

ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 567—Chapter 82
“Well Contractor Certification”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.187(1), 190A.2, 190A.4 through 190A.6, 455B.173(9), 455B.103(2) and 455B.105(3)

State or federal law(s) implemented by the rulemaking: Iowa Code sections 455B.187 and 455B.190A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 24, 2024
10 to 11 a.m.

Virtual via Zoom –
see [www.iowadnr.gov/Environmental-Protection/
Water-Quality/Water-Quality-Rulemaking](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Rulemaking) for
meeting information

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Natural Resources no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Email: erik.day@dnr.iowa.gov

Purpose and Summary

Proposed Chapter 82 establishes rules for a well contractor certification program in Iowa. The well contractor certification program includes specification of certification requirements, including minimum work experience levels, successful completion of an examination, continuing education requirements, and collection of associated fees. The proposed rules also include provisions regarding well contractor obligations and provisions for the revocation of a well contractor’s certification. This chapter has been reviewed and edited consistent with Executive Order 10 (January 10, 2023).

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Well contractors will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
Well contractors, citizens and businesses of Iowa will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
State law directs the Department to collect the fees specified in Chapter 82 as authorized by Iowa Code section 455B.190A. The fees proposed are the same as the fees previously assessed, so the

quantitative impact is expected to be neutral. Examination fees are \$50. Well drillers and pump installers require two examinations and well pluggers require one examination. Oral examination fees are \$100. Certification fees for well drilling contractors are prorated in six-month periods for the initial certification up to \$300 total until June 30 of the next even-numbered year, then a \$300 certification renewal fee every two years. Pump installation contractors and well plugging contractor initial certification fees are prorated in six-month periods for the initial certification period up to \$250 total until June 30 of the next even-numbered year, then a \$200 certification renewal fee assessed every two years. The provisionally certified well contractor fee is \$150. The late certification penalty is \$100, and the duplicate certificate fee is \$20. Recertification within two years of expiration of certification is \$1,000.

Well contractors' incurred costs to prepare for the examination, obtain adequate experience, and obtain required continuing education units varies.

- Qualitative description of impact:

The new Chapter 82 is expected to have a neutral impact, as the Department has implemented a well contractor certification program for over 30 years. Chapter 82 will maintain a well contractor certification program in the state. A well contractor certification program serves to set minimum standards for those conducting well construction work in the state, including continuing education requirements and minimum experience levels in order to obtain and retain certification status. Water wells constructed and/or repaired by certified well contractors protects the future quality and use of groundwater in Iowa.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Agency costs are limited to staff time required to implement the well contractor certification program. The costs incurred are partially offset by the fees collected through the well contractor certification program.

- Anticipated effect on state revenues:

A neutral impact on state revenues is expected as this chapter was previously in effect for over 30 years. The fees collected through these rules are used for the administration of the well contractor certification program.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefits realized by the regulated public and the Department through the implementation of state law outweigh the associated costs of inaction. Repromulgating the new proposed Chapter 82 will provide well contractors with continuity and regulatory certainty by allowing uninterrupted implementation of state law as it relates to the well contractor certification program. A well contractor certification program is necessary as well contractors must be certified to perform well services according to state law (more information can be found in Iowa Code section 455B.187). The costs incurred by the regulated public are limited and are used for the administration of the well contractor certification program. A significant benefit of the proposed rulemaking is the improved protection of Iowa's groundwater sources compared to if wells were constructed by well contractors that did not meet minimum work experience and did not maintain continuing education in their field of work.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

There are no less costly or intrusive methods to accomplish the benefit. The regulations included in these rules implement state law.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternative methods were considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The well contractor certification rules implement Iowa Code sections 455B.187 and 455B.190A in a straightforward manner. A well contractor certification program is required, and the program was initially and has been developed in consultation with the regulated parties.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This rulemaking will not have a substantial impact on small business because the rules have previously been in place for over 30 years.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 82 and adopt the following **new** chapter in lieu thereof:

CHAPTER 82
WELL CONTRACTOR CERTIFICATION

567—82.1(455B) Definitions. In addition to the definitions in 567—Chapter 39, 567—Chapter 40, 567—Chapter 49, and Iowa Code sections 455B.171, 455B.190, and 455B.190A, which are hereby adopted by reference, the following definitions shall apply to this chapter:

“*Pump installer*” means a person certified by the department to perform pump services.

