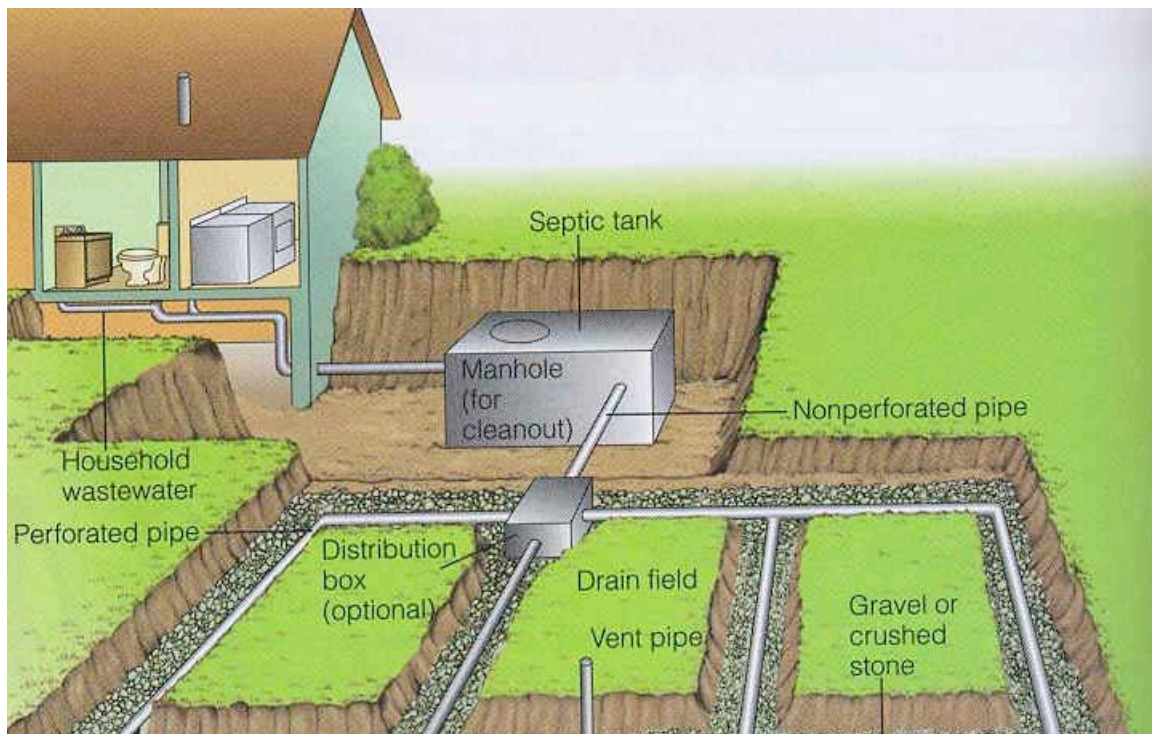


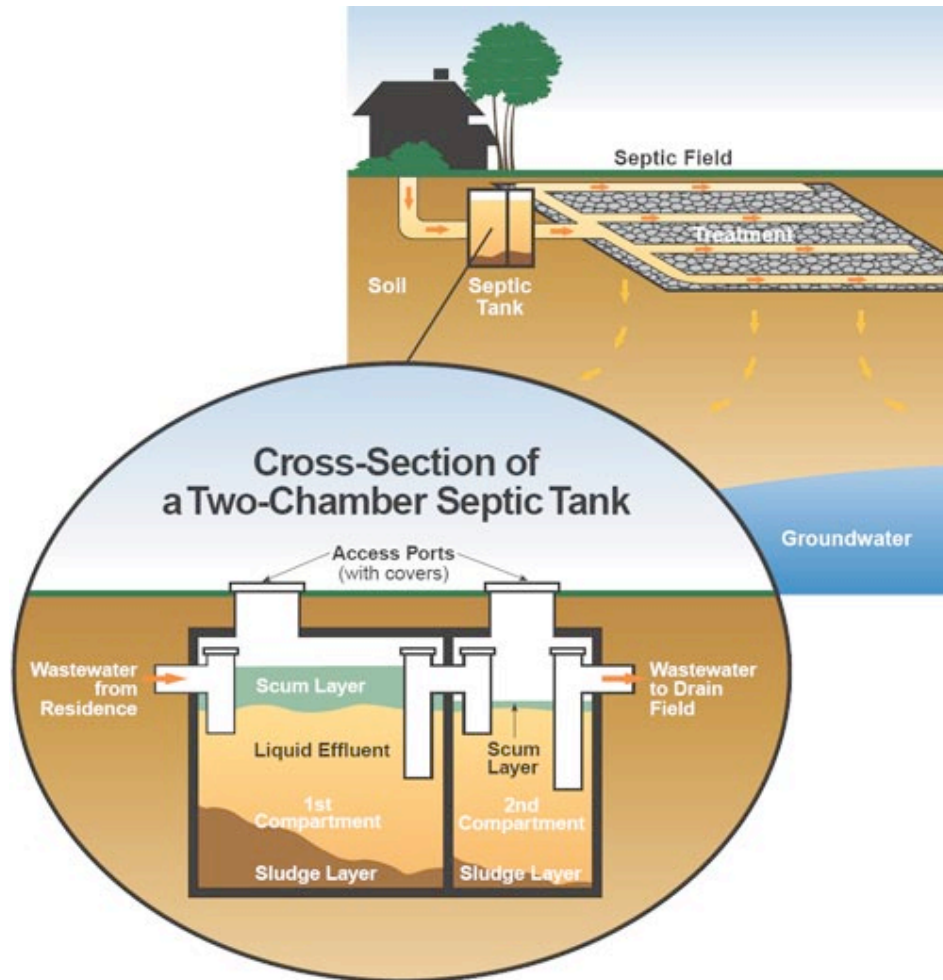
NOW WE'RE IN DEEP DOO-DOO: TRANSFERRING PROPERTY WITH SEPTIC SYSTEMS

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- I. Brief History of Septic Systems
 - A. First septic system installed in US in 1876
 - B. Patent for septic system in 1881 to Louis Moras of France, who apparently invented the system in the 1860s
 - C. Baffles, which aided flow, added in 1905
 - D. Septic tanks became common in US by 1920
 - E. Source: Hammond & Tyson, *Septic Tank Design and Construction*, Circ. 819-2, U. of Georgia Ext. Service, May, 1999.
- II. How Do Septic Systems Work?
 - A. Overview of System



