

567 IAC Chapter 105, Division II – Rules for Determining Cleanup Actions and Responsible Parties

**The purpose of this document is to identify proposed revisions and to indicate where amendment have been incorporated within the proposed rulemaking. For ease of use, the DNR is focusing on substantive revisions within this document, and will not individually highlight minor revisions made for solely for clarification purposes.*

Subject	Rule Citation	Existing Rule	Proposed Rule Citation	Proposed Rule (Description & Substantive Revisions)	Iowa Code Citation	Notes/Discussion
Definitions and incorporation by reference	133.2	133.2 Definitions	105.102	105.102 Definitions. Unless otherwise noted, the definitions set forth in Iowa Code section 455B.411 and 455E.2 which are incorporated by reference; the definitions that appear in specific rules within this chapter; and the following definitions shall apply to this chapter:		The additional language incorporates definitions from Iowa Code section 455B and 455E.
Definitions	133.2	<p><i>“Action level”</i> means, for any contaminant, the HAL, if one exists; if there is no HAL, then the NRL, if one exists; if there is no HAL or NRL, then the MCL. If there is no HAL, NRL, or MCL, an action level may be established by the department based on current technical literature and recommended guidelines of EPA and recognized experts, on a case-by-case basis.</p> <p><i>“Contaminant”</i> means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in groundwater or which occurs naturally at a lower concentration, and includes all hazardous substances as defined in 42 U.S.C. 9601, and any element, compound, mixture, solution or substance designated pursuant to 40 CFR 302.4 as of September 13, 1988.</p>	105.102	<p><i>“Action level”</i> means, for any contaminant, the MCL, if one exists; if there is no MCL, then the HAL, if one exists; if there is no MCL or HAL, an action level may be established by the department based on current technical literature and recommended guidelines of EPA and recognized experts, on a case-by-case basis.</p> <p><i>“Contaminant”</i> means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in groundwater or which occurs naturally at a lower concentration, and includes <i>but is not limited to</i> all hazardous substances as defined in 42 U.S.C. 9601, and any element, compound, mixture, solution or substance designated pursuant to 40 CFR 302.4 [DATE].</p>	455B & 455E	<p>Updated to establish the MCL as the first applicable action level to be consistent with other state programs across the country and the Iowa DNR Land Recycling Program.</p> <p>Definition modified to clarify that the definition of contaminant is inclusive of the language in the definition from 455E, but also includes, but is not limited to the list of hazardous substances from 40 CFR 302.4.</p>

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Documentation of contamination and source	133.3(1)	<p><i>Sampling and analytical procedures.</i> Unless rules for specific programs under USEPA or department authority provide otherwise, or unless other methods are approved by the department for a specific situation, samples taken and analyses made to document contamination or cleanup levels under this chapter shall be conducted in accordance with the following:</p> <p><i>a. Samples.</i> “A Compendium of Superfund Field Operations Methods,” USEPA, Office of Emergency and Remedial Response, Washington, D.C. 20460 (EPA/540/P-87/001, OSWER Directive 93.55.0-14, December 1987).</p> <p><i>b. Analyses.</i> “Test Methods for Evaluation of Solid Waste, Physical-Chemical Methods (SW-846),” USEPA, Third Edition, November 1986, as revised through December 1988. Until the department adopts rules regarding certification of laboratories, analyses shall be conducted at a laboratory that certifies to the department that the appropriate analytical procedure is utilized, or a laboratory which has been approved under EPA’s Contract Laboratory Program. Upon adoption of rules by the department regarding certification of laboratories, all analyses shall be made at a certified laboratory. The parties, both the department and person responsible for investigating, shall have the opportunity to split samples for independent analysis, and where appropriate a sample portion shall be retained for a reasonable period of time for possible reanalysis.</p>	105.103	<p>567—105.103(455B,455E) Documentation of contamination and source.</p> <p>Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.</p>		Changed to clarify what is required of the investigation.
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Response to contamination	133.4(3)'a'	<i>a. Investigation.</i> The responsible party shall determine the extent and levels of contamination through a site assessment conducted under the supervision of a registered professional engineer, an expert in the field of hydrogeology, or other qualified person. A site assessment plan shall be submitted to the department within 45 days of notice by the department, unless a shorter time is required or a longer time is authorized by the department. The plan shall be approved by the department prior to initiation of the assessment, unless otherwise approved by the department. The site assessment shall be conducted within a reasonable time and a remedial action plan shall be submitted to the department, within the time directed or approved by the department. The department may require further investigation by the responsible person in order to adequately assess the extent of contamination, and may require the remedial action plan to be supplemented if necessary.	105.104(3)'a'	<i>a. Investigation.</i> The responsible person shall determine the extent and levels of contamination through a site assessment conducted under the supervision of a registered professional engineer, an expert in the field of hydrogeology, or other qualified person. A site assessment plan shall be submitted to the department within 45 days of notice by the department, unless a shorter time is required or a longer time is authorized by the department. The plan shall be approved by the department prior to initiation of the assessment, unless otherwise approved by the department. The site assessment shall be conducted within a reasonable time. The department may require further investigation by the responsible person to adequately assess the extent of contamination, and may require the remedial action plan if necessary. <i>If a remedial action plan is required by the department, the remedial action plan shall be submitted to the department within the time directed or approved by the department.</i>	Adjustments made for clarity and flow. Also includes situations where a remedial action plan is not necessary.