

ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 567—Chapter 81
“Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.103(2), 455B.105(3) and 455B.222

State or federal law(s) implemented by the rulemaking: Iowa Code sections 455B.211 through 455B.224, 42 U.S.C. Section 300g-8, and 40 CFR section 141.130(c)

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 for meeting information

Public Comment

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

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Purpose and Summary

Proposed Chapter 81 establishes the requirements for public water supplies, distribution systems, and wastewater supplies to have a properly certified operator in charge consistent with Iowa Code section 455B.211. It also fulfills the requirement of the Safe Drinking Water Act (SDWA) that states must adopt to implement a program that meets the U.S. Environmental Protection Agency’s (EPA) standards for the classification of public water supplies and distribution systems and to train, certify, and recertify the operators in charge of those systems. Ultimately, proposed Chapter 81 ensures consistent safe drinking water, public health protection, and the preservation of Iowa’s water resources by ensuring competent management, operation, and maintenance of both drinking water and wastewater systems. This chapter has been reviewed and edited consistent with Executive Order 10.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Certified individuals or municipalities and their customers, depending on who pays the certification fees, will bear the costs of the proposed rulemaking.
Various businesses that are considered public water supplies will also bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:

With respect to public water supplies, public wastewater systems, and distribution systems, the citizens of Iowa and industry will benefit.

Having properly trained certified operators to manage Iowa's wastewater and drinking water facilities protects interests such as tourism and the preservation of the state's lakes, rivers and streams.

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, as authorized by Iowa Code section 455B.211, not only directs the Department to collect fees by rule, but state law also calls for the Department's designation to directly implement and administer those rules. The fees proposed are the same as the fees previously assessed, so the quantitative impact is expected to be neutral. Examination fees are \$30. Certification fees are prorated in six-month increments over a two-year period for initial certification, up to an \$80 maximum. Renewal fees are \$60 every two years. Operators incur costs in examination preparation and obtaining continuing education. These costs are often paid by the municipality or business that retains the certified operator.

- Qualitative description of impact:

Proposed Chapter 81 is expected to have a neutral impact as the Department has implemented this program for over 20 years. Chapter 81 will maintain a Drinking Water, Distribution System, and Wastewater System Operator Certification Program in the state. It will continue to be a valuable catalyst for the viability and sustainability of Iowa's drinking water and wastewater infrastructure through the assurance of competent operation, management and maintenance.

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 Drinking Water, Distribution System, and Wastewater System Operator Certification Program. These costs are covered by Drinking Water Program Administration Funds (federal funding) and through certification and renewal fees.

- Anticipated effect on state revenues:

A neutral impact on state revenue is expected since these rules were previously in effect for over 20 years, it uses no General Fund moneys, and Iowa Code section 455B.211 calls for any fees collected by the program to be used for the implementation of the program.

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

The SDWA requires states to adopt and implement a program that meets EPA's guidelines for the certifying and recertifying of public water supply and distribution system operators. Failure to have these rules in place, per the SDWA, results in the loss of primacy for Iowa's Drinking Water Program and in EPA withholding 20 percent of Iowa's Drinking Water State Revolving Funds (DWSRF). This would translate to a loss of millions of dollars yearly for Iowa's wastewater and drinking water infrastructure projects, technical assistance to small systems, Iowa's Public Water Supply Supervision (PWSS) program management and staffing, public water supply viability and sustainability work, and the Source Water Protection Program and its staff.

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 this benefit. The regulations included in these rules implement the requirements of both state and federal law.

6. Alternative methods considered by the agency:

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

No alternative methods were seriously considered.

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

The SDWA, as amended (42 U.S.C. 300f et seq.), requires states to adopt and implement a program that meets EPA's guidelines for both the classification of water supply systems and certifying and recertifying operators of public water systems. The current Chapter 81 has met these guidelines for over 20 years and is integrated within the Department's Drinking Water Program. The EPA requires stakeholder input on program processes every five to seven years.

