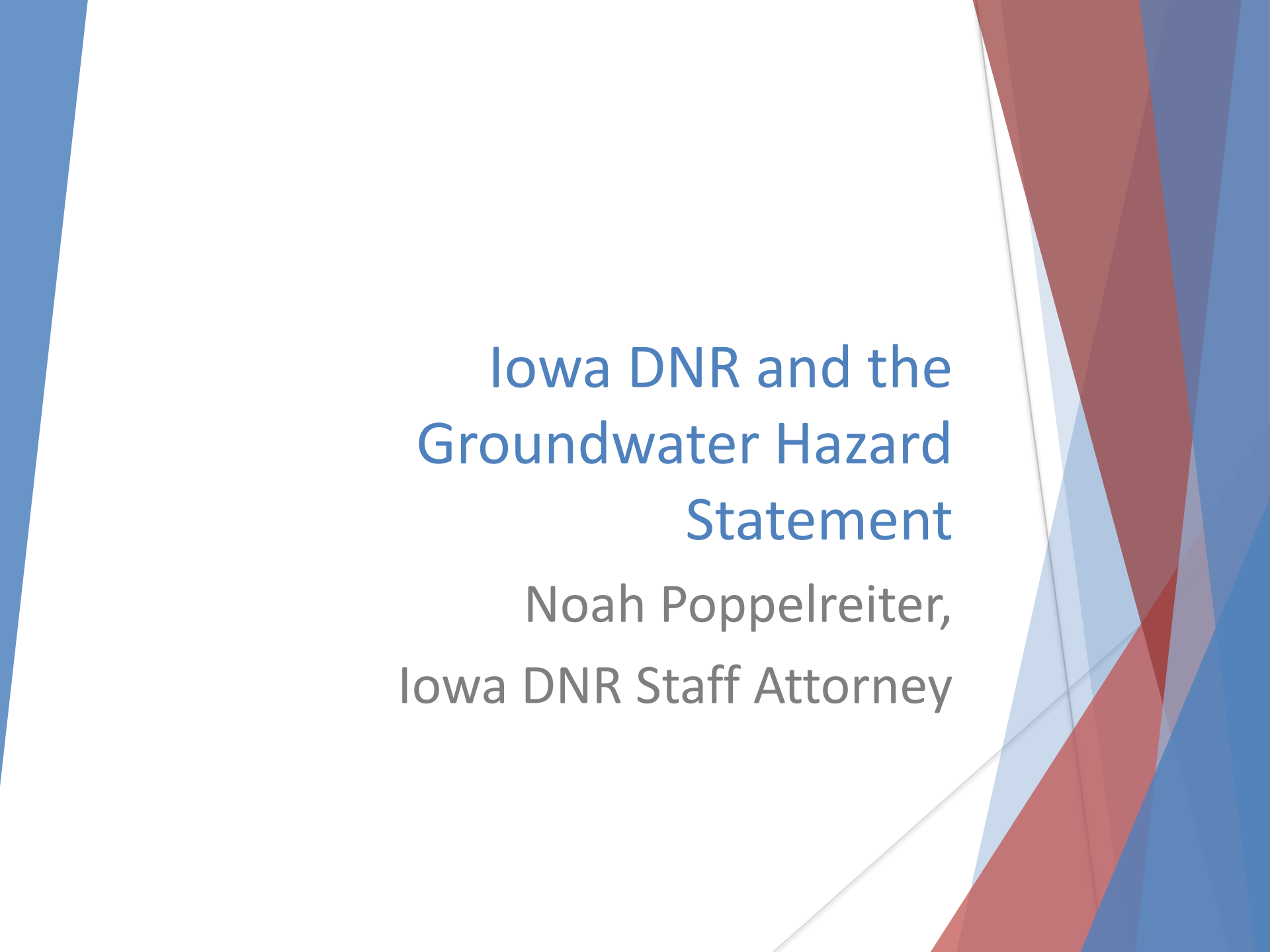




IOWA DEPARTMENT OF NATURAL RESOURCES

LEADING IOWANS IN CARING FOR OUR NATURAL RESOURCES



Iowa DNR and the Groundwater Hazard Statement

Noah Poppelreiter,
Iowa DNR Staff Attorney

A Reminder

The changes we will talk about today
come into effect July 1, 2022

Why the DNR?