B. Key Component Number One: the Septic Tank



C. Key Component Number Two: the Sewage and Septic Sucking Service



III. Overview of Iowa Law on Sewage Treatment Systems

A. Three Types: POTW, Semipublic, Private

B. POTW: Publically Owned Treatment Works

1. Regulated by State (DNR) & U.S. (NPDES)
2. Definition: Any sewage treatment system that is owned by public body

C. Semipublic sewage disposal systems

1. Regulated by State (DNR)
2. Definition: IA ST § 455B.171(27)

27. "Semipublic sewage disposal system" means a system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary district, or a designated and approved management agency under § 1288 of the federal Water Pollution Control Act

D. Private sewage disposal systems

1. Regulated partially by State (DNR) and partially by County
2. Definition: IAC 567-69.1(455B) General.

69.1(1) *Applicability*. These rules are applicable only to private sewage disposal systems.

69.1(2) *Definitions*.

"*Private sewage disposal system*" means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate."

3. Note: the DNR website incorrectly states that local boards of health have jurisdiction of systems serving "less than 15 people."

E. Permits from DNR Generally Are Not Required for Semipublic or Private Systems

IAC 567-64.3(455B) Permit to operate.

64.3(1) Except as otherwise provided in this subrule, in 567-Chapter 65, and in 567-Chapter 69, no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director. An operation permit is not required for the following:

a. A private sewage disposal system which does not discharge into, or have the potential to reach, a designated water of the state or subsurface drainage tile (NOTE: private sewage disposal systems under this exemption are regulated under 567-Chapter 69);

b. A semipublic sewage disposal system, the construction of which has been approved by the department and which does not discharge into a water of the state;

...

IV. Jurisdiction Over Private Sewage Disposal Systems

A. Iowa Code 455B.172. Jurisdiction of department and local boards

1. The department is the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program.
2. The department shall carry out the responsibilities of the state related to private water supplies and *private sewage disposal systems* for the protection of the environment and the public health and safety of the citizens of the state.
3. Each county board of health shall adopt standards for private water supplies and *private sewage disposal facilities*. These standards shall be at least as stringent but consistent with the standards adopted by the commission.[*see below*] If a county board of health has not adopted standards for private water supplies and *private sewage disposal facilities*, the standards adopted by the commission* shall be applied and enforced within the county by the county board of health.
4. Each county board of health shall regulate the private water supply and *private sewage disposal facilities* located within the county board's jurisdiction, including the enforcement of standards adopted pursuant to this section.
5. The department shall maintain jurisdiction over and regulate the direct discharge to a water of the state. The department shall retain concurrent authority to enforce state standards for private water supply and *private sewage disposal facilities* within a county, and exercise departmental authority if the county board of health fails to fulfill board responsibilities pursuant to this section.

*The term “commission” refers to the Environmental Protection Commission, created by Sec. 455A.6 – see 455B.101(3).

B. Query: is a “private sewage disposal system” the same as a “private sewage disposal facility”? The first term is defined (see above) but I have not found a definition of the second term in the Code or Administrative Code.

C. Private Sewage Disposal Systems Regulated by:

1. Iowa Code Chapter 455B, and
2. Iowa Administrative Code Chapter 69
3. Resulting in shared jurisdiction between DNR and County Boards of Health

V. SF 261 and the Transfer Issue

A. History

1. Gov. Culver signed SF 261 on April 3, 2008 with effective date of July 1, 2009
2. Basic purpose: to require septic systems be inspected upon transfer of the property.
3. SF 261 amended Iowa Code Sec. 455B.172 – added subsection 11.
4. Sec. 455B.172(11) attached.

B. Amendment

1. SF 467, amending Sec. 455B.172 (11), introduced in March, 2009
2. Passed and sent to Gov. on April 26, 2009
3. Relevant sections of SF 467 in Appendix B
4. Effect of SF 467: added two more exceptions to transfer and delayed effective date to July 1, 2010.
5. Reasons for proposed amendment:
 - a. Lack of certified inspectors
 - b. Perceived need to exclude additional types of transfers where no funds are passing hands.
6. On May 26, Gov. Culver vetoed the portion delaying the effective date, but left the two additional exceptions intact.

VI. Analysis of Sec. 455B.172(11) Terms and Exceptions

A. Glossary of Key Terms and Issues Raised

1. “Transfer”

“For the purposes of this subsection, ‘transfer’ means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units.” 455B.172(11)(a)
- a. Issues Raised
 1. The term “transfer” is defined in connection with the conveyance of real estate that has “dwelling units” on it.
 2. But the first sentence of 455B.172(11)(a) defines the term “transfer” as a transfer of ownership of “a building where a person resides, congregates, or is employed.”
 3. Query: which is it? Does 455B.172(11) only apply to 1-4 family buildings, or does it include commercial buildings, such as shops, churches, barns, etc.?
 4. What do we do with the phrase “by which real estate and improvements are purchased...?” Does it provide a completely separate exemption for transfers that do not involve a “purchase?” Will we need to use this exemption since SF 467 Sec. 22 has

been adopted: “(7) A transfer for which consideration is five hundred dollars or less.”

2. “Private Sewage Disposal System” – recall definition above:
 - a. “a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.” IAC 567-69.1(2)
 - b. Parsing the definition:
 1. System which provides for the treatment or disposal
 2. of domestic sewage from
 - i. four or fewer dwelling units or
 - ii. the equivalent of less than 16 individuals
 3. on a continuing basis.
 4. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.
 - c. Issues raised:
 1. Are the 2.i and 2.ii alternatives totally disjunctive?
 - a. What if we have a building with 5 one bedroom apartments, with occupancy limited to three persons per apartment?
 - b. Or, a building with four – four bedroom apartments with allowable occupancy of 16 persons?
 - c. Probably one does not want to exceed either limit, since it may put the required system in the "semipublic sewage disposal system" category, which presumably has much more stringent requirements (not explored here – beyond the scope)
 2. What does “on a continuing basis” mean?
 - a. Does it include a hunting cabin that is used two or three weeks during the hunting season?
 - b. What about an unheated shop building only used during the warmer months?
3. “On-site treatment unit”
 - a. A Westlaw search of the Iowa Code and the Iowa Administrative Code indicates this is the only place this term is used.
 - b. Since it is not defined in 455B.172(11)(a) I have no idea what it means.
 - c. It can’t be the same as a “private sewage disposal system” since it would be redundant.
 - d. Any guesses?

