

**567—52.21(455B) Permits to divert water to an agricultural drainage well.**

**52.21(1) Approval criteria.** An application for a permit to divert water or other material to an aquifer by means of an agricultural drainage well shall not be approved if the agricultural drainage well is located within a designated agricultural drainage well area or the drainage well is to be constructed after February 18, 1998. An initial permit for the diversion of water or any material to an aquifer by means of an agricultural drainage well shall be based on a finding that the following criteria are satisfied. Renewal of such a permit shall be made only upon a finding that such owners, lessees, easement holders, or option holders are in compliance with the conditions of the initial permit or any permit issued thereafter and that the agricultural drainage well meets applicable approval criteria, including paragraph 52.21(1)“c.”

*a.* The application for the permit has been submitted by or on behalf of all owners, lessees, easement holders, or option holders of all lands which are drained by the agricultural drainage well.

*b.* There is reasonable assurance that the applicant(s) can minimize the contamination potential to the aquifer through closure of surface water intakes, elimination of any septic system connections, and other appropriate management practices including nutrient and pesticide management as required under subrule 52.21(2).

*c.* There are no economically and physically viable alternatives to the use of the agricultural drainage well. The department will consult with the division of soil conservation and water quality, department of agriculture and land stewardship, and other parties with drainage expertise as necessary to determine if viable alternatives exist. In determining whether a viable alternative exists, the department will consider all relevant factors, including the following:

(1) The impact that closure of the ADW would have on lands drained by the agricultural drainage well if an alternative drainage system is not provided.

(2) The cost and feasibility of providing an alternative outlet. Alternative drainage systems constructed under the provisions of the alternative drainage system assistance program administered by the division of soil conservation and water quality will be considered as a viable alternative to the use of the agricultural drainage well.

(3) The availability of public assistance for the construction of an alternate outlet or for compensation for loss of productivity on lands drained by the agricultural drainage well.

(4) The results of the engineering study provided for under 52.21(2)“l.”

**52.21(2) Approval conditions.** Permits granted for the diversion of water or any material to an aquifer by means of an agricultural drainage well shall be subject to the following conditions as appropriate.

*a. Surface water intakes.* All surface water intakes shall be removed by December 31, 2001. Additional tile lines may be added to compensate for removal of surface water intakes provided the replacement tile does not increase the size of the agricultural drainage well area. Replacement tiles shall generally conform with the Natural Resources Conservation Services Tile Intake Replacement Interim Standard 980.

*b. Cisterns.* Cisterns shall be sealed or otherwise modified as necessary by December 31, 2001, to prevent direct entry of surface water. Compliance with the Natural Resources Conservation Services Wellhead Protection Interim Standard 981 will be considered as complying with this condition. Alternatives to the interim standard may be allowed with department approval.

*c. Access/ventilation.* The agricultural drainage well or its cistern shall be provided with a locked cover to prevent unauthorized access. If the agricultural drainage well and the related drainage system is ventilated, ventilation shall be accomplished in a manner that will not allow surface water to enter the agricultural drainage well.

*d. Repair and maintenance.* The agricultural drainage well and the associated drainage system may be repaired and maintained as needed to maintain drainage efficiency. The drainage well and associated tile drainage system shall be maintained in a condition so as to prevent surface water which has not filtered through the soil profile from entering the drainage well.

*e. Modifications of drainage well.* The agricultural drainage well shall not be modified without department approval. The related drainage system may be modified without department approval providing the modifications do not enlarge the agricultural drainage well area. Construction of new surface water intakes is not allowed.

*f. Closure.* If the permittee discontinues use of the agricultural drainage well, the department shall be notified and closure shall be made in accordance with 567—Chapter 39 or by an alternative method approved by the department. The permit will be revoked upon submission of proof that the drainage well was properly closed.

*g. Modification or cancellation of permit.* As provided in 567—52.7(455B), the department may modify or cancel the permit or require the permittee to take other actions to protect the public health and safety, to protect the public interest in lands and waters, or to prevent any manner of substantial injury to persons or property.

*h. Waste systems.* Effluent from wastewater treatment or storage systems, including on-site wastewater treatment and disposal systems such as septic systems, shall not be allowed to directly enter the agricultural drainage well or associated tile drainage system. Runoff controls consistent with Chapter 65 requirements and guidance may be required for feedlots that discharge across lands drained by an agricultural drainage well to control manure nitrogen and to eliminate the potential for direct entry of animal wastes into an agricultural drainage well or its drainage system.

*i. Nitrogen management.* The application of nitrogen from all sources, including manure, legumes, and commercial fertilizers, on lands within an agricultural drainage well drainage area shall not exceed the nitrogen use levels necessary to obtain optimum crop yields for the crop being grown.

*j. Application of liquid animal wastes.* Application of liquid animal waste to lands drained by the agricultural drainage well shall be done in a manner that will not result in a discharge of the waste to the drainage well or associated drainage system.

*k. Application of pesticides.* The application of pesticides on lands within the agricultural drainage well area shall be in accordance with the provisions of Iowa Code chapter 206 and rules adopted pursuant to chapter 206.

*l. Alternatives to the use of the agricultural drainage well.* Prior to reissuance of a permit for the continued use of an agricultural drainage well, the permittee(s) shall conduct an engineering study of the physical and economic feasibility of alternatives to the continued use of the agricultural drainage well. The study shall comply with the provisions of Iowa Code chapter 542B regarding certification by a licensed professional engineer. The results of the study shall be submitted to the department at least one year prior to a request to renew a permit.

**52.21(3)** *Closure of existing agricultural drainage wells.*

*a. Agricultural drainage wells within a designated agricultural drainage well area.* A permit shall not be granted for the diversion of water or other material into an aquifer by means of an agricultural drainage well if the drainage well is located within a designated agricultural drainage well area. All existing agricultural drainage wells within a designated agricultural drainage well area shall be closed by December 31, 1999. Closure shall be in accordance with 567—Chapter 39, Requirements for properly plugging abandoned wells, or by an alternative method approved by the department. Cisterns shall be filled in or removed and filled in with earth or other suitable material and any tile lines shall be removed for a distance of 10 feet around the wellhead or, alternatively, be replaced with nonperforated pipe. The owner of the land on which the agricultural drainage well is located shall provide the department with notice that the well has been closed in accordance with the requirements of this paragraph. Agricultural drainage wells that have been properly closed will no longer be considered an agricultural drainage well by the department.

*b. Other agricultural drainage wells.* Existing agricultural drainage wells that have not been authorized by permit by December 31, 1999, shall be closed by that date unless the department has granted a waiver to the closure requirements. The closure procedures shall be as specified in 52.21(3) “a.”

This rule is intended to implement Iowa Code chapter 455I.