Regulation of the conditions

- Private Sewage
 - Septic
- Wells
 - Geothermal
- Hazard wastes
- Solid Waste
- UST

DNR and the GWHS

- Provide the GWHS form...
- ... and keep records of the forms submitted from the Recorders

HF 2343 and the DNR

- Need to update the GWHS instructions
 - Instruction updates by July 1, 2022
- Need to update the rules to reflect the law
 - Update form
 - Expected finalization date: Quarter 4, 2022
- Need to work with ILR to modernize the form transfer
 - Ongoing process

HF2343 – Deed Language

Iowa Code Section 558.69(8A)(a)

[This language becomes effective July 1, 2022; emphasis added]:

If there are no conditions present then a groundwater hazard statement shall not be submitted. In lieu of the submission of a groundwater hazard statement, any deed... **shall include** on the first page the following statement:

“There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.”

Update the GWHS Form

- Code requires deed language if no conditions
 - DNR goal: GWHS form to be a one-stop shop
- But...
 - Current GWHS form is a DNR rule-referenced document
 - And the rules require recorders to record the current (2012) form

**CONTINUE TO RECORD THE CURRENT (2012) FORM
OR THE STATUORY LANGUAGE, WHEN APPLICABLE,
UNTIL RULEMAKING IS COMPLETE**

The GWHS Form

Current (2012) Form:

- In MS Word Format:
 - <https://www.iowadnr.gov/Portals/idnr/uploads/forms/5420960.doc>
- As an Adobe Acrobat PDF:
 - <https://www.iowadnr.gov/Portals/idnr/uploads/forms/5420960.pdf>

The GWHS Form

Instructions:

- <https://www.iowadnr.gov/Portals/idnr/uploads/forms/5420960%20Instructions.pdf>
- Updated as of June 6, 2022

The GWHS Form – Instructions

8. **Exemption from filing** – After July 1, 2022, and pursuant to Iowa Code section 558.69(4A), if none of the conditions described in paragraphs 1-6 are present on the property, the seller must record the following language on the first page of the deed, instrument, or other writing instead of recording the groundwater hazard statement:

“There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.”

Pursuant to Iowa Code section 558.69(8B)(a), a county recorder cannot record deed unless the deed contains the language above or if a groundwater hazard statement is filed with the declaration of value.

Please consult your realtor or legal counsel for further advice on this exemption. Pursuant to Iowa Code section 558.69(8A)(b), the owner of the property is responsible for the accuracy of this statement, and the Department provides this information for statutory reference only.

The GWHS Form – Instructions

8. **Exemption from filing** – After July 1, 2022, and pursuant to Iowa Code section 558.69(8A), if none of the conditions described in paragraphs 1-6 are present on the property, the seller must record the following language on the first page of the deed, instrument, or other writing instead of recording the groundwater hazard statement:

“There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.”

~~Pursuant to Iowa Code section 558.69(8B)(a), a county recorder cannot record deed unless the deed contains the language above or if a groundwater hazard statement is filed with the declaration of value.~~

Please consult your realtor or legal counsel for further advice on this exemption. Pursuant to Iowa Code section 558.69(8A)(b), the owner of the property is responsible for the accuracy of this statement, and the Department provides this information for statutory reference only.

The GWHS Form – Instructions

8. **Exemption from filing** – After July 1, 2022, and pursuant to Iowa Code section 558.69(8A), if none of the conditions described in paragraphs 1-6 are present on the property, the seller must record the following language on the first page of the deed, instrument, or other writing instead of recording the groundwater hazard statement:

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Update the GWHS Form

Proposed Form:

- <https://www.iowadnr.gov/Portals/idnr/uploads/forms/5420960%20Proposed.pdf>

Update the GWHS Form – Proposals

NOT A FINAL DOCUMENT; FOR STAKEHOLDER INFORMATION ONLY

Contact your recorder or the DNR for the final document once rulemaking is finalized (ETA: fourth quarter 2022)

- Won't be final until rulemaking is complete
- ETA is quarter 4, 2022

Current Form – Substance the Same

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)

- All buildings on this property are served by a public or semi-public sewage disposal system.
- This transaction does not involve the transfer of any building which has or is required by law to have a sewage disposal system.
- There is a building served by private sewage disposal system on this property or a building without any lawful sewage disposal system. A certified inspector's report is attached 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. A certified inspection report must be accompanied by this form when recording.

