency of the replacement efforts.
- The Department's operational planners should plan for the availability of cluster munitions in their planning efforts. The approval authority to employ cluster munitions that do not meet the standards prescribed by this policy for procuring new cluster munitions, however, rests with the Combatant Commanders. In accordance with their existing authorities, commanders may use cluster munitions that meet the standards prescribed by this policy for procuring new cluster munitions, as appropriate.
- The Department will only procure cluster munitions containing submunitions or submunition warheads that do not result in more than one percent unexploded ordnance across the range of intended operational environments, or that possess advanced features to minimize the risks posed by unexploded submunitions. The attached Technical Specifications contain additional details and guidance pertaining to these features.
- The Military Departments and Combatant Commands, in keeping with U.S. legal obligations under Protocol V on Explosive Remnants of War annexed to the Convention on Conventional Weapons and consistent with past practices, will continue to record and retain information on the use of cluster munitions and provide relevant information to facilitate the removal or destruction of unexploded submunitions.
- The Military Departments and Combatant Commands will maintain sufficient inventories and a robust stockpile surveillance program to ensure operational quality and reliability of cluster munitions. In extremis, to meet immediate warfighting demand, Combatant Commanders may accept transfers of CM that do not meet the standards prescribed by this policy for procuring new cluster munitions.
- Cluster munitions that do not meet the standards prescribed by this policy for procuring new cluster munitions will be removed from active inventories and demilitarized after their capabilities have been replaced by sufficient quantities of munitions that meet the standards in this policy.
- The Department will not transfer cluster munitions except as provided for under U.S. law. The operational use of cluster munitions that include Anti-Personnel Landmines (APL) sub-munitions shall comply with Presidential policy.

I expect the Department to achieve the goals in this policy as rapidly as industry can support. Combatant Commanders will continue to ensure that the employment of cluster munitions is consistent with the law of war and applicable international agreements in order to minimize their harmful effects on civilian populations and infrastructure.

A handwritten signature in black ink, appearing to read "Paul M. Galt". The signature is written in a cursive style with a large, prominent initial "P".

Attachment:
As stated

Technical Specifications for the 2017 DoD Policy on Cluster Munitions

The intent of the following guidance is to ensure appropriate and consistent implementation of certain aspects of the DoD Policy on Cluster Munitions; it applies to all types of cluster munitions that are not explicitly excluded from this policy.

1. For the purposes of this policy, cluster munitions are defined as munitions composed of a non-reusable canister or delivery body containing multiple, conventional explosive submunitions. Excluded from the definition are nuclear weapons, as well as obscurants, pyrotechnics, non-lethal systems (e.g., leaflets), and weapons that produce non-explosive kinetic effects (e.g., flechettes or rods) or electronic effects. Landmine submunitions are also excluded since they are covered by existing policy and international agreements.
2. This policy applies to systems delivered by aircraft, cruise missiles, artillery, mortars, missiles, tanks, rocket launchers, or naval guns that deploy payloads of explosive submunitions that detonate via target acquisition, impact, or altitude, or that self-destruct (or a combination of both).
3. All submunitions or submunition warheads that are dispensed from the cluster munition, as intended, are expected to arm and detonate. Any submunition or submunition warhead that fails to detonate after being properly dispensed from the cluster munition will be considered unexploded ordnance (UXO), even if it is unarmed.
4. Submunitions or submunition warheads that are required to satisfy the UXO standard must do so in all intended operational environments. It is not appropriate to average UXO performance among different operational environments to offset performance within a particular intended operational environment in which the cluster munition does not satisfy the UXO standard. Because cluster munitions and their submunitions or submunition warheads can vary significantly in design and function, a tailored test and evaluation approach is necessary to determine, with reasonable confidence, compliance with the standard that not more than one percent of submunitions or submunition warheads, once properly dispensed from the cluster munition, fail to detonate in all intended operational environments.
5. In order to minimize the risks posed by unexploded submunitions, cluster munitions that are procured after the date of this policy must meet at least one of the following three criteria, unless the Deputy Secretary of Defense approves an exemption in writing.
 - a. Not more than one percent of submunitions or submunition warheads, once properly dispensed from the non-reusable canister or delivery body, fail to detonate.
 - b. Each submunition or submunition warhead has all of the following characteristics:
 - 1) Each submunition or submunition warhead is equipped with an internal power source that is essential for arming and detonation. The submunition or submunition warhead is not designed to be detonated by mechanical means alone.

- 2) Each submunition or submunition warhead is equipped with at least one automatically functioning, electronic self-destruct mechanism that is in addition to the primary arming and detonation mechanism and that is designed to destroy the submunition or submunition warhead on which it is equipped, if the submunition or submunition warhead is not detonated by the primary arming and detonation mechanism.
 - 3) Each submunition or submunition warhead that does not detonate or self-destruct is, once armed, rendered inoperable in 15 minutes or less by means of the irreversible exhaustion of a component (*e.g.*, power source) that is essential to the operation of the submunition or submunition warhead.
 - 4) Each submunition or submunition warhead that does not arm after being deployed from the non-reusable canister or delivery body cannot be subsequently armed or detonated by incidental handling, contact, or movement.
- c. The munition is not prohibited by the Convention on Cluster Munitions as of the date of this policy.
6. It is not practicable to specify requirements for the implementation of this policy and applicable U.S. law for all possible circumstances; therefore, cognizant program managers and sponsors of foreign military sales and defense export cases should consult with the appropriate Office of the Secretary of Defense stakeholders (*e.g.*, Assistant Secretary of Defense for Acquisition; Developmental Test and Evaluation; DoD Office of General Counsel) during the planning and execution of their activities.
 7. Acquisition program managers, in consultation with appropriate DoD stakeholders, will document compliance with this policy in an Acquisition Decision Memorandum, including verification that munitions, submunitions, or submunition warheads meet the requisite standards.
 8. Sponsors of foreign military sales and defense export cases must ensure that all DoD stakeholders concur in a legal or policy compliance determination.