



Frequently Asked Questions
The Groundwater Hazard Statement (GWHS)
& Time of Transfer Septic System Inspections
www.iowadnr.gov/tot.html

Emergency Rules Passed for GWHS on June 30, 2009. The changes include:

- The elimination of the filing of a groundwater hazard statement for all leases and governmental transactions unless a private sewage disposal system inspection is required.
- The addition of categories on the groundwater hazard statement to acknowledge instances when a private sewage disposal system inspection is not required.
- The provision of additional clarifying information for instances in which a private sewage disposal system will be filed at a later date.

The new rules require the use of the February 2009 form for documents dated July 1, 2009 or later. This is because the sewage system inspection is required for documents dated July 1, 2009 or later. As of September 1, 2009 the June 2009 form should be used.

There is no grandfathering of the change to when a GWHS is required. As of June 29, 2009, the GWHS is not required for leases. The changes to when the form is required took effect on that date, regardless of the date on the real estate document.

From June 29, 2009 on, the GWHS is required when a DOV is required and in any other case in which a private sewage system inspection is required (if there are any such cases), regardless of the date on the real estate transfer document.

There are several different versions of the Time of Transfer inspections for private sewage systems forms. Rather than give out a copy of the form, please note that the proper form will be 542-0191. The Department does not have this form on their website to avoid fraud. All certified inspectors have copies of this form or they can obtain them from the Department. A list of inspectors can be found on the DNR website: <http://www.iowadnr.gov/tot.html>. The Department also does not have a format for the Binding Acknowledgements. These need to be prepared by legal advisors to the buyers and/or sellers.

1. We have a property in the name of three trusts. One trust is giving their interest to the other two trusts and there is consideration. Do they need an inspection?

The law exempts any transfer by a fiduciary in the course of administration of a trust. The existence of consideration is not relevant. No inspection is required.

2. A mortgage company received the property by voluntary foreclosure. NOW the mortgage company is selling the property. Do they need an inspection?

The law exempts a transfer by a mortgagee who has acquired the property through voluntary foreclosure. No inspection is required.

3. Does the time of transfer form have to be an original when it is filed with the groundwater hazard statement to the County Recorders?

No, the original is not required.

4. If we have a Building on Leased Land (BOLL), do we need a GWHS? For example, a garage in a mobile home park usually comes in on a Bill of Sale with a DOV and transfer tax. Or – a cabin on leased land which would also transfer by Bill of Sale. We do require a DOV when we get a bill of sale for a BOLL, but some counties don't require any kind of recorded document to transfer a BOLL.

Yes, if a DOV is required then a GWHS is required and the Septic inspection question must be answered because the DNR is considering a cabin on leased land as a transfer of ownership of the building which requires an inspection per the code.

In conversation with Assistant Attorney General Michael Bennett, in a 1971 opinion of the Iowa Attorney General indicates that DOV's are required with a bill of sale for a building. This would seem to address the only exception that we thought existed where a time of transfer inspection is required but we thought a DOV wasn't. It appears a DOV is required in these circumstances.

5. Beginning September 1, 2009 the June 2009 form MUST be used ... is there a "cut-off" period for Deeds dated before September 1, 2009 (like there was July 1)? Or is it that when we come into work Tuesday, September 1, 2009 we will REJECT all Deeds that do not have the new form?

Our intent is to get people using the newest form immediately but give them a grace period until September 1st for using the form adopted earlier this year.

The newest form was adopted to help the recorders. I would like to see September 1st be a hard cut-off, as the rules indicate, but I don't want this to cause more headaches for the recorders than the new form is designed to solve.

To sum up: The rules make September 1st a cut-off, without any grandfathering or concern for the date on the deed. If recorders want to comply with this and reject the prior form then DNR will support them. If a recorder accepts the prior form for a while after that, the DNR isn't going to take any immediate action to stop this.

6. Are short sales covered under exemption #2 (foreclosure) of when a septic inspection is required?

Short sales are a close relative of foreclosure, but they have not been exempted. An inspection will be required. The main justifications for foreclosures being exempt are that the bank doesn't have knowledge and never occupied the structure. It is also a protection from making them put more money into the property.

7. Define Lineal Line of Consanguinity

Generally defines blood relatives in the lineal line from grandparents to parents to children etc.