



Ohio Administrative Code

Rule 3745-266-202 Definition of waste for purposes of military munitions.

Effective: September 29, 2021

(A) A military munition is not a waste when:

(1) A military munition is used for the intended purpose of the military munition, including:

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

(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; or

(2) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as described in paragraph (C)(1) of rule 3745-51-02 of the Administrative Code, or burning for energy recovery as described in paragraph (C)(2) of rule 3745-51-02 of the Administrative Code.

(B) An unused military munition is a waste when any of the following occurs:

(1) The munition is abandoned by being disposed, burned, detonated [except during intended use as specified in paragraph (A) of this rule], incinerated, or treated prior to disposal; or

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



(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 the munition cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

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

(C) A used or fired military munition is a waste:

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

(2) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

(D) A used or fired military munition is potentially subject to the cleanup requirements of Chapters 3734. and 6111. of the Revised Code if the munition lands off-range and is not promptly rendered safe or retrieved. For purposes of Section 1004(27) of RCRA, a used or fired military munition is a solid waste, and therefore is potentially subject to RCRA corrective action authorities under Section 3004(u), Section 3004(v), and Section 3008(h) of RCRA, or imminent and substantial endangerment authorities under Section 7003 of RCRA, if the munition lands off-range and is not promptly rendered safe or retrieved. Any imminent and substantial threats associated with any remaining material shall be addressed. If remedial action is infeasible, the operator of the range shall maintain a record of the event for as long as any threat remains. The record shall include the type of munition and the location (to the extent the location of the munition is known).

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-50-11 of the Administrative Code titled "Incorporated by reference."]