“*Pump services*” means the same as defined in Iowa Code section 455B.190A. The term also includes modification of the upper terminus of a well; well plugging; well rehabilitation; or the construction of Class 3 wells.

“*Well driller*” means a person certified by the department to perform well drilling services.

“*Well drilling services*” means the same as “well services” as defined in Iowa Code section 455B.190A. The term includes well rehabilitation.

“*Well plugging contractor*” means a well contractor certified to plug only Class 1 or Class 3 wells but not certified to abandon Class 2 wells or perform any other well services.

567—82.2(455B) General.

82.2(1) *Certified well contractor requirement.*

a. All well services shall be performed pursuant to this chapter by a certified well contractor who is on site and in direct charge of the well services, except that a person may perform well services on their own property without being certified.

b. Prior to performing well drilling services, a certified well contractor shall notify:

(1) The department or the county, if a well does not have the required construction permits; or

(2) The department, if the use of the water requires a water use allocation and the owner has not applied for or been issued a water use allocation.

82.2(2) *Applicability exception.* These rules shall not apply to a water operator certified pursuant to Iowa Code section 455B.213, when the water operator is performing pump services on any well owned by a PWS as defined in Iowa Code section 455B.171. These rules shall not apply to a wastewater operator certified pursuant to Iowa Code section 455B.213, when the wastewater operator is performing pump services on a groundwater monitoring well, groundwater dewatering well, or other well not used to provide drinking water, owned by a sewer system as defined in Iowa Code section 455B.171. Pump installer certification requirements shall not apply to monitoring wells.

82.2(3) *Address change.* Certified well contractors shall report address changes to the department within 30 days after the change.

567—82.3(455B) Classification of well contractors.

82.3(1) *Classifications.* The three classifications of certified well contractors are:

- a. Certified well contractor, including:
 - (1) Well driller, and
 - (2) Pump installer.
- b. Provisionally certified well contractor, including:
 - (1) Well driller, and
 - (2) Pump installer.
- c. Well plugging contractor.

82.3(2) *Certified well contractor.* In order to be a certified well contractor, an applicant shall have met the experience requirements, successfully completed the well contractor examination for well drilling services or pump services, or both, been issued a certificate by the department, and renewed the certification in accordance with this chapter.

82.3(3) *Provisionally certified well contractor.* The requirements and conditions for provisional well contractor certification are described in Iowa Code section 455B.190A. A provisionally certified well contractor will become a certified well contractor after the submission of an application showing all certification requirements have been met and submission of appropriate fees to the department. The certificate for a provisionally certified well contractor will be issued for one year. The department shall issue a certified well contractor certificate after the one-year period and the receipt of appropriate fees.

82.3(4) *Well plugging contractor.* In order to be certified as a well plugging contractor, an applicant shall take a four-hour training course designated by the department, successfully complete a well plugging test, be issued a certificate by the department, and renew the certification in accordance with this chapter.

567—82.4(455B) Experience requirements. All applicants shall meet the experience requirements shown below. Educational programming approved by the department may be substituted for up to one half of any experience requirement at the rate of one continuing education unit (CEU) for each 100 hours of required experience.

CLASSIFICATION	EXPERIENCE
Certified Well Contractor (well driller)	Two years' employment and 2000 hours work experience in Class 1 and Class 2 well construction
Certified Well Contractor (pump installer)	Two years' employment and 1000 hours work experience in the installation, repair, and maintenance of water systems
Provisionally Certified Well Contractor	One half of the employment and experience required for full certification

CLASSIFICATION	EXPERIENCE
Well Plugging Contractor	None

567—82.5(455B) Certification and examination fees. The following fees are nonrefundable.

82.5(1) Examination fee. Fee for each examination: \$50.

82.5(2) Oral examination fee. Fee for each oral examination: \$100.

82.5(3) Certification fees.

a. Well drilling contractors.

(1) Initial certification fee for each one-half year of a two-year period from the date of issuance to June 30 of the next even-numbered year: \$75.

(2) Certification renewal fee: \$300.

b. Pump installation contractors and well plugging contractors.

(1) Initial certification fee:

1. For each one-half year of the first year of certification: \$75.

2. For each additional one-half year period to June 30 of the next even-numbered year: \$50.

(2) Certification renewal fee: \$200.

82.5(4) Provisionally certified well contractor fee. Provisionally certified well contractor fee: \$150.

82.5(5) Late certification penalty fee. Penalty fee for late payment of the initial certification fee or renewal fee: \$100.