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.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 81 and adopt the following **new** chapter in lieu thereof:

CHAPTER 81

OPERATOR CERTIFICATION: PUBLIC WATER SUPPLY SYSTEMS AND WASTEWATER TREATMENT SYSTEMS

567—81.1(455B) Definitions.

81.1(1) The following definitions shall apply to this chapter.

“*Activated sludge system*” means a biological wastewater treatment process in which a mixture of wastewater and sludge floc, produced in a raw or settled wastewater by the growth of microorganisms, is agitated and aerated in the presence of a sufficient concentration of dissolved oxygen, followed by sedimentation. Examples include but are not limited to conventional activated sludge systems, extended aeration activated sludge systems, oxidation ditches, and sequencing batch reactors.

“*Advanced aerated lagoon system*” means an aerated lagoon system that has been augmented by adding other treatment processes. Examples include but are not limited to covered lagoon systems with enhanced aeration and mixing, the addition of fixed film processes to the lagoon process, or the utilization of algal-based treatment processes.

“*Aerated lagoon system*” means a lagoon system that utilizes aeration to enhance oxygen transfer and mixing in the cell.

“*Aeration*” means the process of initiating contact between air and water. Examples include but are not limited to spraying the water in the air, bubbling air through the water, or forcing the air into the water by pressure.

“*Average daily pumpage*” means the total quantity of water pumped during the most recent one-year period of record divided by 365 days.

“*Chlorination*” means the addition of a chlorine compound or chlorine gas to water to inactivate pathogenic organisms.

“*Classification*” means the type of plant or distribution system: wastewater treatment plants, water treatment plants, or water distribution systems.

“*Continuing education unit*” or “*CEU*” means ten contact hours of participation in an organized education experience approved by an accredited college, university, technical institute, or the department, and must be directly related to the subject matter of the particular certificate to which the credit is being applied.

“*Directly related post-high school education*” means post-high school education in chemistry, microbiology, biology, math, engineering, water, wastewater, or other curriculum pertaining to plant or distribution system operation.

“*Direct responsible charge*” or “*DRC*” means, where shift operation is not required, accountability for and performance of active, daily on-site operation of a plant or distribution system, or of a major segment of a plant or distribution system. Where shift operation is required, DRC means accountability for and performance of active, daily on-site operation of an operating shift, or a major segment of a plant or distribution system. A city manager, superintendent of public works, city clerk, council member, business manager, or other administrative official shall not be deemed to have DRC of a plant or distribution system unless that person’s duties include the active, daily on-site operation of a plant or distribution system. On-site operation may not necessarily mean full-time attendance at a plant or distribution system.

“*Direct surface water filtration*” means a water treatment system that applies surface water and influenced groundwater (as defined in rule 567—40.2(455B)) directly to the filters after chemical treatment consisting of both coagulation and flocculation or chemical treatment consisting of coagulation. This type of system eliminates the sedimentation unit process.

“*Electrodialysis*” means the demineralization of water by the removal of ions through special membranes under the influence of a direct-current electric field.

“*Fixed film biological treatment*” means a treatment process in which wastewater is passed over a media onto which are attached biological organisms capable of oxidizing the organic matter, normally followed by sedimentation. Examples include but are not limited to trickling filters, rotating biological contactors, packed towers and activated filters.

“*Fluoridation*” means the addition of fluoride to produce the optimum fluoride concentration in water.

“*Grade*” means one of seven operator certification levels, designated as A, W, I, IL, II, III, or IV.

“*Ion exchange*” means the process of using ion exchange materials such as resin or zeolites to remove undesirable ions from water and substituting acceptable ions (e.g., ion exchange for nitrate removal or ion exchange for softening).

“*Military service*” means honorably serving on federal active duty, state active duty, or national guard duty as defined in Iowa Code section 29A.1; in the military services of other states as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States as provided in 10 U.S.C. Section 10101.

“*Military service applicant*” means an individual requesting credit toward certification for military education, training, or service obtained or completed in military service.

