



THE UNDER SECRETARY OF DEFENSE

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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JUN 23 2011

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Department of Defense (DoD) Implementing Guidance for the Commercial Sale of Expended Small Arms Cartridge Cases (ESACC)

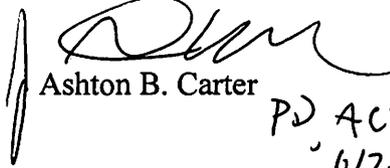
Section 346 of the Ike Skelton National Defense Authorization Act for FY 2011 establishes new requirements concerning the commercial sale of ESACC. These requirements prohibit the demilitarization of certain ESACC so the cartridges cases can be made available for commercial sale. Section 346 also requires the DoD to issue guidance concerning implementation.

The attached guidance reconciles section 346 with other applicable provisions, including trade security controls under 22 U.S.C. §2778; explosive safety requirements under 10 U.S.C. §172; the DoD Qualified Recycling Program under 10 U.S.C. §2577; and section 8019 of the Department of Defense Appropriations Act, 2010, which restricted funds from being used to demilitarize or dispose of certain types of carbines, rifles, pistols, or small arms ammunition and ammunition components that are not otherwise prohibited from commercial sale under Federal law or certified by the Secretary of the Army or designee as unserviceable or unsafe for future use.

The DoD, over the past several years, made available for commercial sale to qualified buyers in the continental United States an estimated six to eight million pounds of intact (non-demilitarized) ESACC. Although the amount of ESACC made available may vary based on the live-fire training and testing required to maintain a trained and ready force, the DoD will continue to make a reasonable portion of the supply of ESACC available intact for such sale. The DoD may periodically review the quantity of intact ESACC made available and consider whether this amount could be increased without an adverse impact on resources. These reviews will be based on the average percentage of ESACC available for sale, Qualified Recycling Programs revenues, and sales customer input.

The DoD will not apply section 346 outside of the continental United States. Additionally, the DoD will adhere to established DoD explosives safety criteria and trade security control requirements and will not hamper the operation of Qualified Recycling Programs at military installations. Section 346 does not affect compliance with other applicable laws concerning the transfer or sale of excess small arms ammunition to Federal, state, or local law enforcement and emergency management agencies.

The attached section 346 implementation guidance, which is effective immediately, will be incorporated into applicable DoD issuances at their next revision. My point of contact is Mr. Robert McCullough at 703-604-0098, extension 136, or robert.mccullough@osd.mil.


Ashton B. Carter
PD ACTING
6/23/11

Attachment:
As stated

**Department of Defense (DoD) Implementing Guidance for Section 346 of the National
Defense Authorization Act for FY 2011**

1. Expended small arms cartridge casings (ESACC) are cartridge cases from small arms ammunition (i.e., ammunition without projectiles that contain explosives (other than tracers), that is .50 caliber or smaller, or for shotguns) used in live-fire training or testing and collected after use during operations. Section 346 refers to ESACC as “fired cartridge cases,” and ESACC are often referred to as brass cartridges.
2. The DoD will dispose of ESACC as quickly and effectively as practical, and in compliance with applicable laws, regulations, and DoD guidance. The DoD will not expend resources to determine whether ESACC are serviceable for non-military purposes.
3. ESACC are to be controlled as Commerce Control List Items (DEMIL Code Q6), rather than a Munitions List Item, and subject to DoD Trade Security Controls, as outlined in DoDI 2030.08, “Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and Commerce Control List (CCL) Personal Property to Parties Outside DoD Control.”
4. The DoD, over the past several years, made available for commercial sale to qualified buyers in the continental United States an estimated six to eight million pounds of intact (non-demilitarized) ESACC. Although the amount of ESACC made available may vary based on the live-fire training and testing required to maintain a trained and ready force, the DoD will continue to make available a reasonable portion of the ESACC supply intact for such sale. The DoD may periodically review the quantity of intact ESACC made available and consider whether this amount could be increased without an adverse impact on resources.
 - (a) DoD Components are encouraged to transfer intact ESACC to the Defense Logistics Agency (DLA) to be offered for sale to the public. These items must be processed in compliance with DoD property disposal regulations, and comply with Trade Security Controls and DoD Ammunition and Explosives Safety policies and criteria.
 - (b) DLA, working with the Office of the Secretary of Defense and the Services, will review procedures for managing the sale of ESACC, regardless of configuration, with the goal of optimizing the receipt and return of sales proceeds to DoD Qualified Recycling Programs (QRP) that transfer ESACCs to DLA for sales service.
5. Section 346 will not be applied outside of the continental United States (OCONUS).
 - (a) To meet Trade Security Controls OCONUS, ESACC may continue to be crushed, shredded, deformed, or otherwise mutilated before sale to persons other than U.S. persons, as defined in the Export Administration Regulations (EAR). Sales that otherwise comply with DoD Trade Security Controls requirements are authorized.
 - (b) Unless transferred to DLA for sale to the public, to avoid significant expenditures in transporting ESACC to the continental United States, DoD

Component activities in Hawaii and Alaska may continue to crush, shred, deform, or otherwise mutilate ESACC prior to offering them for sale.

6. Section 346 will not negate the need to adhere to established DoD explosives safety policy or requirements applicable for the transfer of ESACC within or outside of the DoD. DoD explosives safety procedures mandate either: (a) a 100-percent inspection and an independent 100-percent re-inspection, or (b) processing by an approved DoD Explosives Safety Board (DDESB) methodology (e.g., shredding, deforming) to remove potential explosive hazards with an appropriate post-processing inspection to allow the material's explosives safety status to be documented as safe (i.e., material documented as safe (MDAS)).
7. Section 346 will not impair the operation of QRP at military installations or activities within CONUS that rely upon direct sales of ESACC to support their recycling program or Morale, Welfare, and Recreation program. Such installations and activities may continue to crush, shred, deform, or otherwise demilitarize ESACC prior to direct sale. QRPs that currently process intact ESACC through DLA are encouraged to continue to do so.
8. Section 346 does not affect compliance with other laws concerning transfer or sale of excess small arms ammunition to a Federal department or State and local law enforcement and emergency management agencies. DoD Components will continue to operate pursuant to DoD policy and procedures for the sale of excess small arms ammunition outside the DoD to legally authorized recipients (i.e., screen for other Service needs or Foreign Military Sales; transfer to other Federal, state, or local law enforcement or emergency management agencies).
9. Because the DoD does not determine whether ESACC are serviceable for non-military purposes, DoD Components should generally limit processing (e.g., sorting) of ESACC prior to transfer within or release from the DoD to that required to comply with DoD explosives safety policy and other applicable requirements.
10. The Army, as the Single Manager for Conventional Ammunition, is requested to periodically review ammunition-peculiar equipment (e.g., automated tactical ammunition classification systems, small brass sorters, shredders, deformers), including distribution plans and commercially available technologies, to determine whether installations and activities that use large quantities of small arms ammunition could benefit (e.g., reduce costs for processing) from having this technology available. The U.S. Army Materiel Command, in coordination with the U.S. Army Installations Management Command and the National Guard Bureau, should consider making such technology available on a regional basis to DoD Components, including the National Guard.