**Section 726.302 Definition of Solid Waste**

a) A military munition is not a solid waste when any of the following situations describes the munition:

1) It is used for its intended purpose, including any of the following uses:

A) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions);

B) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

C) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

2) It is an unused munition, or component thereof, it is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal, as defined in 35 Ill. Adm. Code 721.102(c)(1), or it is burned for energy recovery, as defined in 35 Ill. Adm. Code 721.102(c)(2).

b) An unused military munition is a solid waste when any of the following occurs:

1) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in subsection (a)), incinerated, or treated prior to disposal;

2) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, incinerated, or treated prior to disposal;

3) The munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

4) The munition has been declared a solid waste by an authorized military official.

c) A used or fired military munition is a solid waste when either of the following occurs with regard to the munition:

1) The munition is transported off-range or from the site of use (where the site of use is not a range) for the purpose of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

2) The munition is recovered, collected, and then disposed of by burial or landfilling either on or off a range.

d) For purposes of RCRA section 1004(27) (42 USC 6903(27)), a used or fired military munition is a solid waste, and, therefore, is potentially subject to RCRA corrective action authorities under sections 3004(u) and (v) (42 USC 6924(u) and (v)), and 3008(h) (42 USC 6928(h)) or to imminent and substantial endangerment authorities under section 7003 (42 USC 6963) if the munition lands off-range and is not promptly rendered safe or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)