[This language is from the current (2012) form]

Update the GWHS Form – Proposals

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5. Private Burial Site (check one)

- No Condition - There are no known private burial sites on this property.
- Condition Present - 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)

- No Condition - All buildings on this property are served by a public or semi-public sewage disposal system.
- No Condition - This transaction does not involve the transfer of any building which has or is required by law to have a sewage disposal system.
- Condition Present - There is a building served by private sewage disposal system on this property or a building without any lawful sewage disposal system. A certified inspector's report is attached 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. A certified inspection report must be accompanied by this form when recording.

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5. Private Burial Site (check one)

- No Condition - There are no known private burial sites on this property.
- Condition Present - 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)

- No Condition - All buildings on this property are served by a public or semi-public sewage disposal system.
- No Condition - This transaction does not involve the transfer of any building which has or is required by law to have a sewage disposal system.
- Condition Present - There is a building served by private sewage disposal system on this property or a building without any lawful sewage disposal system. A certified inspector's report is attached 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. A certified inspection report must be accompanied by this form when recording.

Update the GWHS Form – Proposals

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Contact your recorder or the DNR for the final document once rulemaking is finalized (ETA: fourth quarter 2022)

Review the following two directions carefully:

- A. **Only after July 1, 2022** If you selected a **box stating “No Condition” for every numbered section above, STOP HERE.** Do not submit this form. Instead, pursuant to Iowa Code section 558.69(8A), you must include the following language on the first page of the recorded deed, instrument, or other writing:

“There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.”

Please consult your realtor or legal counsel for further advice on this exemption. By law, the owner of the property is responsible for the accuracy of this statement, and the Department provides this information for statutory reference only.

- B. If you checked **any box stating “Condition Present” for any of the numbered sections above, continue below.** You must complete this form, including providing all required information, and you must submit this form to the county recorder’s office with declaration of value.

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Review the following two directions carefully:

- A. **[Only after July 1, 2022] If you selected a box stating “No Condition” for every numbered section above, STOP HERE. Do not submit this form.** Instead, pursuant to Iowa Code section 558.69(3A), you must include the following language on the first page of the recorded deed, instrument, or other writing:

“There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.”

Please consult your realtor or legal counsel for further advice on this exemption. By law, the owner of the property is responsible for the accuracy of this statement, and the Department provides this information for statutory reference only.

- B. **If you checked any box stating “Condition Present” for any of the numbered sections above, continue below.** You must complete this form, including providing all required information, and you must submit this form to the county recorder’s office with declaration of value.

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“There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.”

Please consult your realtor or legal counsel for further advice on this exemption. By law, the owner of the property is responsible for the accuracy of this statement, and the Department provides this information for statutory reference only.

- B. If you checked any box stating “~~Condition Present~~” for any of the numbered sections above, continue below. You must complete this form, including providing all required information, and you must submit this form to the county recorder’s office with declaration of value.

Update the Rules – 561 IAC Chapter 9

- Align with the exemption
- Update the form reference
- Alter the reporting requirements
- Maintenance

Proposed Timeline – Goals

- Notice of Intended Action to be filed by August 17, 2022
 - Formal public comment period
- Public hearings on or before September 27, 2022
- Final rule by December 7, 2022

Modernize the Form Transfer

- TBD
- DNR and Iowa Land Records

Questions?

- Recorders: Consider your county sanitarian or county attorney
- Realtors: Please consult legal counsel for further advice on the statutory language

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come into effect July 1, 2022

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UNTIL RULEMAKING IS COMPLETE**

Questions? Comments?

- Noah Poppelreiter
 - Noah.Poppelreiter@dnr.iowa.gov
 - 515-669-8752
- Cory Frank, DNR Onsite Wastewater Coordinator
 - 515-689-7941
- Erik Day, DNR Private Wells Coordinator
 - 515-725-0237
- Other program areas: reach out to your normal point of contact