



Rules of
Department of Natural Resources
Division 25—Hazardous Waste Management Commission
Chapter 3—Hazardous Waste Management
System: General

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 25—Hazardous Waste
Management Commission
Chapter 3—Hazardous Waste
Management System: General**

10 CSR 25-3.010 Definitions
(Rescinded October 1, 1986)

AUTHORITY: sections 260.350–260.550, RSMo 1978. Original rule filed April 12, 1979, effective Jan. 1, 1980. Amended: Filed Jan. 13, 1981, effective May 13, 1981. Amended: Filed March 13, 1981, effective July 13, 1981. Rescinded and readopted: Filed Aug. 6, 1981, effective Dec. 14, 1981. Amended: Filed Dec. 10, 1982, effective June 13, 1983. Amended: Filed Dec. 13, 1983, effective June 18, 1984. Amended: Filed Aug. 14, 1984, effective March 1, 1985. Amended: Filed March 14, 1985, effective July 19, 1985. Rescinded: Filed Dec. 16, 1985, effective Oct. 1, 1986.

10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information

PURPOSE: This rule sets forth definitions and delisting procedures. This rule incorporates the federal regulations in 40 CFR part 260 by reference. This rule also outlines a number of specific substitutions between the state and federal regulations that are necessary for incorporation by reference.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The regulations set forth in 40 CFR part 260, July 1, 2010, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference, except for the changes made at 70 FR 53453, September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, subject to the following additions, modifications, substitutions, or

deletions. This rule does not incorporate any subsequent amendments or additions.

(A) Except where otherwise noted in sections (2) and (3) of this rule or elsewhere in 10 CSR 25, any federal agency, administrator, regulation, or statute that is referenced in 40 CFR parts 260–270, 273, and 279, and incorporated by reference in 10 CSR 25, shall be deleted and in its place add the comparable state department, director, rule, or statute. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

1. “Director” shall be substituted for “Administrator” or “Regional Administrator” except where those terms are defined in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25. All applications, approvals, petitions, appeals, or other paperwork associated with the United States Environmental Protection Agency’s “National Environmental Performance Track” shall not be submitted to the director in lieu of the administrator or regional administrator.

2. “Missouri Department of Natural Resources” shall be substituted for “EPA,” “U.S. EPA,” or “U.S. Environmental Protection Agency” except where those terms appear in definitions in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25.

3. “Section 260.395.15, RSMo,” shall be substituted for “Section 3005(e) of RCRA.”

4. “Sections 260.375(9), 260.380.1(9), 260.385(7), and 260.390(7), RSMo,” shall be substituted for “Section 3007 of RCRA.”

5. “Sections 260.410 and 260.425, RSMo,” shall be substituted for “Section 3008 of RCRA.”

6. “10 CSR 25-3.260” shall be substituted for any reference to 40 CFR part 260.

7. “10 CSR 25-4.261” shall be substituted for any reference to 40 CFR part 261.

8. “10 CSR 25-5.262” shall be substituted for any reference to 40 CFR part 262.

9. “10 CSR 25-6.263” shall be substituted for any reference to 40 CFR part 263.

10. “10 CSR 25-7.264” shall be substituted for any reference to 40 CFR part 264.

11. “10 CSR 25-7.265” shall be substituted for any reference to 40 CFR part 265.

12. “10 CSR 25-7.266” shall be substituted for any reference to 40 CFR part 266.

13. “10 CSR 25-7.268” shall be substituted for any reference to 40 CFR part 268.

14. “10 CSR 25-7.270” shall be substituted for any reference to 40 CFR part 270.

15. “10 CSR 25-8.124” shall be substituted for any reference to 40 CFR part 124.

16. “10 CSR 25-11.279” shall be substituted for any reference to 40 CFR part 279.

17. “10 CSR 25-16.273” shall be substituted for any reference to 40 CFR part 273.

18. “Sections 260.350–260.434, RSMo,” shall be substituted for “Subtitle C of RCRA Act,” or “RCRA,” except where those terms are defined in 40 CFR 260.10, incorporated in this rule.

19. “Section 260.380.1(1), RSMo” shall be substituted for “Section 3010 of RCRA.”

20. “Section 260.420, RSMo” shall be substituted for “Section 7003 of RCRA.”