82.5(6) Duplicate certificate fee. A currently certified well contractor may obtain a duplicate certificate upon payment of a \$20 fee.

82.5(7) Recertification fee. Contractors who have not earned sufficient CEUs for certification renewal and who wish to recertify within two years after expiration of their certification must retake and pass the examination(s) and pay a certification fee of \$1,000.

567—82.6(455B) Examinations.

82.6(1) Examination types. There are four well contractor examinations available:

a. General fundamentals examination - well drilling and pump installation contractors.

b. Specialty examination - well drillers.

c. Specialty examination - pump installers.

d. Specialty examination - well plugging contractors.

82.6(2) Required examinations.

a. Well drilling contractors and pump installers must take and pass the general fundamentals examination and at least one of the specialty examinations. Examinations may be taken at the same time and place or at different times. Work shall be limited to the specialty in which proficiency has been demonstrated by written examination.

b. Well plugging contractors must take and pass the well plugging examination only.

82.6(3) Examination application.

a. A person wishing to take the examination(s) to become a certified well contractor shall complete and submit an examination application form provided by the department.

b. All examination applications shall be accompanied by the examination fee.

c. The department may allow local county environmental health officials to take an examination, even if they do not meet the work experience or training requirements, provided they pay the examination fee. If an official receives a passing score on the examination, they will receive a letter of acknowledgement; however, they will not be certified and will not be allowed to perform any well services.

82.6(4) Application evaluation. After evaluating an application, the department will notify an applicant of examination eligibility or noneligibility.

82.6(5) Application expiration. An approved examination application shall be valid for one year from the approval date. All required examinations shall be completed within one year of application.

82.6(6) *Examination fee refund.* The department may refund a portion of the examination or reexamination fee for an applicant who does not qualify for examination within one year of application approval. If an applicant will qualify for a scheduled examination within one year, the fee will not be refunded.

82.6(7) *Reexamination.*

a. Upon failure of the first examination, an applicant may apply for reexamination. Upon failure of the second examination, the applicant must wait a period of 180 days between each subsequent reexamination.

b. Upon each reexamination while a valid application is on file, an applicant shall submit the examination fee to the department.

82.6(8) *Application invalidation.* Failure to successfully complete the necessary examinations within one year from the application approval date shall invalidate an application.

82.6(9) *Oral examination.* Upon written request by an applicant, the director will consider administering an oral examination on an individual basis when: the applicant has failed the written examination at least twice; the applicant has shown difficulty in reading or understanding written questions but may be able to respond to oral questioning; the applicant is capable of communicating in writing with regard to departmental requirements and inquiries; and the director has received a written recommendation for an oral examination from a department staff member attesting to the operational and performance capabilities of the applicant.

82.6(10) *Reasonable accommodation.* Upon an applicant's request, the director will consider reasonable accommodation to allow administration of an examination without discrimination on the basis of disability. An applicant shall request accommodation 30 days prior to the examination date. An applicant shall provide documentation of eligibility for the accommodation with the examination application form. Accommodations based on documentation may include site accessibility, oral examination, extended time, separate testing area, or other concerns. If an oral examination is considered a reasonable accommodation, the oral examination fee shall apply.

567—82.7(455B) Contractor certification.

82.7(1) *Examination requirement.* All applicants for well contractor certification shall pass the relevant examinations prior to receiving certification.

82.7(2) *Certification.*

a. To receive certification, an applicant who passes the examination(s) shall submit the appropriate certification fee to the department within 30 days of receiving notification from the department of passing the examination(s). Payment may be digitally submitted in accordance with the instructions on the department's website at www.dnr.iowa.gov, mailed, or hand delivered. All certification fee payments that are mailed or hand delivered shall be submitted with the applicant's notification of passing the examination(s).

b. Any certification payment digitally submitted, postmarked, or hand delivered to the department more than 30 days but less than 60 days after the date the applicant received notification passing the examination(s) shall be accompanied by the appropriate certification fee and the late certification penalty fee.

c. Applicants who do not submit the appropriate certification fee within 60 days' notice of passing the examinations will not be certified on the basis of that examination(s).

82.7(3) *Denial appeal.* Applicants may appeal a denial of certification within 30 days of receiving notification, pursuant to 567—Chapter 7.

82.7(4) *Certificate renewal.*

a. Renewal period. All certificates shall expire on June 30 of even-numbered years and shall be renewed every two years in order to maintain certification.

b. Continuing education requirements for renewal. The CEU credits detailed in rule 567—82.8(455B) shall be obtained prior to any certificate renewal.

c. Renewal applications and fee.