4. “Certified inspector’s report”
 - a. No direct definition – 455B.11(e) states: “e. Inspections shall be conducted by an inspector certified by the department.”
 - b. 455B.11(f) then states: “f. Pursuant to chapter 17A, the department shall adopt certification requirements for inspectors including training, testing, and fees, and shall establish uniform statewide inspection criteria and an inspection form. The inspector certification training shall include use of the criteria and form. The department shall maintain a list of certified inspectors.”
 - c. Keep in mind: county sanitarians are not automatically qualified as “certified inspectors.” 455B.11(g) merely says they are eligible to become so, and that the county must allow them to perform such inspections.
 - d. Query: subsection (g) also states that the county may set a fee for inspections by its personnel.
 1. Does this mean the county sanitarian cannot start a side business as a private inspector?
 2. Or does (g) mean he/she can do both? If the county sets a fee, can one demand that the county sanitarian perform the inspection wearing his/her county sanitarian hat rather than his/her private inspection service hat?
 - e. Is the “certified inspector’s report” the same as the “Time of Transfer Inspection Report” referred to below?
 - f. How many are there?
 1. DNR’s Certified inspector master database showed 133 names as of May 15, 2009 when I downloaded it.
 2. Polk County has one. Story County has one.
 3. I know they can practice anywhere in the state. But, try finding one when you need one. It will be interesting.
5. “Standards of the department”
 - a. What are the standards?
 - b. And, does the DNR have the sole right to define them? Can counties adopt their own standards? See discussion below.
 - c. Reason for asking this question: see 455B.11(d):
 “d. If a private sewage disposal system is *failing to ensure effective wastewater treatment* or *is otherwise improperly functioning*, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer. If the private sewage disposal system is *properly treating the wastewater and not creating an unsanitary condition in the*

- environment* at the time of inspection, the system is not required to meet current construction standards.”
- d. It appears there are three (or, perhaps four) distinct definitions of the “standard” which the private sewage disposal system must meet. Stated in positive terms, the system must
 - 1. *ensure effective wastewater treatment,*
 - 2. *be properly functioning, or*
 - 3. *be properly treating the wastewater and not creating an unsanitary condition in the environment*
(Is this one or two standards? Can a system properly treat wastewater, but still create an unsanitary condition in the environment?)
 - e. Or, must it accomplish all of these?
 - f. Or, are they just three ways of saying the same thing?
 - g. Chapter 69 of the IAC is entitled “Private Sewage Disposal Systems”
 - 1. Subsection 69.2(8) lists the procedure for inspections.
 - 2. It requires the inspector follow DNR Form 542-0191 – Time of Transfer Inspection Report
 - 3. Form attached.
 - 4. Query: does the Form 542-0191 constitute a distinct standard?
 - 5. If so, what is that standard? The Form 542-0191 does not seem to include any standard. After the first section, which simply inventories the system, there is second section, entitled “Overall condition of the private sewage disposal system”
 - 6. This section asks the inspector to:
“Report system status”
“Explain”
and add
“Comments”
 - 7. In sum: there does not appear to be a satisfactory definition of the term “standards of the department” in the Code or Administrative Code.

B. The Exceptions

- 1. The term “transfer” does not include certain types of transfer
- 2. These will be discussed below – listing the exceptions and then commenting on some of them.
- 3. Observation: the list of exceptions is similar to the list in Chapter 558A – Real Estate Disclosures
- 4. ICA 558A.1(4) “Transfer” means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units. However, a transfer does not include any of the following:

a. A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633 or 633A, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.

b. A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or a deed in lieu of foreclosure under section 654.19.

c. A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

d. A transfer between joint tenants or tenants in common.

e. A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.

f. A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.

g. A transfer to or from the state, a political subdivision of the state, another state, or the United States. (*Note: this exception not included in 455B.172(11)*)

h. A transfer by quitclaim deed. (*Note: this exception not included in 455B.172(11)*)

i. A transfer by a power of attorney. (*Note: this exception not included in 455B.172(11)*)

5. Since most of us have probably not paid too much attention to these exceptions, the comments below may be taken with a grain of salt and the response “you didn’t raise these issues when 558A was adopted, why now?”

C. First Exception: 455B.172(11)(a)(1) A transfer made pursuant to a court order, including but not limited to:

1. a transfer under chapter 633 or 633A,
 - a. Query: 633A.4401. General powers--fiduciary duties provides:
 1. A trustee, without authorization by the court, may exercise the following powers:
 - a. The powers conferred by the terms of the trust.
 - b. Except as limited by the terms of the trust, powers conferred by this trust code.
 - b. 633A.4402 has a list of powers conferred by the trust code that includes conveying real estate. Most trust agreements also grant this power.
 - c. So, is a conveyance by a trustee under Chapter 633A without a court order excepted?
 - d. Or, are we going to be asking the Court for an order to avoid having a septic inspection?
 - e. And how do we satisfy the Recorder that no inspection is required?
 2. the execution of a judgment,
 3. the foreclosure of a real estate mortgage pursuant to chapter 654,
 4. the forfeiture of a real estate contract under chapter 656,
 - a. A forfeiture does involve any transfer.
 - b. Nor is there a court order involved.
 - c. So what did the drafters have in mind?
 - d. Is it possible that the forfeiting seller can avoid an inspection upon re-selling the property after the forfeiture?
 5. a transfer by a trustee in bankruptcy,
 6. a transfer by eminent domain, or
 7. a transfer resulting from a decree for specific performance.
 - a. So if a reluctant seller completes the sale, he has to have a septic inspection but, if he refuses and is forced to complete the transaction by a decree of specific performance, he does not?
 - b. Rather curious.
- D. Second Exception: 455B.172(11)(a)(2)
1. A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or
 - a. Query: what if mortgagor is not in default?
 - b. Answer: miss a payment to avoid having to do an inspection?
 2. a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654,
 - a. Query: if the mortgagee acquires the property via nonjudicial foreclosure or deed in lieu, is there no exception, since these methods do not involve “a sale conducted pursuant to chapter 654?”
 - b. The exceptions below – 4. and 5. – appear to apply only to the transfer from the mortgagor to the mortgagee, not the subsequent transfer by the mortgagee to a third party

