

Subject: More on Ground Water Hazard and the Septic Inclusion – from the Iowa DNR

The Department wishes to respond to recent questions about the private sewage disposal system inspection law taking effect on July 1st. As you know, the Governor has vetoed the proposed delay in the effective date of the law and it will take effect this year. Frequent questions have been raised related to two areas:

1. Exemptions to the inspection requirements.

A. Two additional exemptions were added by the legislature. They are:

(7) A transfer for which consideration is five hundred dollars or less.

(8) A deed between a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company as defined in section 428A.2, subsection 15, and its stockholders, partners, or members for the purpose of transferring real property in an incorporation or corporate dissolution or in the organization or dissolution of a partnership, limited partnership, limited liability partnership, or limited liability company under the laws of this state, where the deed is given for no actual consideration other than for shares or for debt securities of the family corporation, partnership, limited partnership, limited liability partnership, or limited liability company.

These exemptions have been added to the instructions for the groundwater hazard statement and a copy of the new instructions is attached.

B. The GWHS does not have a box to check if the transaction is exempt. For exempt transactions we ask that "NA - exempt" be noted in the margin.

2. Implementation of effective date. The inspections requirement takes effect July 1, 2009. The Department views this to mean that the requirement applies to deeds, contracts, or other transfer documents dated July 1, 2009 or later. Deeds dated in June or earlier that are filed after July 1st do not need to have the inspection or have that section of the GWHS filled out. The execution of a purchase agreement prior to July 1 does not give rise to an exemption if the deed or contract is signed after July 1st. Deeds in fulfillment of a contract do not require the GWHS or the inspection.

Another issue that needs to be addressed is the requirement that a GWHS accompany the recording of a lease. Many seem surprised by that requirement. This requirement has been in place since the original rule adoption in 1987. However, in 2002 the Department made the requirement less stringent by making it applicable to leases of 5 years or more, rather than leases of 1 year or more as it had been from 1987 to 2002. This year we added additional exemptions and clarifications. The GWHS is now required for:

a. Any recorded lease of land which has a term of five years or more, except leases related to the construction or maintenance of cell phone, television, radio or similar electronics towers and leases related to the construction or maintenance of electricity-generating wind turbines. Leases or easements reserving rights to the future construction of the tower and wind turbine structures exempted by this sub-rule are similarly exempted. A lease of land does not include a lease of a portion of a building such as an apartment lease or business location within a mall or other multi-tenant building.

Also note: The DNR is posting a list of individuals certified to inspect these sewage disposal systems. The list is available on www.wastewatertraining.com and will soon be on www.iowadnr.gov/tot.html. It will be updated when classes are completed in June and July.