(1) Certification renewal applications shall be made available to certified well contractors on the department's website at www.dnr.iowa.gov 60 days prior to the certificate expiration date.

(2) All renewal applications shall be digitally submitted, postmarked, or hand delivered to the department prior to certificate expiration, and shall be accompanied by the appropriate certification renewal fee.

d. Late renewal. Any certification renewal application digitally submitted, postmarked, or hand delivered to the department after certificate expiration shall be accompanied by the appropriate certification renewal fee and the late certification renewal penalty fee.

e. Failure to renew. If a certified well contractor fails to renew within 60 days following certificate expiration, the right to renew the certificate is automatically terminated. Certification may be allowed at any time following such termination, provided that the applicant passes the appropriate examinations and submits the appropriate certification fee in accordance with this rule.

f. Expired certificate. A certified well contractor may not continue to provide well services after certificate expiration without renewal thereof.

567—82.8(455B) Continuing education.

82.8(1) CEU requirements. CEUs must be earned during two-year periods between April 1 and March 31 of even-numbered years.

a. A certified well contractor holding well driller certification or both well driller and pump installer certifications must earn 1.6 CEUs or 16 contact hours during each two-year period.

b. A certified well contractor holding only pump installer certification must earn 1.0 CEU or 10 contact hours during each two-year period.

c. A well plugging contractor may be required to earn 0.2 CEUs or 2 contact hours during each two-year period as determined by the department, provided the well plugging contractor is notified of the requirement at the beginning of the renewal period.

d. Newly certified (previously uncertified) well contractors who are certified after April 1 of even-numbered years will not be required to earn CEUs until the next two-year period.

82.8(2) Certificate renewal. Only those certified well contractors fulfilling the CEU requirements before the end of each two-year period (March 31) will be allowed to renew their certificate(s). All certificates of certified well contractors not fulfilling the CEU requirements shall expire on June 30 of every even-numbered year.

82.8(3) CEU approval. All activities for which CEU credit will be granted must be approved by an accredited college or university, technical institute, or the department, and shall be related to well services, relevant aspects of Iowa groundwater law, well construction, well maintenance, well abandonment practices, well contractor safety (no more than 0.2 CEU per renewal), water system maintenance, or Iowa hydrogeologic conditions that protect groundwater and water supplies.

82.8(4) CEU exceptions. The director may, in individual cases involving hardship or extenuating circumstances, grant a certified well contractor six additional months to fulfill the minimum CEU requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the contractor that prevent attendance at the required activities. All extension requests must be made prior to March 31 of each even-numbered year.

82.8(5) CEU reporting. It is the certified well contractor's personal responsibility to maintain a written record of the CEUs earned during each renewal period, and report the credits to the department by following the instructions on the department's website at www.dnr.iowa.gov.

82.8(6) Alternative CEU requirements. A certified well contractor shall be deemed to have complied with the CEU requirements of this rule during periods that they serve honorably on active duty in the military services, for periods of government employment working as a well contractor and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the director.

567—82.9(455B) Certified well contractor obligations.

82.9(1) Record and sample submission. Within 30 days of completion of any water well, each certified well contractor shall submit the following:

a. A well record form to the authority who issued the well construction permit (the department or the local county health department), in accordance with 82.9(2); and

b. Drill cutting samples to the Iowa Geological Survey (IGS) for any water well used as part of a public water supply, a well used for water withdrawal for which a permit is required by rule 567—50.1(455B), or a department-required well used to monitor groundwater quantity or quality, as required by 82.9(3).

c. Prior to constructing a water well to be used as part of a nonpublic water supply or other water well used to access groundwater, a certified well contractor shall contact the local health department in the county in which the water well is to be located to determine if submittal of drill cutting samples is required.

82.9(2) Well record form. Well drilling records shall be submitted on the well record form, or, for all nonpublic water supply wells, into the department's Iowa Well Information System database. Both the form and the database are available on the department's website at www.iowadnr.gov. The well record form shall include the following:

a. Well location and legal description (quarter section, section number, township, range, and county);

b. Reference point for all depth measurements;

c. Depth at which each significant change of formation occurs;

d. Depth at which pump is set, the non-pumping and pumping water levels in the well measured from the land surface, and the rate and duration the well was pumped;

e. Identification of the material of which each significant stratum is composed;

f. Depth at which hole diameters (bit sizes) change;

g. Normal hole diameter of the well bore;

h. Total depth of the completed hole;

i. Depth or location of any lost drilling fluids, drilling materials, or tools;

j. Casing depth, grouting schedule, including materials used and method of placement, and description of the well casing and liner pipe;

k. A description of well screens, including diameter, length, material slot sizes, amount of open area, and location in well; and

l. A description of physical and chemical well development activities.