- c. Does the financial industry realize this?
 3. a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A,
 4. a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or
 5. a deed in lieu of foreclosure under section 654.19.
- E. Third Exception: 455B.172(11)(a)(3) A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
1. Query: does the use of the term “administration” mean that a transfer by a fiduciary of a non-court qualified testamentary trust or a inter-vivos trust is not excepted?
 2. We thought it was not excepted, which is why we pushed for the additional “under \$500” exception.
- F. Fourth Exception: 455B.172(11)(a)(4) A transfer between joint tenants or tenants in common.
1. Title is in A. A conveys a partial interest to B, either as joint tenant or tenant in common. Is this excepted?
 2. Or, is it only where there is a pre-existing joint tenancy or tenancy in common and the conveyance is between the joint tenants/tenants in common?
 3. Potential work-around: H1 & W1 are selling to H2 & W2. H1 conveys to H2 by first deed. Then, W1 conveys to W2 by second deed.
- G. Fifth Exception: 455B.172(11)(a)(5) A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.
1. Since most of this type of transfer tends to be by gift, the “under \$500 exception” will also work.
 2. My dictionary defines “consanguinity” as: relating to or denoting people descended from the same ancestor
 3. So, this would include siblings, nephews & nieces, I think.
 4. Query: does “lineal line of consanguinity” mean something else?
 5. Iowa Code 4.1(4) Consanguinity and affinity. Degrees of consanguinity and affinity shall be computed according to the civil law.
 6. Anyone know what the civil law provides? See, Kurtz, Iowa Estates. 3d. Ed., Sec. 3.1, p. 90 for table.
 7. Only other place the phrase “lineal line of consanguinity” is used is in 558A.1(4)(e).
- H. Sixth Exception: 455B.172(11)(a)(6) A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.
1. I’m no domestic relations attorney, but is there such a thing as “a decree of dissolution of marriage, a decree of legal separation, or a

- property settlement agreement which is incidental to the decree” which is *not* pursuant to chapter 598?
2. So does “including a decree ordered pursuant to chapter 598” add anything?
 3. Iowa Code 598.21. Orders for disposition of property
 1. General principles. Upon every judgment of annulment, dissolution, or separate maintenance, the court shall divide the property of the parties and transfer the title of the property accordingly, including ordering the parties to execute a quitclaim deed or ordering a change of title for tax purposes and delivery of the deed or change of title to the county recorder of the county in which each parcel of real estate is located.
- I. Seventh Exception: 455B.172(11)(a)(7) A transfer for which consideration is five hundred dollars or less.
1. This is first of the two additional exceptions added by SF 467.
 2. This primarily intended to address
 - a. Transfers to revocable living trusts
 - b. Other transfers where no consideration is passing hands.
 3. Opens up possible work-around to avoid inspection.
- J. Eighth Exception: 455B.172(11)(a)(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.
1. The second of the SF 467 exceptions.
 2. Opens up a possible work around to avoid the inspection.
- K. Ninth Exception: 455B.172(11)(b) The inspection requirement of paragraph “a” does not apply to a transfer in which the transferee intends to demolish or raze the building. The department shall adopt rules pertaining to such transfers.
1. Not in the list of exceptions but, nonetheless, an exception.
 2. Query: what must the parties do in order to satisfy the Recorder that the transferee intends to demolish the building?
 3. Is there a time limit within which it must be demolished?
 4. DNR has adopted rule in 567-69.2(1) which states: “A legally binding document verifying that the building will be demolished shall be provided to the county and to the department for record.”
 5. Note: the new Groundwater Hazard Statement, DNR Form 542-0960 includes the following statement:
 “There is a private sewage disposal system on this property. The

building to which the sewage disposal system is connected will be demolished without being occupied. The buyer has executed a binding acknowledgment with the county board of health to demolish the building within an agreed upon time period. A copy of the binding acknowledgment is provided with this form.”

6. Presumably the “legally binding document” and the “binding acknowledgment” are the same thing. However, the Rule doesn’t mention anything about the “legally binding document” being “with the county board of health.” Since there has to be “an agreed upon time period” one presumes the county board of health has to meet to make the agreement.

VII. Analysis of 455B.11(a)

A. When Must the Inspection be Done?

1. Prior to the closing. “...prior to any transfer of ownership of the building.”
 - a. So, plan ahead
 - b. With few inspectors, the Realtors are going to need to be pro-active to get inspections scheduled.
2. Prior to the time the contract is signed. “..at the time a seller financed real estate contract is signed.”
 - a. Really? So if contract signed July 1 but closing is September 1, inspection must be done prior to July 1?
 - b. We’re seeing more and more contract sales, now that 100% mortgages are a thing of the past. Do the Realtors know this?
 - c. Is a contract for a sale where the seller will be giving a deed and taking back a second mortgage included?
3. After the closing. “...in the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, ...”
 - a. Problems raised by this are discussed below.

B. What Does the Inspection Involve?

1. 455B.11(c) At the time of inspection, any septic tank existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of as provided for by rule. In the alternative, the owner may provide evidence of the septic tank being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence.
2. Tip: make sure you get a letter from Rothschild’s Sewage and Septic Sucking Service anytime you have the system pumped.
3. Is this a precursor to a rule that these systems have to be pumped every three years?
4. IAC 567-69.2(8) “Inspection Procedures” covers the process. Copy attached.

5. Basically a map of the system has be prepared if there is none, if the tank has not been properly pumped within three years, the septic tank has to be accessed, pumped, any distribution boxes sampled, sampling the absorption field, etc.
6. Cost of inspection? Not clear. Estimates: \$200-1,000 depending on whether tank has to be pumped and how accessible it is.

