

CHAPTER 1
U.S. Policy for
Flame,
Riot Control Agents
and
Herbicides

Policy governing US policy for RCA and herbicides is found in Executive Order 11850 dated 8 Apr 75, Renunciation of Certain Uses in War of Chemicals, Herbicides, and Riot Control Agents.

WARTIME USE

The US has renounced first use of herbicides in war except under regulations applicable to domestic use or for control of vegetation within US bases and installations and around their immediate perimeters.

The US has renounced the first use of RCAs in war. US forces will only use RCAs in war in defensive modes to save lives as approved by the President.

In wartime, use of RCAs outside the war zone is authorized as prescribed for peacetime.

For RCA and herbicide use, war is any period of armed conflict no matter how it may be characterized, including declared and undeclared war, counterinsurgency, and any other uses of armed forces in engagements between US military forces and foreign military or paramilitary forces. Armed conflict is conflict between states in which at least one party has resorted to the use of armed force to achieve its aims. It also may involve conflict between a state and uniformed or non-uniformed groups within that state, such as organized resistance groups.

Commanders must recognize that, while the US does not consider herbicides and riot control agents to be chemical weapons, some other countries do not draw a distinction. Commanders must consider international ramifications and Rules of Engagement before recommending the use of herbicides or RCAs.

PEACETIME USE

The Secretary of the Army, as Executive Agent for the Department of Defense for civil disturbance operations, has issued instructions governing the use of RCAs in civil disturbances in the US, the Commonwealth of Puerto Rico, and US possessions and territories.

RCAs may be used on US bases, posts, embassy grounds, and installations for protection and security purposes, riot control, installation security, and evacuation of US noncombatants and foreign nationals. The US-controlled portions of foreign installations are considered US installations.

Chemical aerosol-irritant projectors may be used by military law enforcement personnel for the performance of law enforcement activities. They may be used—

- On-base and off-base in the United States and its territories and possessions.
- On-base overseas and off-base overseas in those countries where such use is specifically authorized by the host-country government.

RCAs may be used off-base (worldwide) for the protection or recovery of nuclear weapons under the

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same conditions as those authorized for the use of lethal force. (See DOD Directive 5210.56.)

RCAs may be used in training. A review of current treaties and/or Status-of-Forces Agreements between the host country and US forces may be required in determining whether or not training with RCAs is authorized overseas.

Herbicides may be used within US bases, posts, and installations for control of vegetation. Use of herbicides off-base overseas must be in accordance with host country laws and agreements, US Environmental Protection Agency (EPA) requirements, or Service regulations, whichever are the most stringent.

AUTHORITY

Only the *President* may authorize the following:

- Use of RCAs in war, including defensive military modes. However, advance authority to use RCAs for protection or recovery of nuclear weapons has been delegated to the Secretary of the Defense.
- Wartime use of herbicides, including installation vegetation control.

The *Secretary of Defense* may authorize the following:

- Use of RCAs or herbicides in peacetime.
- Use of RCAs in wartime for the protection or recovery of nuclear weapons.

CINCs and the Chiefs of Services may authorize:

- The use of RCAs in peacetime on US installations for riot control, installation security, civil disturbance operations, and non-combatant emergency evacuation operations. The US-controlled portions of foreign

installations are considered US installations.

- The movement and storage of RCAs and herbicides, as necessary, to support requirements, provided US control is maintained.
- The off-base use of RCAs in peacetime for the protection or recovery of nuclear weapons under the same situations as authorized for the use of lethal force.
- The use of herbicides in peacetime within and, when authorized by the host country government, around US bases for control of vegetation.
- The use of chemical aerosol-irritant projectors by military law enforcement personnel during peacetime for the performance of law enforcement activities in the following areas:
 - • On-base and off-base in the US and its territories and possessions.
 - • On-base and off-base overseas in those countries where such use is specifically authorized by the host country government.
- Authority for use of RCAs in peacetime situations not covered by the above (for example, to save lives in counterterrorist operations) will be addressed in plans and requested by the combatant commanders for Secretary of Defense approval.

WEAPONS EMPLOYING FIRE

The use of weapons that employ fire, such as tracer ammunition, flamethrowers, napalm, and other incendiary agents, against targets requiring their use is not a violation of international law. They should not, however, be employed to cause unnecessary suffering to individuals.