

CHAPTER 148
REGISTRY OF HAZARDOUS WASTE OR HAZARDOUS SUBSTANCE DISPOSAL SITES

567—148.1(455B) Scope.

148.1(1) These rules establish the procedures and criteria the department will use with respect to listing sites on the Registry of Hazardous Waste or Hazardous Substance Disposal Sites as required by Iowa Code section 455B.426. These rules apply to the evaluation for listing of known or suspected hazardous waste or hazardous substance disposal sites and to changes of the listing of sites on the registry.

148.1(2) These rules shall not limit the department's authority under 567—Chapter 133 to determine the parties responsible and cleanup actions necessary to meet the goals of the state pertaining to the protection of the groundwater. These rules shall not limit the department's authority to require remedial or preventative action, or to take remedial or preventative action, as necessary to protect the public health, environment, or quality of life or to otherwise prevent or abate the exposure of the citizens of the state to hazardous conditions.

148.1(3) Persons subject to these rules retain all applicable appeal rights provided in Iowa Code chapter 455B.

567—148.2(455B) Definitions.

"Action level" 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 the EPA and recognized experts, on a case-by-case basis.

"Contaminant" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally or which does occur naturally at a lower concentration, and includes all hazardous substances.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or hazardous substance into or on land or water so that the hazardous waste or hazardous substance, or a constituent of the hazardous waste or hazardous substance, may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

"Groundwater" means any "water of the state," as defined in Iowa Code section 455B.171(25), which occurs beneath the surface of the earth in a saturated geologic formation of rock or soil.

"HAL" means a lifetime health advisory level for a contaminant, established by the EPA. Health advisories represent the concentration of a single contaminant, based on current toxicological information, in drinking water which is not expected to cause adverse health effects over lifetime exposure.

"Hazardous substance" means a hazardous substance as defined in 42 U.S.C. 9601, and any element, compound, mixture, solution, or substance designated pursuant to 40 CFR 302.4.

"Hazardous waste" means a waste or combination of wastes as defined in Iowa Code section 455B.411.

"Hazardous waste or hazardous substance disposal site" means real property which has been used for the disposal of hazardous waste or hazardous substances either illegally or prior to regulation as a hazardous waste or hazardous substance under Iowa Code subsection 455B.411(4) and any adjoining real property and groundwater affected by the disposal activity.

"MCL" means the enforceable maximum contaminant level established by the EPA pursuant to the Safe Drinking Water Act.

"NRL" means the negligible risk level for carcinogens established by the EPA, which is an estimate of one additional cancer case per million people exposed over a lifetime to the contaminant (1×10^{-6}).

567—148.3(455B) Site selection for investigation criteria.

148.3(1) *General requirement.* The director shall investigate each known or suspected hazardous waste or hazardous substance disposal site.

148.3(2) Order of investigation. Three priority criteria shall be used to help determine the order of investigation of potential sites for the registry. The criteria are intended as general guidance and shall not be used to limit the department's selection of sites for investigation or the order of such investigation.

a. First priority. Final or proposed National Priorities List (NPL) sites. Summary information on the Iowa NPL sites is available in the U.S. Environmental Protection Agency's current update of National Priorities List Sites: Iowa.

b. Second priority. Sites with documented releases of contaminants to the groundwater above action levels or which otherwise may pose a significant threat to human health or the environment because of known or potential disposal activities.

c. Third priority. Sites without documented releases of contaminants to the groundwater above action levels and which otherwise may not pose a significant threat to human health or the environment because of known or potential disposal activities.

567—148.4(455B) Site investigation for listing on registry.