C. How Do We Deal With the Recorder? How Does the Recorder Deal with the Inspection Report?

1. 455B.11(a) The county recorder shall not record a deed or any other property transfer or conveyance document until either
 - a. a certified inspector's report is provided which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the department or,
 - b. in the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, the buyer has executed and submitted a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection.
2. 455B.11(i) ... Title abstracts to property with private sewage disposal systems shall include documentation of the requirements in this subsection.
3. These sections present some interesting issues.
 - a. How will the Recorder know the transfer is subject to 455B.11? See the new Groundwater Hazard Statement, DNR Form 542-0960 (Feb. 1, 2009) – attached
 1. Our Recorder informs me that the GHS forms are being recorded along with the Deed or Contract they accompany.
 2. This should allow the Abstractors to show them.
 3. Has anyone told the abstractors?
 4. Note: IAC 567-69.2(8) provides...
 - i. *Inspection reports.* Following an inspection, the inspection form and a narrative report describing the condition of the private sewage disposal system at the time of the inspection shall be provided to the county environmental health department, to the department for record, and to the county recorder in the county where the inspection occurred.
 5. Does this mean the inspectors are going to be walking into the Recorder's offices and plunking an inspection report down on the counter for recording? Won't the Recorders just love that.
 6. Who pays for recording it? How does the Recorder

index it? The DNR Form 542-0191 has a place to insert the name of the owner and the legal description, but I'm sure we want these inspectors to figure that out, don't we?

7. Note: the DNR Form 542-0191, second page, bottom paragraph, asks the inspector to provide a copy to: seller/agent, buyer/agent, county sanitarian/public health office, and the DNR. It conspicuously does not list the county recorder. Maybe the Recorders got to the DNR?
- b. What if "weather or other temporary physical conditions prevent the certified inspection from being conducted?"
 1. First issue: the section says "buyer has executed and submitted a binding acknowledgment with the county board of health..."
 - a. What if the Purchase Agreement requires the seller pay for the inspection? Does this section supersede any such agreement? How does a buyer protect himself?
 - b. Drafting issue: deal with it in the Purchase Agreement – but how?
 - c. Note: 455B.11(d) has this interesting phrase "...either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer."
 - d. But this section deals only with "renovations" not with the inspection.
 - e. Drafting issue: what will a "reasonable time period" be? Does the county or department plan to issue rules on this, or is it to be done on a case by case basis? Drafting nightmare.
 3. Second issue: what is a "binding acknowledgment?" Is it the same thing as a contract? If so, then...
 4. Third issue: won't the County Board of Health have to meet?
 - a. Local Boards of Health governed by Chapter 137.
 - b. Iowa Code Sec. 137.7. "Additional powers of local boards. Local boards shall have the following powers and duties to the extent they do not unreasonably interfere with existing patterns of private professional practice of licensed practitioners of the healing arts. Local boards:
 1. May provide such personal and environmental health services as may be deemed necessary for the protection and improvement of the

- public health.
 - 2. May engage in joint operations and contract with colleges and universities, the state department, other public and private agencies, and individuals for public health activities or projects.”
 - ...
 - c. So, does the Local Board of Health have to meet to authorize its Chair to execute a contract with the buyer?
 - d. How long will this take? Do local boards meet very often? Will there be a standard form? See comment below.
 - e. Remember this is probably going to be the norm for 4-5 months of the year.
 - 5. Fourth Issue: The “binding acknowledgment” gets recorded, presumably, along with the Deed/Contract and GHS, so it can be indexed and found by the abstractors, but what about the subsequent inspection report?
 - a. Our Story County Recorder points out that such a document, filed weeks or months after the deed/contract cannot be easily cross indexed to the deed/contract using current software.
 - b. So, the DNR Form 542-0191 probably will need to have a cover sheet attached to it with the recording info for the previously recorded deed/contract.
- D. Big question: if the inspection report includes a statement that “...modifications are required to conform to standards adopted by the department” is the Recorder to refuse to record?
 - 1. If not, then what is the enforcement mechanism for seeing that the modifications are made?
 - 2. 455B.11(h) provides: “Following an inspection, the inspection form and any related reports shall be provided to the county for enforcement of any follow-up mandatory system improvement and to the department for record.”
 - 3. Note: DNR Form 532-0191 does not appear to have any designated place to show that modifications are required.
 - 4. Further, the concept of “modifications” is not explicitly recognized in 455B.11. See comments on 455B.11(d) below.
- E. Second Big Question: how does 455B.11(d) interact with the “modifications” concept?
 - 1. 455B.11(d). “If a private sewage disposal system is *failing to ensure effective wastewater treatment or is otherwise improperly*

functioning, the private sewage disposal system shall be *renovated* to meet current construction standards, as adopted by the department, either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer. If the private sewage disposal system is *properly treating the wastewater and not creating an unsanitary condition in the environment* at the time of inspection, the system is not required to meet current construction standards.”

2. Keeping in mind that we’re not sure what the standards are for a private septic disposal system, the question is whether an inspector can...
 - a. Find that a system does not meet the standards, but
 - b. Suggest “modifications” that will allow the system to meet the standards, without
 - c. Requiring that the system be “renovated to meet current construction standards.”
 - d. Keep in mind, new septic systems can cost \$5,000 – 10,000 or more.
3. Note: OSWAP (On-site Wastewater Assistance Program) is a DNR program designed to provide low interest loans to assist owners installing new septic systems to existing buildings. See the DNR website for more details. <http://www.iowadnr.gov/>

VIII. Other Issues – Raised by Listserve and in No Particular Order

A. Conflict Between County and DNR

1. The following counties have time of transfer inspection requirements:

| <u>County</u> | <u>County Seat</u> | <u>Ordinance Adopted</u> |
|---------------|--------------------|--------------------------|
| Benton | Vinton | 1998 |
| Boone | Boone | 2002 |
| Bremer | Waverly | 2000 |
| Carroll | Carroll | 1993 |
| Cerro Gordo | Mason City | 2005 |
| Cherokee | Cherokee | 2005 |
| Dallas | Adel | 2002 |
| Fremont | Sidney | 2001 |
| Harrison | Logan | 2002 |
| Jasper | Newton | 1985 |
| Jefferson | Fairfield | 2005 |
| Madison | Winterset | 2004 |
| Mahaska | Oskaloosa | 1999 |
| Mills | Glenwood | 2003 |
| Montgomery | Red Oak | 2001 |
| Muscatine | Muscatine | 2000 |
| Page | Clarinda | 1999 |
| Poweshiek | Montezuma | 1986 |

| | | |
|--------|--------|------|
| Shelby | Harlan | 1991 |
| Story | Nevada | 1985 |
| Tama | Toledo | 2002 |

