

June 29, 2009

TO: County Recorders, abstractors, realtors, and attorneys.

RE: Emergency revision of Groundwater Hazard Statement requirements.

The Department of Natural Resources has continued to receive many questions and comments in regard to the implementation of the private sewage system inspection law. In an attempt to address some of the concerns which have been raised, on June 29, 2009 the Department filed an emergency rulemaking to revise the Groundwater Hazard Statement and the rules adopting that statement.

The new rules in regard to when a Groundwater Hazard Statement is required are effective immediately.

The new form must be used beginning on September 1, 2009. From July 1, 2009 through August 31, 2009, recorders may accept either the form that was adopted on April 1, 2009 (dated February 1, 2009) or the form adopted on June 29, 2009 (dated June 26, 2009).

The changes made and the reasons therefore are as follows:

I. Changes to when a Groundwater Hazard Statement is required.

The Groundwater Hazard Statement is now required in two circumstances:

- a. When a Declaration of Value is required.
- b. When a private sewage system inspection is required. The Department put language in the rule specifically stating that it is the duty of the transferor to determine whether a Groundwater Hazard Statement is required in instances when a DOV is not required.

The Groundwater Hazard Statement is no longer required for leases. The Groundwater Hazard Statement is no longer required for government transactions unless the government transaction qualifies under one of the two categories listed above.

These changes were made in an attempt to simplify the determination by the County Recorders of when a Groundwater Hazard Statement is required.

II. Additional options under section number 6, Private Sewage Disposal System.

The Department added two new options under section #6 on the Groundwater Hazard Statement. The following two check boxes options were added:

- This property is exempt from the private sewage disposal inspection requirements pursuant to the following exemption:
_____.
- The private sewage disposal system has been installed within the past two years pursuant to permit number
_____.

The party completing the form will need to note which statutory exemption is applicable. This information is available in the instructions for the form. If the private sewage system was installed within the past two years before the filing of the form, the party completing the form will need to list the permit number for the permit issued by the County. The inclusion of the permit number ensures that the system was built to current requirements and that no inspection is needed.

An additional sentence was also added to address the situation in which a binding acknowledgement is filed and the inspection will occur at a later date. The procedure is now set forth on the form. The instructions are as follows:

When the inspection is completed, an amended Groundwater Hazard Statement shall be recorded with the certified inspection and shall include the document numbers of both the real estate transfer document and the original Groundwater Hazard Statement.

These options were added to more fully reflect all circumstances which may exist at the time of the completion and recording of the Groundwater Hazard Statement.

III. New Attachment #1

It is the understanding of the Department that certain categories on the Groundwater Hazard Statement form are rarely used. These include disclosures related to Solid Waste, Hazardous Waste, and Private Burial Sites. In order to avoid further lengthening the form, the Department has moved the information related to positive responses to the Solid Waste and Hazardous Waste inquiries to a separate attachment. In most cases, this attachment won't be needed. This allows the form to remain at two pages in length in most instances.

The private burial site disclosure is also rarely used but takes up very little space on the form. Adding this information to Attachment #1 did not seem to serve any purpose.

The Department sincerely intends these changes to improve the implementation of the private sewage system inspection requirements. The use of emergency rulemaking is an extraordinary action and, if you believe these changes to be helpful, we ask for your continued support through the rulemaking process.

Any additional comments or feedback will be taken into consideration in regard to future administrative rule or statutory changes.

The following documents have been attached to this e-mail:

1. [Ground Water Hazard Statement Form](#)
2. [Ground Water Hazard Statement Attachment #1](#)
3. [Ground Water Hazard Statement Instructions](#)

If you have trouble opening the documents, please access them via the DNR website at: <http://www.iowadnr.gov/other/gwhaz.html>

The [Ground Water Hazard Emergency Rules](#) have also been attached.

Sincerely,

Jon C. Tack
Attorney
Legal Services Bureau