“*Operating shift*” means a specified period of time when an operator is present to conduct testing or evaluation to control operations of a plant or distribution system, to make process control changes, and to be responsible for the repair or maintenance of a plant or distribution system. An operating shift may include on-call shifts.

“*Operator-in-charge*” or “*OIC*” means a person or persons on site in direct responsible charge of a plant or distribution system. A city manager, superintendent of public works, city clerk, council member, business manager, or other administrative official shall not be deemed to be the OIC of a plant or distribution system unless that person’s duties include the active, daily on-site operation of the plant or distribution system. On-site operation may not necessarily mean full-time attendance at the plant or distribution system.

“*Plant*” means those facilities identified as either a water treatment plant or a wastewater treatment plant.

“*Post-high school education*” means credit received for completion of courses given or co-sponsored by an accredited college, university, or technical institute. Courses offered by regulatory agencies may also be recognized as post-high school education. One year of post-high school education is 30 semester hours, 45 quarter hours, or 45 CEUs of credit.

“*Primary treatment*” means a treatment process designed to remove organic and inorganic settleable solids from wastewater by the physical process of sedimentation.

“*Public water supply system certificate*” or “*PWS certificate*” means a certificate issued by the department certifying that an operator has successfully completed the certification requirements of this chapter for a water treatment plant or water distribution system. A PWS certificate specifies the grades and classifications for which the certificate is valid.

“*Reverse osmosis*” means the process in which external pressure is applied to mineralized water against a semipermeable membrane to effectively reduce total dissolved solids and radionuclides content as the water is forced through the membrane.

“*Rural water district*” means a water supply incorporated and organized as such pursuant to Iowa Code chapter 357, 357A or 358.

“*Shift operator*” means the operator on site who has responsibility for making process control changes and adjustments to the operation, repair, and maintenance of a plant or distribution system during any operating shift. Duties include testing or evaluation to control operations of the plant or distribution system.

“*Stabilization*” means the addition of chemical compounds to water to maintain an ionic equilibrium whereby the water is not in a depository or corrosive state.

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

“*Waste stabilization lagoon*” means an excavation designed and constructed to receive raw or pretreated wastewater in which stabilization is accomplished by several natural self-purification processes. This definition includes both anaerobic and aerobic lagoons.

“*Water distribution system*” or “*distribution system*” is defined in Iowa Code section 455B.211. For the purposes of this chapter, a water distribution system includes storage facilities and pumping stations and does not include individual service lines to the premises of the consumer that are not under the control of the system.

81.1(2) The following terms applicable to this chapter are defined in the referenced locations:

- a. Iowa Code section 455B.101: “commission,” “department,” and “director.”
- b. Iowa Code section 455B.211: “certificate,” “operator,” “wastewater treatment plant,” “water supply system,” and “water treatment plant.”
- c. Rule 567—40.2(455B): “coagulation,” “community water system” or “CWS,” “disinfection,” “nontransient noncommunity water system” or “NTNC,” and “transient noncommunity water system” or “TNC.”
- d. 567—subrule 60.2(1): “population equivalent.”

567—81.2(455B) General.

81.2(1) *Plant classifications.*

a. *Plants with multiple treatment processes.* A water treatment plant or wastewater treatment plant (hereafter noted as “plant”) having a combination of treatment processes that are in different classifications shall be assigned the highest numerical plant classification of that combination.

b. *Increase in classification for complex systems.* The director may increase a plant or water distribution system classification above that indicated in rules 567—81.3(455B) to 567—81.6(455B) for those systems that, in the director’s judgment, include unusually complex treatment processes, complex distribution systems, or present unusual operation or maintenance conditions.

81.2(2) *Operator certification.*

a. Operator-in-charge (OIC). An OIC shall hold a certificate of the same classification of any plant or water distribution system under the OIC's control and of equal or higher grade than the grade designated for that plant or distribution system.

b. Shift operator. Any person who is responsible during an operating shift of a plant or distribution system or for major segment of a plant or distribution system and is under the supervision of the OIC identified in paragraph "a" of this subrule shall be certified in a grade no less than a Grade II for Grade III and IV plants and distribution systems and Grade I for Grade I and II plants and distribution systems.