2. Some counties have more stringent standards, including some that have no exemptions (eg. Jasper County, per email from Mark Otto, 5.29.09)
3. Query: can county standards be more stringent than state?
4. I understand different county attorneys may have issued conflicting opinions on the matter.
5. A quick overview of the case law shows the Iowa Supreme Court wrestling with the issue frequently.
6. See:
Rhoden v. City of Davenport, 757 N.W.2d 239, Iowa 2008.
City of Davenport v. Seymour, 755 N.W.2d 533, Iowa 2008.
Iowa Grocery Industry Ass'n v. City of Des Moines, 712 N.W.2d 675, Iowa 2006.
BeeRite Tire Disposal/Recycling, Inc. v. City of Rhodes
646 N.W.2d 857, Iowa App. 2002.
Goodell v. Humboldt County, 575 N.W.2d 486, Iowa 1998.
7. *City of Davenport* has the most recent discussion of pre-emption, listing three types: express pre-emption, implied conflict pre-emption, and implied field pre-emption.
8. I don't see any express pre-emption in 455B.11, so presumably the Court would apply one of the implied varieties. As to these, the Court stated:
"Although implied preemption of the conflict variety occurs frequently, the legal standard for its application is demanding. In order to qualify for this branch of implied preemption, a local law must be "irreconcilable" with state law. *Gruen*, 457 N.W.2d at 342. Further, our cases teach that, if possible, we are to "interpret the state law in such a manner as to render it harmonious with the ordinance." *Id.*; see also *Iowa Grocery Indus. Ass'n v. City of Des Moines*, 712 N.W.2d 675, 680 (Iowa 2006); *City of Iowa City v. Westinghouse Learning Corp.*, 264 N.W.2d 771, 773 (Iowa 1978). In applying implied preemption analysis, we presume that the municipal ordinance is valid. *Iowa Grocery*, 712 N.W.2d at 680. The cumulative result of these principles is that for implied preemption to occur based on conflict with state law, the conflict must be obvious, unavoidable, and not a matter of reasonable debate. [9] [10] [11] [12] [13] A second form of implied preemption occurs when the legislature has so covered a subject by statute as to demonstrate a legislative intent that regulation in the field is preempted by state law. Like implied preemption based on conflict, the test for field preemption is stringent. Extensive regulation of area alone is not sufficient. *Goodell*, 575 N.W.2d at 493; *City of Council Bluffs v. Cain*, 342 N.W.2d 810, 812 (Iowa 1983). In order to invoke the doctrine of field preemption, there must be some clear expression of legislative intent to preempt a

field from regulation by local authorities, or a statement of the legislature's desire to have uniform regulations statewide. *Goodell*, 575 N.W.2d at 499-500; *City of Vinton v. Engledow*, 258 Iowa 861, 868, 140 N.W.2d 857, 861 (1966). The notion behind field preemption is that the legislature need not employ "magic words" to close the door on municipal authority. Yet, courts are not to speculate on legislative intent, even in a highly regulated field. There must be persuasive concrete evidence of an intent to preempt the field in the language that the legislature actually chose to employ. *Goodell*, 575 N.W.2d at 493.”

9. Not sure where this leaves us. It seems much clearer under the *BeeRite* standard:
“As the supreme court noted in *Goodell*, it is difficult to reconcile section 364.3(3) with the well-settled proposition that a local law is irreconcilable with a state law when it prohibits an act permitted by statute.” *BeeRite* at 858.
10. It would seem that a county rule that has no excepted transfers would prohibit an act that is permitted by statute.
11. Even if County rules control, will inspection still have to be done by a certified inspector?
 - a. Yes. 455B.172(11) says the deed/contract cannot be recorded without a “certified inspector’s report.”
 - b. Remember, this is only for transfers. It does not apply to recording of mortgages. So does not arise for re-financing.

B. What is Our Obligation as Title Examiners?

1. Check your malpractice premiums are paid.
2. Refer to the GHS entry that the abstractors will presumably begin showing.
3. We’ve always had the following standard paragraph in our title opinions for rural properties:

You are advised that if the real estate uses a sewage disposal system or a well system, or both, you may be subject to County Board of Health rules. These rules typically require all such systems be inspected for compliance upon a change of ownership. The seller is required to obtain an inspection report from the County Board of Health or Sanitarian and provide it to the buyer during the negotiation of the sales contract or prior to the conveyance of the real estate. You should determine for yourself if the real estate is subject to this requirement. If so, you should require that the requirements be met.

4. Obviously, this will need to be modified to address the requirements of 455B.11, probably along these lines:

You are advised that if the real estate uses a sewage disposal system or a well system, or both, you may be subject to State Department of Natural Resources and County Board of Health rules. These rules typically require all such systems be inspected for compliance upon a transfer of ownership.

Under current Story County rules, the seller is required to obtain an inspection report from a DNR certified inspector and provide it to the buyer during the negotiation of the sales contract or prior to the conveyance of the real estate. State law and DNR rules do not specifically place this burden on either seller or buyer. You should determine for yourself if the proposed real estate transfer is subject to these requirements. If so, you should be certain they are met, since failure to meet them may prevent the recording of the deed or contract.

- C. How to Handle the Following Transaction
 - 1. Mom and Dad own property as Tenants in Common
 - 2. Dad dies, leaves life estate to Mom, remainder to kids
 - 3. Mom dies, fiduciary wants to sell property.
 - 4. How to handle (and avoid inspection)
 - 5. Transfer by fiduciary is exempt - 455B.172(3), but not transfer by kids.
 - 6. Suggestion: have inspected and hope it passes. If not, have kids QCD to Estate (exempt under 455B.172(4)), so Estate can convey entire interest.
 - 7. Caution, Estate will have to disclose, so probably buyer will want inspection, anyway.
- D. If County Rules Trump State Rules, Does Report Still Need to Be Prepared by Certified Inspector?
 - 1. Yes. 455B.172(11)(a) requires a “certified inspector’s report” accompany a deed or contract.
 - 2. Remember, this only applies to transfers, not to mortgages. Re-finances are not transfers.
- E. Can County Sanitarians Get Fast Track on Certification?
 - 1. Per Dan Olson at DNR, county sanitarians have to have same training as certified inspectors.
 - 2. So they should be able to be certified quickly.
 - 3. But, they still have to be certified.
 - 4. See, 455B.172(11)(g)
- F. Are Transactions Entered Into Before July 1, 2009, But Closed After July 1, 2009 Subject to the New Rules?
 - 1. Per email from Jon Tack, DNR attorney: “New requirements apply to transactions dated July 1, 2009 or later. Recorders may receive documents for filing weeks after the transaction was completed. In order to avoid apply [sic] the law before it takes effect, it is only those transactions dated July 1, 2009 or later that are required to have the septic inspection included with the groundwater filing.”
 - 2. Answer: I think this says if you close after July 1, 2009 you better have an inspection.
- G. Will Inspections Done Within the Past Two Years Meet the Requirements of the Law?