148.4(1) Determination of eligibility. The department shall determine if a site meets the statutory definition of a hazardous waste or hazardous substance disposal site. A brief written document shall be prepared which includes a recommended eligibility determination and provides summary information in support of this recommendation. The purpose of the determination document is limited to providing guidance for conducting further investigation of the site.

a. File review. The review of site investigation reports and other documents in the department's files shall be the primary source of information for making the eligibility determination. The director may also conduct an on-site investigation in the manner provided by Iowa Code section 455B.416 to help make the eligibility determination.

b. Documentation of disposal. The determination of hazardous waste or hazardous substance disposal is supported by the confirmation of disposal of a specific amount of at least one hazardous waste or hazardous substance. Other evidence may provide adequate support for a positive determination and may include documentation of waste disposal that is likely to have included a significant amount of at least one hazardous waste or hazardous substance, or documentation of soil, surface water, or groundwater contamination and a likely disposal source location.

c. Documentation of illegal or unregulated disposal. The determination of disposal either illegally or prior to regulation as a hazardous waste or hazardous substance is appropriate for confirmed disposal activities unless the disposal occurred legally at a permitted hazardous waste disposal facility as regulated in accordance with the Resource Conservation and Recovery Act (RCRA).

148.4(2) Site information package. A site information package shall be developed to provide an accurate summary of information about the site based on the relevant information in the department's files. The document is intended to provide sufficient summary information to support adding a site to the registry and determining a site classification. However, the use of the site information package is not intended to prevent consideration of the more complete file documents or of new information about the site.

a. File review. The review of site investigation reports and other documents in the department files shall be the primary source of information for preparing the site information package. The director may also conduct an on-site investigation in the manner provided by Iowa Code section 455B.416 to help prepare the site information package.

b. Contents. The site information packages shall be prepared with a similar format for each site. This format shall be designed, and modified as appropriate, to ensure that adequate information for the investigation of sites, as required by Iowa Code section 455B.428, is included in each document.

c. Site boundaries. A legal description of the site is required for the registry listing. This boundary description shall be proposed in the site information package and shall include the area used for disposal and any adjoining real property and groundwater affected by the disposal activity. The site description may include multiple property owners.

d. Toxicity and environmental fate summaries. Information about the characteristics of individual toxic contaminants shall be contained in an appendix attached to the site information package. This

information shall be developed as separate summary documents for the contaminants found at or known to be disposed of at the site. These individual summary documents are intended to provide supplemental information about the toxic characteristics of the most significant contaminants found at the site. Once prepared, these documents can be updated and reused with other site information packages as appropriate. The toxicity and environmental fate summaries shall be prepared with a similar format for each contaminant. This format shall be designed, and modified as appropriate, to ensure that adequate information is included in each document.

567—148.5(455B) Site classification.

148.5(1) *General requirement.* Iowa Code section 455B.427(3) requires the director to assess the relative priority of the need for action at each site to remedy environmental and health problems resulting from the presence of hazardous wastes or hazardous substances at the sites. Every site must be placed in one of five classifications. However, sites which are reclassified “e” shall be removed from the registry.

148.5(2) *Criteria for determining site classification.* The criteria described in 148.5 (3) to 148.5(7) shall be used to help determine the appropriate classification or reclassification for sites on the registry. The department shall propose the recommended site classification after the development of the site information package described in 148.4(2).

148.5(3) *Classification “a.” Causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment—immediate action required.* The documented release of contaminants is causing or the imminent threat of release of contaminants is likely to cause one of the following conditions:

- a. Exposure above groundwater action levels in a drinking water supply used for human or animal consumption.
- b. Exposure above health guidelines through inhalation, ingestion, or with direct contact with soil or water.
- c. Exposure resulting in the threat of acute toxic impacts on aquatic life or irreversible impact on the environment.

148.5(4) *Classification “b.” Significant threat to the environment—action required.* The documented release of contaminants is causing or the potential release of contaminants is likely to cause one of the following conditions:

- a. Groundwater contamination above groundwater action levels.
- b. The likely possibility of exposure above health guidelines through inhalation, ingestion, or with direct contact with soil or water.
- c. Exposure resulting in the threat of chronic toxic impacts on aquatic life or significant impact on the environment.

148.5(5) *Classification “c.” Not a significant threat to the public health or environment—action may be deferred.* There is no documented release of contaminants to groundwater above groundwater action levels and the potential for release under current site conditions is unlikely to cause a significant threat to the environment.

148.5(6) *Classification “d.” Site properly closed—requires continued management.* The site has been properly closed under an EPA- or state-approved remedial action plan in which the hazardous wastes or hazardous substances were removed, treated, or contained on site and one of the following conditions is required:

- a. Continued environmental monitoring to determine the adequacy of the remedial action.
- b. Continued site management to maintain the integrity of the physical closure structures.
- c. Continued control of site to prevent inappropriate use of the property.