81.2(3) Public water supply system (PWS) certificates. A PWS certificate shall be issued as follows:

a. An operator successfully completing the water treatment certification shall be issued a PWS certificate valid for water treatment.

b. An operator successfully completing the water distribution certification shall be issued a PWS certificate valid for water distribution.

c. An operator successfully completing the requirements for both water treatment and water distribution certification shall be issued a dual PWS certificate valid for both classifications. For purposes of renewal of a dual certificate, all renewal fees and CEU requirements shall be applied as one certification. The number of CEUs required for renewal shall be determined by the highest certification grade on the dual PWS certificate.

81.2(4) Owner notification and reporting.

a. A plant or distribution system owner shall notify the department of a change in the OIC(s) within 30 days after the change.

b. When requested by the department, a plant or distribution system owner shall report the method of treatment provided, the average daily pumpage, and the name(s) of the OIC(s).

81.2(5) Operator notification. Certified operators shall notify the department of a change in address or employment within 30 days after the change.

81.2(6) Compliance plan. When the director allows the owner of a plant or distribution system required to have a certified operator time to obtain an operator, the owner shall submit a compliance plan to the department indicating what action will be taken to obtain a certified operator. The plan shall be on a form provided by the department and shall be submitted within 30 days of the owner's receipt of a notice of violation for not having a properly certified operator.

567—81.3(455B) Wastewater treatment plant classifications and operator certification grades.

81.3(1) Wastewater classifications. The wastewater treatment plant classifications and grades are listed in the following table:

Wastewater Treatment Plant Classifications and Grades

Treatment Type	Certification Grade				
	Based on Design Pounds of BOD ₅ /day				
	less than 334	334-835	836-2,505	2,506-8,350	more than 8,350
	Based on Design Population Equivalent				
	less than 2,000	2,000-5,000	5,001-15,000	15,001-50,000	more than 50,000
1. Onsite Treatment System	W	Not Applicable	Not Applicable	Not Applicable	Not Applicable
2. Waste Stabilization Lagoon System	IL	IL	IL	IL	IL
3. Aerated Lagoon System	IL	IL	I	I	I
4. Advanced Aerated Lagoon System	II	II	II	II	II
5. Fixed Film Biological Treatment System	II	II	III	III	IV
6. Activated Sludge System	II	III	III	IV	IV

81.3(2) Unknown design BOD₅ loading. When the design BOD₅ loading is unknown, the plant BOD₅ loading shall be determined by using the average pounds of BOD₅ of the 24-hour composite

influent samples taken in the last 12 months. If 24-hour composite influent samples are not available, then grab samples shall be used.

81.3(3) *Grade II wastewater operator.* A Grade I, II, III, or IV wastewater treatment certificate will satisfy the certification requirements for a Grade II plant.

81.3(4) *Grade W onsite classification.* Any wastewater treatment plant that discharges to a water of the state and that utilizes onsite wastewater treatment technologies, such as those specified in 567—Chapter 69, shall be classified as an onsite treatment system (Grade W).

567—81.4(455B) Water treatment plant classifications and operator certification grades.

81.4(1) *Water treatment classifications.* The water treatment plant classifications and grades are listed in the following table:

Water Treatment Plant Classifications and Grades

Treatment Type	Certification Grade*			
	Average Daily Pumpage in MGD			
	0-0.1	>0.1-0.5	>0.5-1.5	>1.5
1. Iron or manganese removal; aeration; chlorination; fluoridation; stabilization; any other chemical addition; or any combination of these processes	I	II	II	III
2. Ion exchange	II	II	III	III
3. Direct surface water filtration	II	II	III	III
4. Utilization of lime, soda ash or other chemical addition for pH adjustment in the precipitation and coagulation of iron or manganese	II	II	III	III
5. Complete surface water clarification or lime softening of surface water or groundwater	III	III	III	IV
6. Reverse osmosis and electro dialysis	II	II	III	IV
7. Activated carbon for THM or synthetic organics removal	III	III	III	IV

*For Grade A PWS classification, see 81.5(3).