1. Jon Tack's short answer: No, since not done by certified inspector.
 2. Query: would the inspector, once certified under the new law, be willing and able to "update" the inspection provided the system had been pumped within the past three years (thus obviating opening the septic tank)?
- H. Is There a Form for A "Binding Acknowledgment"?
1. Jon Tack's answer: has an example of one a county has been using.
 2. It would be a good idea for the DNR (with consultation from the real estate bar?) to put one together.
- I. Does an Auction Sale of a Farm, Using a Power of Sale Clause in the Will, Come Under the Exception in 455B.172(11)
1. Remember there are two exceptions that can apply here: 455B.172(11)(1) and 455B.172(11)(3)
 2. The second exception covers this sale.
- J. Will the GHS Form Be Revised to Allow Showing Whether a Transfer is Subject to 455B.11?
1. Yes, has been.
 2. Form is at DNR website and attached to outline.
- K. Ouch, This Can Really Get Expensive. How Can I Avoid Having an Inspection?
1. Do you really want to? Remember this is designed to protect the environment. If your system is really spewing septage over the environment your client should get it fixed.
 2. In a pinch, where the system is working but time is tight, here are a couple of thoughts.
 3. If it is a non-residential property, consider transferring to a limited liability company (preferably single member – for income tax purposes). Then, assign the membership interest to the buyer. (Be careful you pay attention to the new LLC law, this is not easy to do anymore). Voila, no deed need be recorded. This also saves transfer tax.
 4. Use a trust in a similar fashion.
- L. Contacts at DNR:
1. Jon Tack, legal counsel, 515-281-8889, jon.tack@dnr.iowa.gov
 2. Dan Olson, head of division: 515-281-8263
Daniel.olson@dnr.iowa.gov.

<Subsec. 11, effective July 1, 2009.>

11. a. A building where a person resides, congregates, or is employed that is served by a private sewage disposal system shall have the sewage disposal system serving the building inspected prior to any transfer of ownership of the building. The requirements of this subsection shall be applied to all types of ownership transfer including at the time a seller financed real estate contract is signed. The county recorder shall not record a deed or any other property transfer or conveyance document until either a certified inspector's report is provided which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the department or, in the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, the buyer has executed and submitted a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. Any type of on-site treatment unit or private sewage disposal system must be inspected according to rules developed by the department. For the purposes of this subsection, "transfer" means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units. However, "transfer" does not include any of the following:

(1) A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633 or 633A, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.

(2) A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to [section 654.16A](#), a nonjudicial voluntary foreclosure procedure under [section 654.18](#) or chapter 655A, or a deed in lieu of foreclosure under [section 654.19](#).

(3) A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(4) A transfer between joint tenants or tenants in common.

(5) A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.

(6) A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.

- b. The inspection requirement of paragraph “a” does not apply to a transfer in which the transferee intends to demolish or raze the building. The department shall adopt rules pertaining to such transfers.
- c. At the time of inspection, any septic tank existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of as provided for by rule. In the alternative, the owner may provide evidence of the septic tank being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence.
- d. If a private sewage disposal system is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer. If the private sewage disposal system is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet current construction standards.
- e. Inspections shall be conducted by an inspector certified by the department.
- f. Pursuant to chapter 17A, the department shall adopt certification requirements for inspectors including training, testing, and fees, and shall establish uniform statewide inspection criteria and an inspection form. The inspector certification training shall include use of the criteria and form. The department shall maintain a list of certified inspectors.
- g. County personnel are eligible to become certified inspectors. A county may set an inspection fee for inspections conducted by certified county personnel. A county shall allow any department certified inspector to provide inspection services under this subsection within the county's jurisdiction.
- h. Following an inspection, the inspection form and any related reports shall be provided to the county for enforcement of any follow-up mandatory system improvement and to the department for record.
- i. An inspection is valid for a period of two years for any ownership transfers during that period. Title abstracts to property with private sewage disposal systems shall include documentation of the requirements in this subsection.

APPENDIX B – SF 467, SEC. 22-23, AS SENT TO GOV. CULVER

15 27 Sec. 22. Section 455B.172, subsection 11, paragraph a, as
15 28 enacted by 2008 Iowa Acts, chapter 1033, section 1, is amended
15 29 by adding the following new subparagraphs:

15 30 NEW SUBPARAGRAPH. (7) A transfer for which consideration
15 31 is five hundred dollars or less.

15 32 NEW SUBPARAGRAPH. (8) A deed between a family
15 33 corporation, partnership, limited partnership, limited
15 34 liability partnership, or limited liability company as defined
15 35 in section 428A.2, subsection 15, and its stockholders,
16 1 partners, or members for the purpose of transferring real
16 2 property in an incorporation or corporate dissolution or in
16 3 the organization or dissolution of a partnership, limited
16 4 partnership, limited liability partnership, or limited
16 5 liability company under the laws of this state, where the deed
16 6 is given for no actual consideration other than for shares or
16 7 for debt securities of the family corporation, partnership,
16 8 limited partnership, limited liability partnership, or limited
16 9 liability company.

16 10 Sec. 23. 2008 Iowa Acts, chapter 1033, section 2, is
16 11 amended to read as follows:

16 12 SEC. 2. EFFECTIVE DATE. This Act takes effect ~~July 1,~~
~~16 13 2009~~ July 1, 2010.