148.5(7) *Classification “e.” Site properly closed, no evidence of present or potential adverse impact—no further action required.* The site meets one of the following conditions:

- a. The site has undergone complete cleanup under an EPA- or state-approved closure plan and no monitoring, structural maintenance, site access control, or other action is required.
- b. The site has undergone other action which demonstrates that no further monitoring, structural maintenance, site access control, or other action is required.

148.5(8) Department of public health (DPH) classification recommendation. As required by Iowa Code subsection 455B.427(3), the department shall work in cooperation with the DPH in making assessments of the relative priority classification on matters relating to public health. The department's proposed classification and a copy of the site information package shall be submitted with the request for the DPH site classification recommendation.

567—148.6(455B) Site listing.

148.6(1) Notification to site owner. After receiving and considering the recommended site classification from the DPH, the department shall notify the owner of any part of a site to be included in the registry. The notice shall include the name of the site owner(s), legal description of the site, period of waste disposal (if known), type of hazardous waste or hazardous substances disposed of or found as contaminants at the site, and the intended site classification. The notice shall be sent by certified mail to the owner's last-known address 30 days before the site is added to the registry.

148.6(2) Appeal of site listing. During the 30-day notice period, the owner or operator may appeal for deletion of the site, modification of the site classification, or modification of any information regarding the site. The site shall not be listed on the registry until a final decision has been made on the appeal in accordance with Iowa Code section 455B.429.

148.6(3) Recording of site designation. After the site is placed on the registry, the director shall file with the county recorder a statement disclosing the period of waste disposal and the type of hazardous waste or hazardous substances disposed of or found as contaminants at the site.

148.6(4) Changes to site listing. Changes to the site boundary or site classification shall not be made without notice to the affected property owner(s). Changes in site boundary designations shall be filed with the county recorder. The director shall also notify the county recorder when the site has been reclassified as Classification "e" and has been removed from the registry.

148.6(5) Use and transfer of listed sites.

a. Restriction on use. Written approval of the director is required prior to any substantial change in the use of a listed site. The written requests shall be considered on the basis of the potential impact to human health and the environment.

b. Restriction on property transfer. Written approval of the director is required to sell, convey, or transfer title of a listed site. The written requests shall be considered on the basis of the potential impact on human health and the environment.

c. Appeal of director's decisions. Decisions of the director concerning the use or transfer of a listed site may be appealed in the manner provided in Iowa Code section 455B.429.

148.6(6) Financial disclosure. Financial disclosure is required of a person liable for site cleanup costs. The disclosure report is required upon request of the department immediately after the site is listed on the registry. A subsequent report is required annually on April 15 for the period the site remains on the registry. The report shall consist of documentation of the responsible person's liabilities and assets, including, if filed, a copy of the annual report submitted to the secretary of state pursuant to Iowa Code chapter 490.

567—148.7(455B) Annual report.

148.7(1) General requirement. Annually, on January 1, the director shall transmit a report to the general assembly and governor identifying all sites on the registry. The report shall include all sites that have been added to the registry through October 30 of the preceding year. Sites that have been reclassified as Classification "e" during the year shall be deleted from subsequent annual reports. A copy of the report shall be sent to the board of supervisors of every county containing a site.

148.7(2) Specific site information requirements. The report shall include, but is not limited to, the following information for each site:

a. A general description of the site, including the site location and name, current owner, and the type and quantity of hazardous waste or hazardous substance disposed of at the site.

b. If known, a summary of significant environmental problems at or near the site.

- c.* If known, a summary of serious health problems in the immediate vicinity of the site and health problems deemed by the director, in cooperation with the DPH, to be related to conditions at the site.
- d.* If occurring, the status of testing, monitoring, or remedial actions in progress or recommended by the director or other agencies.
- e.* If occurring, the status of pending legal actions and federal, state, or local permits concerning the site.
- f.* The relative priority classification for remedial action at the site.
- g.* The proximity of the site to private residences, public buildings or property, school facilities, places of work, or other areas where individuals may be regularly present.

These rules are intended to implement Iowa Code section 455B.426.

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