



10 CSR 25-10.010

(7) Site Assessment.

(A) Site Assessment Committee.

1. A five (5)-member voting committee shall be established with one qualified representative each from the Missouri Department of Health; the department's Division of Geology and Land Survey; and one (1) representative each from the Division of Environmental Quality's Hazardous Waste Program, Public Drinking Water Program and one (1) other environmental program. Three (3) yes votes are required to initially classify or reclassify a site.

2. The committee shall meet at least once annually to assess or reassess the classification of each abandoned or uncontrolled hazardous waste registry site as required in section 260.445.3, RSMo. The classification shall be determined in accordance with criteria contained in subsection (7)(B) of this rule.

(B) Classifications and Criteria for Determining Site Classifications.

1. Class 1—sites that are causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment. Sites present a high risk to public health and/or the environment, and the following criteria for determining this site classification shall apply:

A. Hazardous waste on the site is highly concentrated and readily accessible by ingestion and/or inhalation and/or dermal contact; and/or

B. Immediate remediation or action is required to prevent irreparable damage to public health and/or the environment.

2. Class 2—sites that are a significant threat to the environment. Sites present a moderate risk to public health and/or the environment, and the following criteria for determining this site classification shall apply:

A. Hazardous waste on the site exhibits one (1) or more of the following:

(I) Moderately concentrated and accessible by ingestion and/or inhalation and/or dermal contact;

(II) Highly concentrated, but not openly accessible due to the nature of the site and the contamination and/or any remedial action taken; and

(III) Likely to adversely impact human health and/or the environment if not treated.

B. Remediation or action is required to reduce adverse impacts to public health and/or the environment.

3. Class 3—sites that do not present a significant threat to the public health or environment. Sites present a low risk to public health and/or the environment, and the following criteria for determining this site classification shall apply:

A. Hazardous waste on the site exhibits one (1) or more of the following:

(I) Low to moderately concentrated and are not readily accessible by ingestion and/or inhalation and/or dermal contact due to the nature of the site and the contamination and/or any remedial action taken; and

(II) Exceeding established regulatory guidelines; however, are not significantly impacting public health and/or the environment at this time.

B. Action may be deferred; however, hazardous waste remains on-site, and remediation is needed.

4. Class 4—sites that have been properly closed. All department required response actions have been implemented on the sites, and the response actions have been approved by the department. The following criteria for determining this site classification shall apply:

A. Hazardous waste remains on-site; and

B. The site requires continued treatment, containment, or other operation and maintenance until it meets established regulatory guidelines.

5. Class 5—sites that have been properly closed with no evidence of present or potential adverse impact. Sites proposed for the registry or on the registry meet all department requirements and regulatory guidelines for a residential or industrial cleanup as defined in subparagraphs (7)(B)5.A. and B. of this rule.

A. Residential cleanup.

(I) A site is remediated to standards determined on a site-specific basis by the department in consultation with the Missouri Department of Health, considering toxicity and typical residential exposure factors which may include years of exposure, body weight, exposure dose and/or other risk factors.

(II) A site is cleaned up for the hazardous wastes identified and remediated, and the site is not placed on the registry, or may be removed from the registry. A letter may be sent to the landowner authorizing residential use of the site. The county recorder of deeds shall be notified of the removal of a site from the registry.

B. [Industrial/commercial] **Nonresidential** cleanup.

(I) A site is—

(a) [R] remediated to **risk-based corrective action** standards **through the process described in 10 CSR 25-18.010** [determined on a site-specific basis by a method approved by the department in consultation with the Department of Health which considers toxicity and typical industrial exposure factors which may include years of exposure, body weight, exposure dose and/or other risk factors];

(b) Used only for [industrial or commercial] **nonresidential** purposes **established in the risk management plan** as long as any remaining hazardous wastes exceed the department's residential or any-use standards; and

(c) Not a source for off-site releases of contaminants in concentrations exceeding residential or any-use standards for any media.

(II) A consent agreement, as defined in subsection (2)(E), shall be signed by the department and the property owner which establishes a schedule and specific responsibilities for completion of a site investigation and remedial action.

(a) The property owner shall—

I. Comply with the terms of the consent agreement; and

II. Continue to comply with the terms of the consent agreement.

(b) The consent agreement shall contain the requirement that the property owner file a deed restriction with the recorder of deeds in the county in which the site is located. One (1) or more of the following deed restrictions shall be filed so as to appear on the chain of title for the site, along with any other restrictions specific to the site:

I. Prohibiting the construction or placement of potable water wells on the property without the approval of the Missouri Department of Natural Resources;

II. Prohibiting excavation or construction work in areas of known soil contamination without the approval of the Missouri Department of Natural Resources;

III. Prohibiting the disruption or alteration of a cap, containment system or barrier in an area of known contamination without the approval of the Missouri Department of Natural Resources; and/or

IV. Prohibiting the property from being used for anything but an industrial use.

(III) The deed restriction and consent agreement are required before a site is withdrawn from the registry, or before a proposal to list a site is withdrawn.

(IV) The property owner must provide the department with evidence that the property owner has notified the political subdivision exercising jurisdiction over land use planning of the proposed industrial/commercial cleanup level classification.

(C) When the department proposes to initially classify or reclassify a site on the registry in accordance with criteria contained in subsection (7)(B) of this rule, it will notify each owner of record of the proposed site classification.

1. The notice shall contain the classification being proposed by the site assessment committee and a statement that the owner or operator may petition the director of the department in accordance with subsection (5)(A) of this rule and appeal the director's final decision in accordance with section 260.460, RSMo and this rule.

2. If an owner or operator does not file a notice of appeal within thirty (30) days of the mailing date of the notice specified in paragraph (7)(C)1. of this rule, the department will classify the site on the registry as proposed.

3. No registry classification or reclassification may be made until the notice set forth in subsection (7)(C) of this rule has been mailed, and any appeal to the commission in accordance with section (2) of this rule has been finally resolved.

4. Pending petitions or appeals of registered sites pursuant to subsection (5)(A) of this rule will not prevent the site from being listed in the annual report. Appeals to the commission under subsection (5)(A) of this rule will be noted in the annual report.