

## IOWA ENVIRONMENTAL COVENANT SUBMISSION PROCESS TIPS

Environmental Covenants (ECs) are authorized pursuant to Iowa Code Chapter 455I. Administrative rules applicable to ECs are located in 567 Iowa Administrative Code Chapter 14. ECs are available for use in myriad ways, including as institutional controls at sites under the jurisdiction of the Department of Natural Resources' (DNR) Underground Storage Tank program, the Contaminated Sites Program, and the Solid Waste program.

Prior to submitting an EC draft for review by DNR professional staff, the submitting party should discuss whether an EC is a viable option - including whether the EC will provide the sought-after site classification when implemented - with the respective site's DNR project manager. Additionally, the submitting party should determine precisely which "activity and use limitations" must be included in the EC to address outstanding risks. The DNR project manager will be able to provide guidance on commonly-used limitation language.

Following this initial discussion with the DNR project manager, a party considering the use of an EC as an institutional control will submit a draft of the EC to both the DNR project manager and to DNR legal services for comment. This is not a requirement, but it is recommended as an EC with deficiencies or inaccuracies will be returned unsigned. The model covenants on the DNR website are intended to be self-explanatory; so, using these models as the EC template should help to eliminate most formatting and drafting issues.

If the draft EC is submitted to the DNR for review, the DNR project manager will review all aspects of the EC applicable to the property in question including whether the legal description is accurate and whether the limitations included adequately address known site risks. DNR legal will review the format of the draft EC, as well as whether the provided ownership documentation satisfies the requirement of 455I. All efforts will be made to provide comments within two weeks of receipt; however, this guideline will depend on staff workload at the time of receipt.

When the EC is ready for formal Department review and signature, the submitting party should provide a hard copy of the EC, along with all required supporting documentation to the project manager. Once the project manager has reviewed and approved the covenant's activities and use limitations, the EC will be transferred to DNR legal services bureau for final review prior to submission of the EC to the Director of the DNR for signature.

No parties should sign the EC before it has gone through the entire formal review process by the DNR and it has been signed by the Director. All other parties to the EC should sign the EC *once it is returned after the Director has signed it*. The EC is ready to be recorded when all signatories have signed and notarized the document.

Once recorded, the submitting party must mail or hand-deliver a hard copy of the recorded EC to the DNR project manager.