21. “Waste within the meaning of section 260.360(21), RSMo,” shall be substituted for “solid waste within the meaning of section 1004(27) of RCRA.” Residual materials specified as wastes under section 260.360(21), RSMo, shall mean any spent materials, sludges, by-products, commercial chemical products, or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

22. “Section 260.360(9), RSMo,” shall be substituted for “Section 1004(5) of RCRA.”

23. “Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, 10 CSR 25-3.260(1)(B), and 10 CSR 25-7.270(2)(B)” shall be substituted for any reference to the Federal Freedom of Information Act (5 U.S.C. 552(a) and (b)), 40 CFR part 2, or Section 3007(b) of RCRA.

24. “Owner/operator” shall be substituted for each reference to “owner and operator” and “owner or operator” in the 40 CFR parts incorporated in 10 CSR 25.

25. All quantities of solid waste which are defined as hazardous waste pursuant to 10 CSR 25-4 are hazardous waste and are regulated under sections 260.350–260.434, RSMo, and 10 CSR 25. A person shall manage all hazardous waste which is not subject to requirements in 10 CSR 25 in accordance with subsection 260.380.2, RSMo. When a person accumulates one hundred kilograms (100 kg) of nonacute hazardous waste or one kilogram (1 kg) of acutely hazardous waste or one gram (1 g) of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), or the aggregate of one hundred kilograms (100 kg) of acute and nonacute hazardous waste, whichever first occurs, that person is subject to the provisions in 10 CSR 25. This provision is in addition to the calendar-month generation provisions in 40 CFR 261.5 which are incorporated by reference and modified in 10 CSR 25-4.261(2)(A).

26. The term variance in 10 CSR 25 means an action of the commission pursuant to section 260.405, RSMo. In any case where a federal rule that is incorporated by reference in 10 CSR 25 uses the term variance but



the case-by-case decision or action of the department or commission does not meet the description of a variance pursuant to section 260.405, RSMo, the decision or action shall be considered an exception or exemption based on the conditions set forth in the federal regulation incorporated by reference or the omission from regulation.

27. The rules of grammatical construction in 40 CFR 260.3 incorporated by reference in this rule shall also apply to the incorporated text of 40 CFR parts 266 and 270 and to 10 CSR 25.

(2) This section sets forth specific modifications to the regulations incorporated in section (1) of this rule. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, changes to 40 CFR part 260 subpart A will be located in subsection (2)(A) of this rule.)

(A) The following are changes to 40 CFR part 260 subpart A incorporated in this rule:

1. Confidential business information and availability of information. 40 CFR 260.2 is not incorporated in this rule. In lieu of those provisions, the following shall apply to confidential business information and the availability of information:

A. Any information provided to the department under 10 CSR 25 will be made available to the extent and in the manner authorized by Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, subsection (1)(B) and 10 CSR 25-7.270(2)(B)2. as applicable;

B. Any person who submits information to the department in accordance with 10 CSR 25 may assert a claim of business confidentiality covering a part or all of that information by including a letter with the information which requests protection of specific information from disclosure. Information covered by this claim will be disclosed by the department to the extent and by means of the procedures set forth in Chapter 610, RSMo. However, if no claim accompanies the information when it is received by the department, the information may be made available to the public without further notice to the person submitting it. The department will respond to requests for protection of business information within twenty (20) business days; and

C. The department will respond to requests for information within three (3) business days except as provided in Chapter 610, RSMo, and except as allowed for reasonable cause in accordance with Chapter 610, RSMo. When the period for document pro-

duction must exceed three (3) business days for reasonable cause, the department will provide the document within no more than twenty (20) business days.

(B) Definitions. (Reserved)

(C) 40 CFR part 260 subpart C, Rulemaking Petitions, is not incorporated in this rule. Not more than sixty (60) days after promulgation of the final federal determination, the department shall approve or disapprove all delistings granted under 40 CFR 260.20 or 40 CFR 260.22. If the department fails to take action within that sixty (60)-day time frame, the delistings shall be deemed approved.

(D) 40 CFR part 260 Appendix I is not incorporated in this rule.

(3) Missouri Specific Definitions. Definitions of terms used in 10 CSR 25. This section sets forth definitions which modify or add to those definitions in 40 CFR parts 60, 260-270, 273, and 279 and 49 CFR parts 40, 171-180, 383, 387, and 390-397.

(A) Definitions beginning with the letter A.