82.9(3) Cutting samples. Drill cutting samples shall be collected at intervals of five feet and at each pronounced change in geological formation. The IGS will provide drill cutting bags.

82.9(4) Test pumping. Certified well contractors shall provide, as requested, test pumping data for water wells used as part of a public water supply and for water wells used as part of a regulated water use pursuant to 567—subrule 50.6(1).

567—82.10(455B) Disciplinary actions.

82.10(1) Reasons for disciplinary action. Disciplinary action may be taken against a certified well contractor or well plugging contractor on any of the grounds specified in Iowa Code section 455B.190A and the following more specific grounds:

a. Knowingly making any false statement, representation, or certification on any application, record, report, or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Failure to renew certification.

c. Failure to obtain required CEUs.

d. Failure to submit, within the time required, drill cutting samples, records, or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

e. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified well contractor or well plugging contractor.

f. Violation of well construction, plugging or pump installation standards or other requirements in 567—Chapters 39, 43, 49 and 110.

g. Failure to advise a person for whom well services are being provided that a hazardous or potentially hazardous condition, as defined in Iowa Code section 455B.381(2), has been encountered.

h. Knowingly causing or allowing a hazardous or potentially hazardous condition due to well construction to exist.

i. Drilling or reconstructing a well without a construction permit.

82.10(2) *Disciplinary sanctions.*

a. Certificate revocation. Revocation of a certificate may be permanent without chance of recertification or for a specified period of time.

b. Partial revocation or suspension. Revocation or suspension of the practice of a particular aspect of the contractor's responsibility.

c. Probation. Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation. Reexamination may include written and oral examinations.

d. Fees. The department shall determine which fees in rule 567—82.5(455B) apply.

e. Penalties. Civil penalties may be assessed in accordance with Iowa Code section 455B.109.

82.10(3) *Procedure.*

a. The director shall initiate disciplinary action. The director may investigate any alleged factual situation that may be grounds for disciplinary action under 82.10(1) and report the results of the investigation to the commission.

b. The director may issue an administrative order that may assess a penalty or refer a case to the attorney general for prosecution for any disciplinary action.

c. Written notice by certified mail shall be provided to a certified well or well plugging contractor against whom disciplinary action is being considered. The certified well or well plugging contractor will be given 20 days' advance notice that an informal hearing has been scheduled before the commission. The notice will provide the specific date, time, and place, at which time the commission will hold the informal hearing to determine whether a formal hearing is warranted or whether informal resolution can be reached. The certified well or well plugging contractor may present any relevant facts and indicate their position in the matter.

d. A certified well or well plugging contractor who receives notice of an informal hearing shall communicate orally or in writing with the director, and efforts shall be made to clarify the respective positions of the certified well or well plugging contractor and the director. Department staff may present a recommendation concerning disciplinary sanctions to the commission at the informal hearing.

e. Failure to attend the informal hearing or otherwise to communicate facts and position relevant to the matter by the scheduled date will be considered by the commission when determining whether a formal hearing is warranted.

f. If agreement as to appropriate disciplinary sanction, if any, can be reached with the certified well or well plugging contractor and the commission concurs, a written stipulation and settlement between the department and the certified well or well plugging contractor shall be entered. The stipulation and settlement shall recite the basic facts and violations alleged, any facts presented by the certified well or well plugging contractor, and the reasons for the particular sanctions imposed.

g. If the commission determines that no disciplinary action is warranted on the facts asserted, the certified well or well plugging contractor shall be notified of the decision in writing.

h. If the commission determines that an opportunity for formal hearing is required to impose any disciplinary sanction specified in 82.10(2), the director shall proceed in accordance with 567—Chapter 7.

567—82.11(455B,272C) Certificate revocation. Upon certificate revocation in accordance with Iowa Code section 455B.190A, application for certification may be allowed after two years from the revocation date. Any such applicant shall pass an examination and be certified in the same manner as other applicants. The department shall determine which fees in rule 567—82.5(455B) apply.

These rules are intended to implement Iowa Code sections 455B.187 and 455B.190A.