

567—82.13(455B) Disciplinary actions.

82.13(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: (Iowa Code section 455B.109 authorizes the assessment of administrative penalties for violations of Iowa Code chapter 455B or rules, permits, and orders promulgated or issued pursuant to Iowa Code chapter 455B. The department will follow the provisions of 567—Chapter 10 for assessing such penalties.)

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 continuing education units.

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 contained in 567—Chapters 38, 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.

82.13(2) Disciplinary sanctions allowable are:

a. Revocation of a certificate. Revocation of a certificate may be permanent without chance of recertification or it may be 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 82.7(455B) apply.

82.13(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 subrule 82.13(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 the certified well or well plugging contractor's 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. The 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 subrule 82.13(2), the director shall proceed in accordance with 567—Chapter 7.