

## CHAPTER 46 HAZARDOUS MATERIALS

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**46.01 PURPOSE.** In order to reduce the danger to public health, safety, and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal, and cleanup of leaks and spills with the County.

**46.02 DEFINITIONS.** For purposes of this chapter, the following terms are defined.

1. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance.
2. "Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. For purposes of Subchapter IV of the Code of Iowa, a site which is a hazardous waste or hazardous substance disposal site as defined in Section 455B.411, Subsection 4, of the Code of Iowa, is a hazardous condition.
3. "Hazardous substance" means a hazardous substance as defined in 42 U.S.C. §9601 of the federal Comprehensive Environmental Response, Compensation, and Liability Act and any element, compound, mixture, solution, or substance designated pursuant to 40 C.F.R. §302.4.
4. "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either the following effects:
  - A. Causes, or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
  - B. Poses a substantial present or potential hazard to danger to human health or the environment. Hazardous waster may include, but is not limited to, wastes that are toxic, corrosive, or flammable or irritants, strong sensitizers, or explosives.
  - C. Hazardous waste does not include:
    - (1) Agricultural wastes, including matures and crop residues that are returned to the soil as fertilizers or soil conditioners.
    - (2) Source, special nuclear, or by-product materials as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

*(Code of Iowa, Sec. 455B.411(3))*

5. "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance or hazardous waste the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of hazardous substance or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance or waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or waste.

*(Code of Iowa, Sec. 455B.381(1))*

6. "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous substance so as to neutralize it

or to render the substance non-hazardous, safe for transport, amenable for recovery, amenable for storage, or to reduce it in volume. Treatment includes any activity or processing design to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

**46.03 CLEANUP REQUIRED.**

1. Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, defined by Section 46.02(1), as rapidly as feasible to an acceptable safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person.
2. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the County may, by an authorized officer, give reasonable notice based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup or the County may provide clean-up services. If the cost of the cleanup is beyond the capacity of the County to finance, the authorized officer shall report to the Board of Supervisors and immediately seek any State or federal funds available for such clean up.

**46.04 LIABILITY FOR CLEANUP COSTS.**

1. The reasonable person shall be strictly liable to the County for all of the following:
  - A. The reasonable cleanup costs incurred by the County as a result of the failure of the person to cleanup a hazardous substance or waste involved in a hazardous condition caused by that person, including emergency treatment of the hazardous condition.
  - B. The reasonable costs incurred by the County to evacuate people from the area threatened by a hazardous condition caused by the person.
  - C. The reasonable damages to the County for the injury to, destruction of, or loss of County property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

**46.05 NOTIFICATION.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the County Communications Center in Sac City or contact the Department of Natural Resources, of the occurrence of a hazardous condition as soon as possible, but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. If the incident is reported to any local fire department, or law enforcement agency, they shall notify the County Communications Center who will notify the proper State agencies in the manner established by the State.
2. Any County employee or any member of a law enforcement agency, or any member of a fire department who discovers a hazardous condition shall notify the County Communications Center, who will notify the proper State agencies in the manner established by the State.

**46.06 LAW ENFORCEMENT AUTHORITY.** If the circumstances reasonably so require, a law enforcement officer or their representative may:

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to clean-up personnel. No person shall disobey an order of any law enforcement officer issued under this section.

**46.07 LIABILITY.** The County shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, except, if the County is the responsible person as defined in Section 46.02.

**46.08 PENALTY.** Any person violating any provision, section, or paragraph of this chapter shall be guilty of a simple misdemeanor, or on conviction thereof be subject to a fine as outlined in Chapter 3.

**46.09 ENFORCEMENT.** This chapter may be enforced by any peace officer certified by the State, by any County emergency management employee, Weed Control Commissioner, Roadside Maintenance Manager, or any member of, or employee of, the County Secondary Roads Department.