1. ASTM means the American Society for Testing and Materials.

2. Abandoned or uncontrolled means any property where hazardous waste has been disposed of illegally or where hazardous waste was disposed of prior to regulation under sections 260.350-260.434, RSMo.

3. Active fault means a fault which, according to substantial geologic evidence, is capable of movement along a fault trace. A fault which, according to historical records, has moved along a fault trace is considered an active fault.

4. Attenuation means any physical, chemical, or biological reaction, or a combination of both, transformation occurring in the zone of aeration or zone of saturation that brings about a temporary or permanent decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled.

(B) Definitions beginning with the letter B. (Reserved)

(C) Definitions beginning with the letter C.

1. CFR means the Code of Federal Regulations.

2. CSR means the Missouri Code of State Regulations.

3. Commission means the Hazardous Waste Management Commission of Missouri created by section 260.365, RSMo.

4. Compliance procedure means any proceeding instituted under sections 260.350-260.434, RSMo, which seeks to

require compliance with, or which is in the nature of an enforcement action or an action to cure a violation of, sections 260.350-260.434, RSMo, or rules adopted under those sections, or permits, licenses, or certifications issued under those sections. A compliance procedure includes, without limitation, an order issued pursuant to section 260.410, RSMo, or any denial or revocation of or notice of intent to revoke a license, permit, or certification pursuant to, or any civil or criminal action filed in the courts of Missouri pursuant to, sections 260.350-260.434, RSMo. A compliance procedure is considered to be pending from the time an order, denial, revocation, or notice of intent to revoke is issued by the director or judicial proceedings begin, until the director notifies the person subject to the compliance procedure in writing that the violation has been corrected or that the procedure has been withdrawn or dismissed.

(D) Definitions beginning with the letter D.

1. Department means the Missouri Department of Natural Resources.

2. Director means the director of the Missouri Department of Natural Resources.

3. Displacement means the relative movement of any two (2) sides of a fault measured in any direction.

4. DOT means the United States Department of Transportation.

(E) Definitions beginning with the letter E.

1. Extended reporting period means a declaration or endorsement in a liability insurance policy required by 10 CSR 25-7 which provides an extension of the coverage of the policy to claims otherwise covered by the policy and first made during a specified period immediately following the effective date of cancellation or nonrenewal of the policy. The specified period shall be of at least twelve (12) months duration.

(F) Definitions beginning with the letter F.

1. Farmer means a person primarily engaged in the production of crops or livestock for agricultural purposes, or both.

2. Fault means a fracture along which rocks on one (1) side have been displaced with respect to those on the other side.

(G) Definitions beginning with the letter G.

1. Generation means the act or process of producing hazardous waste.

(H) Definitions beginning with the letter H.

1. HSWA means the Hazardous and Solid Waste Amendments of 1984. These amendments were made to the Resource Conservation and Recovery Act by P.L. 98-616, November 8, 1984.

2. Hazardous constituent means any



chemical compound listed in 40 CFR part 261 Appendix VIII as incorporated in 10 CSR 25-4.261. (This is different than the term hazardous waste constituent as defined in 40 CFR 260.10.)

3. Hazardous waste means any waste or combination of wastes as defined by or listed in 10 CSR 25-4, which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a threat to the health of humans or other living organisms.

4. Hazardous waste transporter means any person or company conducting activities in Missouri which require a hazardous waste transporter license pursuant to 10 CSR 25-6.263. These activities may include, but are not limited to, transportation of hazardous wastes, used oil, and infectious wastes by highway, railway, or waterway.

5. Holocene means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene period to the present, approximately the previous twelve thousand (12,000) years.

6. Household hazardous waste means any household waste excluded from regulation as hazardous waste by 40 CFR 261.4(b)(1) but otherwise meets the definition of hazardous waste in paragraph (2)(H)3. of this rule.

(I) Definitions beginning with the letter I.

1. Identification number means the unique code assigned to each hazardous waste, each hazardous waste generator, transporter, facility, or resource recovery facility pursuant to these rules.

2. International Registration Plan, referred to as IRP, is a system of reporting and apportioning fees to states and other jurisdictions based on the percentage of mileage accumulated while conducting business in those states or jurisdictions.

(J) Definitions beginning with the letter J. *(Reserved)*

(K) Definitions beginning with the letter K. *(Reserved)*

(L) Definitions beginning with the letter L.

