

---

---

**Rules of**  
**Department of Natural Resources**  
**Division 25—Hazardous Waste**  
**Management Commission**  
**Chapter 15—Hazardous Substance Environmental**  
**Remediation (Voluntary Cleanup Program)**

<b>Title</b>	<b>Page</b>
<b>10 CSR 25-15.010</b> Hazardous Substance Environmental Remediation (Voluntary Cleanup Program).....	3

**Title 10—DEPARTMENT OF  
NATURAL RESOURCES  
Division 25—Hazardous Waste  
Management Commission  
Chapter 15—Hazardous Substance  
Environmental Remediation (Voluntary  
Cleanup Program)**

**10 CSR 25-15.010 Hazardous Substance  
Environmental Remediation (Voluntary  
Cleanup Program)**

*PURPOSE: This rule defines those persons who may apply to the Missouri Department of Natural Resources for oversight of an environmental remediation cleanup in accordance with sections 260.565—260.575, RSMo, and establishes procedures for participation.*

(1) Applicability. Any person, including, but not limited to, a person acquiring, disposing of or possessing a lien holder interest in real property that is known to be or suspected to be contaminated by hazardous substances, may apply to remediate the real property with oversight by the Missouri Department of Natural Resources.

(2) Definitions and Substitution of Terms. This section supplements and modifies the definitions in 10 CSR 25-3. Where these definitions differ from those in 10 CSR 25-3, the modified definition is applicable only in this rule.

(A) Additional Definitions.

1. Days means calendar days unless otherwise specified.

2. Environmental remedial cleanup means a remedial action at an affected site undertaken and financed by a person, which remedial action is subject to oversight and approval by the department, and with respect to which remedial action the person agrees to pay the department's site-specific costs incurred in administration and oversight.

3. Hazardous substance means any hazardous substance specified in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. sections 9601(14)(A)–(F) and any hazardous waste as defined in section 260.360, RSMo or any rules promulgated under sections 260.350–260.480, RSMo.

4. Nonresidential property means any real property currently or previously used for industrial or commercial purposes, or both.

5. Participation fees means the two hundred dollar (\$200) application fee, the initial oversight costs deposit not to exceed five thousand dollars (\$5000) and all additional oversight cost reimbursements.

6. Person means any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity which is recognized by law as the subject of rights and duties.

7. Phase I environmental site assessment means a noninvasive physical assessment of the real property conducted in accordance with American Society for Testing and Materials (ASTM) Standard E.1527 by a technical consultant who is familiar with the nature of the operations and activities that have occurred on the real property.

8. Phase II environmental site assessment means an invasive investigation by a technical consultant of those areas of concern identified during the Phase I environmental site assessment.

(B) Modified definition applicable only to this rule. Remediation or remedial action means all appropriate actions taken to clean up contaminated real property, including but not limited to removal, remedial action and response as these terms are defined by the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601).

(3) Intent to Participate.

(A) Persons desiring to remediate real property with oversight by the department shall request an application form from the department.

(B) The application form shall include the information set forth in section 260.567.1, RSMo and any other existing and relevant information required by the department. The application form shall be filled out completely and returned to the department with the two hundred dollar (\$200) application fee. Application forms may be submitted at any time from the completion of a Phase I environmental site assessment up through the development, but not including the implementation, of a remedial action plan. Sites where remediation had been initiated or completed since August 28, 1994, will not be accepted into the voluntary cleanup program except in cases where limited action was taken to abate an emergency resulting from a release of hazardous substance.

(C) The department will review the form for completeness. The department will return any form deemed incomplete to the person for completion. Upon receipt of all requested information, the department will notify the person that the application form is complete and proceed according to section (4) of this rule.

(D) The department will deny applications for sites which warrant clean-up under force of law or regulation under Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., as amended, or the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 et seq., as amended, or the Missouri Hazardous Waste Management law that fall within any of the following categories:

1. Conditions at a site constitute an imminent and substantial threat to public health or the environment;

2. Site inspection is completed and the site is being evaluated for listing on the NPL;

3. Permitted or interim status Resource Conservation Recovery Act facilities; or

4. Sites which warrant enforcement action for clean-up under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act, or the Missouri Hazardous Waste Management Law.

(4) Environmental Remediation Oversight Agreement.

(A) Upon approval of the application, the department shall enter into a site-specific environmental remediation oversight agreement with the person. This agreement shall set forth the responsibilities of the person and the department.

(B) The person shall post an initial five thousand dollar (\$5000) deposit with the department or a lesser amount as determined by the department to cover the department's initial oversight costs. The deposit shall be a check or an irrevocable letter of credit issued by a Missouri bank.

(C) The person shall submit a copy of all reports concerning the results of any site assessments, investigations, sample collections and sample analyses, and any other existing and relevant information requested by the department. At a minimum, such reports and information shall consist of a Phase I environmental site assessment.

1. All reports, including other information requested by the department pursuant to subsection (4)(C) of this rule, shall be submitted within ninety (90) days following receipt of notice from the department that these reports are required. An extension may be granted at the department's discretion.