Time of Transfer Inspection Report (DNR Form 542-0191)

Property information

Current owner _____
Buyer _____ Realtor _____
Mailing address _____

Site Address/County _____
Legal Description _____

No. of bedrooms _____ Last occupied? _____ Records available _____

Permit/installation date _____ Separation distances ok/ no? _____

Septic system information

Septic tank(s): size _____ material _____ condition _____
Tank pumped? _____ date _____ licensed pumper _____
Septic/trash/processing tank: size _____ material _____ condition _____
Tank pumped? _____ date _____ licensed pumper _____

Aerobic treatment unit (ATU) mfgr _____ size _____
Tank pumped? _____ date _____ licensed pumper _____
Maintenance contract? _____ expiration date _____ service provider _____
Condition _____

Pump tanks/vaults: type _____ size _____ condition _____

Distribution system: distribution box _____ outlets used _____ condition _____
Header pipe(s) _____ # of lines _____ Pressure dosed? _____

Secondary treatment:
length of absorption fields _____ determined by _____
condition of fields _____ determined by _____
type of trench material _____

Size of sand filter _____ determined by _____
Vent pipes above grade? _____ discharge pipe located? _____
Effluent sample taken? _____ Results _____

Media filters: type _____
Maintenance contract? _____ expiration date _____ service provider _____
Condition _____

NPDES General Permit No. 4: required? _____ permitted? _____ NOI provided _____



Time of Transfer Inspection Worksheet

Other components:

Alarms _____ Working? _____ disinfection _____ working? _____

Control box _____ Timers _____ inspection ports _____

Other components _____

Overall condition of the private sewage disposal system

Report system status _____

Explain (attach additional pages as needed): _____

Comments: _____

Site status at conclusion of Time of Transfer inspection:

- Verify that controls are set on the appropriate mode.
- Power is on to all components.
- Revisit all components to verify lids are secure.
- Gather all tools for removal from the site.
- Verify that no sewage is on the ground surface.

Using this worksheet, write a narrative report of the inspection results and attach a site sketch.

This report indicates the condition of the private sewage disposal system at the time of the inspection. It does not guarantee that it will continue to function satisfactorily.

Signature of Certified inspector: _____ Date: _____

Name (print): _____ Certificate #: _____

Address: _____

Phone # _____

Provide a copy of this report, the narrative report and sketch to the seller/agent, buyer/agent, the county sanitarian/environmental health office in the county the inspection was conducted and to;

Iowa DNR Onsite Wastewater Program
502 E. 9th St.
Des Moines, IA 50319

4. Underground Storage Tanks (check one)

There are no known underground storage tanks on this property. (Note exclusions such as small farm and residential motor fuel tanks, most heating oil tanks, cisterns and septic tanks, in instructions.)

There is an underground storage tank on this property. The type(s), size(s) and any known substance(s) contained are listed below or on an attached separate sheet, as necessary.

5. Private Burial Site (check one)

There are no known private burial sites on this property.

There is a private burial site on this property. The location(s) of the site(s) and known identifying information of the decedent(s) is stated below or on an attached separate sheet, as necessary.

6. Private Sewage Disposal System (check one)

There are no known private sewage disposal systems on this property.

There is a private sewage disposal system on this property. A certified inspector's report is provided which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the Department of Natural Resources.

There is a private sewage disposal system on this property. Weather or other temporary physical conditions prevent the certified inspection of the private sewage disposal system from being conducted. The buyer has executed a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. A copy of the binding acknowledgment is provided with this form.

There is a private sewage disposal system on this property. The building to which the sewage disposal system is connected will be demolished without being occupied. The buyer has executed a binding acknowledgment with the county board of health to demolish the building within an agreed upon time period. A copy of the binding acknowledgment is provided with this form.

Information required by statements checked above should be provided here or on separate sheets attached hereto:

**I HEREBY DECLARE THAT I HAVE REVIEWED THE INSTRUCTIONS FOR THIS
FORM
AND THAT THE INFORMATION STATED ABOVE IS TRUE AND CORRECT.**

Signature: _____ Telephone No.: (____) _____
(Transferor or Agent)

FILE WITH RECORDER

DNR form 542-0960 (February 1, 2009)

IAC 567-69.2(8) *Inspection procedures.* Inspections shall be conducted as follows:

a. Inspection form. The inspection shall be conducted using DNR Form 542-0191, Time of Transfer Inspection Report.

b. Record search. Prior to an inspection, the certified inspector shall contact the administrative authority to obtain any permits, as-built drawings or other information that may be available concerning the system being inspected. Information may also be obtained from service providers or the homeowner. If an as-built drawing is available, the system inspection shall verify that drawing. If no as-built drawing is available, the inspector shall develop an as-built drawing as part of the inspection.

c. Septic tank. At the time of inspection, any septic tank(s) existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of according to 567--Chapter 68. In the alternative, the owner may provide evidence of the septic tank's being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence. If the septic tank(s) is opened, the condition of the tank and its components shall be documented and included in the final report.

d. Pumps and pump chambers. Pump chambers or vaults shall be opened for inspection, and the pump shall be tested to ensure proper operation.

e. Secondary treatment. Proof that a secondary treatment system is in place must be provided. This proof may include, but is not limited to:

- (1) Opening a distribution box or uncovering a header pipe for a soil absorption system. Existing distribution boxes shall be opened for inspection.
- (2) Verification of the existence of a sand filter by locating the vents and discharge pipe.
- (3) Locating and opening the lid(s) of an advanced treatment unit.
- (4) Absorption fields shall be probed to determine their condition. The condition of the fields shall be noted on the inspection report. The condition of the absorption field may also be determined with a hydraulic loading test.

f. Discharging systems. An effluent test shall be performed on any legally discharging private sewage disposal system. The effluent shall be tested to determine if it meets the requirements of NPDES General Permit No. 4, and the test results shall be included in the inspection report.

- (1) The certified inspector shall ensure that a legally discharging private sewage disposal system has an NPDES General Permit No. 4, if applicable.
- (2) The certified inspector shall ensure that a Notice of Intent to discharge is submitted to the department for coverage under NPDES General Permit No. 4.

g. Packaged treatment units. An advanced treatment unit, such as an aerobic treatment

unit, textile filter, peat filter or fixed activated sludge treatment system, shall be inspected according to the manufacturer's recommendations.

h. Other systems and system components. Private sewage disposal systems not mentioned above shall be inspected for code compliance, and an effluent sample shall be taken if applicable. Any components of the private sewage disposal system not mentioned above shall be inspected for proper function. Examples of other components include, but are not limited to, effluent screens, tertiary treatment systems, disinfection devices, alarms, control boxes and timers.

i. Inspection reports. Following an inspection, the inspection form and a narrative report describing the condition of the private sewage disposal system at the time of the inspection shall be provided to the county environmental health department, to the department for record, and to the county recorder in the county where the inspection occurred.