1. Land-based management facility means any hazardous waste landfill, land treatment unit, surface impoundment, or waste pile.

(M) Definitions beginning with the letter M.

1. Missouri hazardous waste mileage means the total fleet miles that materials requiring a hazardous waste transporter license are transported in Missouri over a period specified by rule. Additionally, all

miles traveled transporting containers with residues of these materials, as defined at 49 CFR 171.8, will be included in the Missouri hazardous waste mileage.

2. Motor vehicle means a vehicle, machine, tractor, trailer, or semitrailer, or any combination of them, propelled or drawn by mechanical power and used upon the highways in transportation. It does not include a vehicle, locomotive, or car operated exclusively on a rail(s).

(N) Definitions beginning with the letter N. *(Reserved)*

(O) Definitions beginning with the letter O.

1. One hundred (100)-year flood means a flood that has a one percent (1%) chance of recurring in any year or a flood of magnitude equaled or exceeded once in one hundred (100) years on the average over a significantly long period. In any given one hundred (100)-year interval, a flood of that magnitude may or may not occur, or more than one (1) flood of that magnitude may occur.

2. One hundred (100)-year floodplain means any land area which is subject to a one percent (1%) or greater chance of flooding in any given year from any source.

3. Operating disposal facility means a hazardous waste management facility permitted or seeking a permit for the construction, operation, or both, including receipt of hazardous waste, of surface impoundment, waste pile, land treatment unit, or landfill.

4. Owner/operator means owner and operator. For the purposes of performing the activities required by these rules, where not specifically required of the owner, the owner may designate in writing that the operator has the authority to perform the duties of the owner/operator. This designation does not relieve the owner of his/her joint liability that these activities are performed.

(P) Definitions beginning with the letter P.

1. Post-closure disposal facility means a hazardous waste management facility which has disposed of hazardous waste, and which is required by applicable state and federal laws and regulations to have a permit to conduct post-closure activities, or to perform necessary post-closure activities under an enforceable document, as defined in 40 CFR 270.1(c)(7) and incorporated by reference in 10 CSR 25-7.270(1).

2. Professional engineer or registered engineer means a professional engineer licensed to practice by the Missouri Board of Architects, Professional Engineers and Land Surveyors.

3. Power unit for the purpose of this regulation is a truck with at least two (2) axles,

regardless of licensed vehicle weight or configuration.

4. Preceding year is defined as the period of twelve (12) consecutive months immediately prior to July 1 immediately preceding the commencement of the license year for which license is sought.

(Q) Definitions beginning with the letter Q. *(Reserved)*

(R) Definitions beginning with the letter R.

1. RCRA means the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901-6991.

2. Regional aquifer means a geologic formation, group of formations or part of a formation that contains sufficient saturated permeable material to yield or be capable of yielding water at a sufficient rate to serve as a practical source of water supply.

3. Registry means the Missouri Registry of Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites.

4. Remedial action means any action at a hazardous waste site to protect the public health and environment. These actions may include, but are not limited to: storage; confinement; perimeter protection using dikes, trenches, or ditches; clay cover; neutralization; cleanup of hazardous waste, hazardous substances, or contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive materials; repair or replacement of leaking containers; collection of leachate and runoff; on-site treatment or incineration; provision of alternative water supplies; any monitoring reasonably required to assure that these actions protect the public health and environment; or any combination of these actions.

5. Remedial action plan means the specific procedures to be followed in implementation of any remedial action and all necessary, related procedures including, but not limited to, safety, analysis, sampling, handling, packaging, storing, removing, transporting, labeling, registering, and site security. A remedial action plan has a defined endpoint, agreed to in advance, which will complete the plan. Additional remedial actions may be necessary after completion of a remedial action plan dependent upon results of sample analysis or development of new information.

6. Residual materials means any spent materials, sludges, by-products, commercial chemical products, or scrap metals that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

7. Resource recovery means the reclamation of energy or materials from waste, its reuse, or its transformation into new products which are not wastes.



Editor's Note: Paragraph (2)(R)7. will become effective December 31, 1993.

8. Responsible party means any person(s) liable for costs of removal actions or remedial action or other response costs or damages pursuant to Section 107 of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9607-9657 as amended by P.L. 99-499 Superfund Amendments, and Reauthorization Act of 1986, or any current owners or other person willing to assume responsibility.

(S) Definitions beginning with the letter S.