2. The department will review and comment on the reports within one hundred eighty (180) days. The one hundred eighty (180) days shall start upon receipt of all the reports or the deposit required in subsection (4)(B) of this rule, whichever is later.

(D) The person shall notify the department's voluntary cleanup project manager by



telephone, facsimile or letter no later than five (5) working days before the intended starting date of field work relating to site characterization or remediation.

(5) Remedial Action Plan.

(A) The person shall submit a remedial action plan for any contamination identified in the environmental site assessments within ninety (90) days following notice from the department that this information is required. An extension may be granted at the department's discretion. The remedial action plan shall satisfy the requirements of section 260.567.6., RSMo.

1. The department shall review the remedial action plan and determine if the plan is protective of human health and the environment. If revisions or modifications of the plan are necessary, the department will notify the person of the required revisions.

2. The final remedial action plan, including all the revisions or modifications, shall be approved by the department within ninety (90) days of receipt if the plan satisfies the requirements of section 260.567.6., RSMo.

(B) Implementation of the Approved Remedial Action Plan.

1. The approved remedial action plan shall be implemented by the person in accordance with the schedule contained in the work plan.

2. Quarterly progress reports shall be submitted to the department on forms provided by the department.

3. A final completion report signed by the person or an authorized agent, documenting that all required work has been satisfactorily completed shall be submitted to the department.

4. Departmental review and oversight of the environmental remediation shall be conducted in accordance with the provisions of the approved remedial action plan.

(6) Notification of Completion. The department will issue a letter to the person stating that no remedial action or no further remedial action need be taken at the site related to any contamination identified in the environmental assessments, provided that—

(A) The person has complied with all provisions of this rule and sections 260.565—260.575, RSMo;

(B) Remedial actions, if any, have been taken in accordance with the approved remedial action plan; and

(C) All applicable participation fees have been remitted to the department.

(7) Termination of Environmental Remediation.

(A) Pursuant to section 260.567.11., RSMo, a person may terminate participation at any time by providing the department with written notification by certified mail. This termination does not affect the person's environmental liability.

(B) Pursuant to section 260.569.3., RSMo, the department may terminate a person's participation in the environmental remediation oversight agreement for cause.

(C) Reimbursement of unspent oversight monies shall be handled in accordance with section 260.569.4., RSMo.

(8) Oversight Reimbursements. The person shall reimburse the department for site-specific administration and oversight costs in accordance with section 260.569.1, RSMo and this rule.

(A) A complete accounting of the costs incurred by the department will be billed to the person by certified mail at the following rates:

1. Personnel. The project manager's and geology and laboratory field personnel's hourly rates multiplied by a fixed factor of three and one-half (3 1/2) will be the basis for time accounting billing. This fixed factor is comprised of direct labor costs; fringe benefits, calculated at a rate developed by the department, indirect costs calculated at a rate approved by the United States Department of the Interior; and direct overhead, including, but not limited to, the cost of clerical support and supervisory engineering review and Hazardous Waste Program administrative and management support;

2. Expenses. The direct expenses incurred during administration and oversight and any analytical costs associated with sampling; plus indirect costs calculated at the approved United States Department of the Interior rates; and

3. Monitoring fee. For sites which require engineering and/or institutional controls (e.g., capping, deed restrictions), the person shall submit a fee to cover the department's long-term monitoring costs. The department's voluntary cleanup project manager shall establish a site-specific monitoring fee, ranging from five thousand dollars to fifteen thousand dollars (\$5,000–\$15,000). The amount of the monitoring fee shall be dependent upon the complexity of the site and the type of engineering and/or institutional controls.

(B) The person shall reimburse the department as follows:

1. Initial department expenses shall be reimbursed from the two hundred dollar (\$200) fee accompanying the application form.

2. After the two hundred dollar (\$200) application fee has been expended, reimbursement shall be made from the deposit required in subsection (4)(B) of this rule.

3. The department shall bill the person for any further expenses. The person shall reimburse the department within sixty (60) days following notice from the department that reimbursement is due. Failure to submit timely reimbursement may be grounds for termination of the environmental remediation oversight agreement.

(C) The person may appeal to the commission any charge within thirty (30) days of receipt of the bill in accordance with procedures outlined in section (9) of this rule. Upon appeal to the commission, the disputed amount shall be placed in escrow pending resolution of the appeal.

(9) Appeals.

(A) The person may appeal to the commission any departmental action under sections 260.565—260.575, RSMo or this rule.

1. Appeals shall be filed with the staff director to the commission by certified mail within thirty (30) days of the disputed department action.

2. Appeals shall be in writing and shall specify the grounds for the appeal.

(B) Appeal hearings will be conducted by the commission in accordance with section 260.400, RSMo.

*AUTHORITY: sections 260.370, 260.567, 260.569, 260.571 and 260.573, RSMo 2000.\* Original rule filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001.*

*\*Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995; 260.567, RSMo 1993; 260.569, RSMo 1993, amended 2000; 260.571, RSMo 1993; and 260.573, RSMo 1993.*