1. Site, for purposes of 10 CSR 25-10, means the smallest geographic boundary which contains known chemical contamination. A buffer zone may be included within the area.

2. Standby trust fund means a trust fund which must be established by the owner or operator who obtains a surety bond or provides other security as specified in these rules.

3. Substantial change means any change in use of a site which may result in a spread of contamination over additional portions of a site or off-site, an increase in human exposure to hazardous materials, an increase in adverse environmental impacts, or a situation making potential remedial actions to correct problems at the site more difficult to undertake or complete.

(T) Definitions beginning with the letter T.

1. Training means formal instruction which supplements an employee's existing job knowledge and is designed to protect human health and the environment through increased awareness and improved job proficiency.

2. Transporter; see hazardous waste transporter.

3. True vapor pressure means the pressure exerted when a solid or liquid is in equilibrium with its own vapor. The vapor pressure is a function of the substance and of the temperature.

4. Twenty-four (24)-hour, twenty-five (25)-year storm means a storm of twenty-four (24)-hour duration for which the frequency of occurrence is once in twenty-five (25) years.

(U) Definitions beginning with the letter U.

1. Universal waste means any of the hazardous wastes that are defined under the universal waste requirements of 10 CSR 25-16.273(2)(A).

2. Used oil.

A. The definition of used oil at 40 CFR 260.10 is amended to include, but not be limited to, petroleum-derived and synthet-

ic oils which have been spilled into the environment or used for any of the following:

- (I) Lubrication/cutting oil;
(II) Heat transfer;
(III) Hydraulic power; or
(IV) Insulation in dielectric transformers.

B. The definition of used oil at 40 CFR 260.10 is amended to exclude used petroleum-derived or synthetic oils which have been used as solvents. (Note: Used ethylene glycol is not regulated as used oil under 10 CSR 25.)

C. Except for used oil that meets the used oil specifications found in 40 CFR 279.11, any amount of used oil that exhibits a hazardous characteristic and is released into the environment is a hazardous waste and shall be managed in compliance with the requirements of 10 CSR 25, Chapters 3-9 and 13. Any exclusions from the definition of solid waste or hazardous waste will apply.

3. USGS means United States Geological Survey.

4. U.S. importer means a United States-based person who is in corporate good standing with the U.S. state in which they are registered to conduct business and who will be assuming all generator responsibilities and liabilities specified in sections 260.350-260.430, RSMo, for wastes which the U.S. importer has arranged to be imported from a foreign country.

(V) Definitions beginning with the letter V.

1. Vapor recovery system means a system capable of collecting vapors and discharged gases and a vapor processing system capable of processing those vapors and gases so as to control emission of contaminants to the atmosphere. Emission not retained by vapor recovery systems, except for emissions regulated in 10 CSR 25, are regulated by rules adopted by the Missouri Air Conservation Commission, 10 CSR 10.

2. Vehicle, for the purpose of this regulation, refers to a power unit.

(W) Definitions beginning with the letter W.

1. Washout means the fluvial transport of hazardous waste from a hazardous waste management unit as a result of flooding.

2. Waste means any material for which no use or sale is intended and which will be discarded or any material which has been or is being discarded. Waste shall also mean certain residual materials which may be sold for purposes of energy or materials reclamation, reuse, or transformation into new products which are not wastes. Waste shall also mean hazardous waste fuels.

(X) Definitions beginning with the letter

X. (Reserved)

(Y) Definitions beginning with the letter Y. (Reserved)

(Z) Definitions beginning with the letter Z. (Reserved)

AUTHORITY: section 260.370, RSMo Supp. 2010, and section 260.395, RSMo 2000.* Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. Amended: Filed Feb. 3, 1987, effective Aug. 1, 1987. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 15, 1991, effective Aug. 1, 1991. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed Feb. 14, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 5, 1993, effective Aug. 9, 1993. Amended: Filed June 3, 1993, effective Jan. 31, 1994. Amended: Filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed Aug. 16, 1995, effective April 30, 1996. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Amended: Filed Dec. 17, 2001, effective Aug. 30, 2002. Amended: Filed March 31, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008, effective June 30, 2009. Amended: Filed April 15, 2011, effective Dec. 30, 2011.

*Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995, 2004, 2010 and 260.395, RSMo 1977, amended 1980, 1983, 1985, 1988, 2000.