81.4(2) *Average daily pumpage.* When the average daily pumpage is unknown, the plant grade will be determined from the population in the most recent census and an evaluation of commercial, industrial, and other users.

567—81.5(455B) Water distribution system classifications and operator certification grades.

81.5(1) *Water distribution classifications.* The water distribution system classifications and grades are listed in the following table:

Water Distribution System Classifications and Grades*

Distribution System Type	Certification Grade**			
	Average Daily Pumpage in MGD			
	0-0.1	>0.1-1.5	>1.5-5	>5
All municipal water systems	I	II	III	IV
CWS not classified as a Grade A water system	I	II	III	IV
NTNC not classified as a Grade A water system	I	II	III	IV
TNC not classified as a Grade A water system	I	II	III	IV
Rural water districts	Miles of Pipe			
	0-100	>100-1,000	>1,000-2,500	>2,500
	II	II	III	IV

*Note: A PWS with a well, storage, and a distribution system shall be classified as a water distribution system if no treatment is provided.

**For Grade A water distribution system classification, see 81.5(3).

81.5(2) *Average daily pumpage.* When the average daily pumpage is unknown, the system grade will be determined using the most recent census population and an evaluation of commercial, industrial, or other users.

81.5(3) *Grade A water distribution system classification.*

a. Grade A classification. A PWS that provides either no treatment other than hypochlorination or treatment that does not require any chemical addition, process adjustment, backwashing, or media regeneration by an operator shall be classified as a Grade A water distribution system, based on the following service populations:

(1) Community water system. A CWS, other than a municipal or rural water system, serving a population of 250 persons or less.

(2) Nontransient noncommunity water system. An NTNC serving a population of 500 persons or less.

(3) Transient noncommunity water system. A TNC serving a population of 500 persons or less.

b. Grade A certification. Any grade of water treatment or distribution certification will satisfy the certification requirements for a Grade A water distribution system with or without hypochlorination.

567—81.6(455B) Certified operator education and experience qualifications.

81.6(1) Education and experience qualifications—general.

a. All certified operator applicants shall meet the education and operating experience qualifications for the certificate grade shown in the table below prior to being allowed to take the certified operator examination.

b. Operating experience shall be in the same classification for which the applicant is applying unless partial credit is given in accordance with 81.6(2) and 81.6(3).

c. Directly related post-high school education shall be in the same subject matter as the classification for which the applicant is applying. The director will determine which courses qualify as “directly related” in cases that are not clearly defined.

d. A military applicant may apply for education or experience credit pursuant to 81.6(4).

e. Education and experience qualifications table.

Certified Operator Education and Experience Qualifications

Grade	Education	Substitution for Education	Operating Experience	Substitution for Operating Experience
A	High school diploma or GED	None	Completion of a department-approved training course	None
W	High school diploma or GED	None	Completion of a department-approved training course	None
I	High school diploma or GED	None	1 year	See 81.6(3) “b”
IL	High school diploma or GED	None	1 year	See 81.6(3) “b”
II	High school diploma or GED	None	3 years	See 81.6(3) “b”
III	High school diploma or GED and 2 years of post-high school education (1 year must be directly related)	See 81.6(3) “a”	4 years of experience in a Grade I or higher	See 81.6(3) “b”
IV	High school diploma or GED and 4 years of post-high school education (2 years must be directly related)	See 81.6(3) “a”	4 years of experience, including 2 years of DRC in a Grade III or higher	See 81.6(3) “b” and “c”

81.6(2) Related work experience substitutions for operating experience. The following substitutions of related work experience for operating experience requirements may be accepted by the director.

a. Personnel. The following personnel may be allowed 50 percent credit for work experience toward meeting the operating experience requirements as noted:

(1) Laboratory personnel employed in water or wastewater treatment plants; Grades I and II certification only. Laboratory experience must be in the same classification for which the applicant is applying.

(2) Personnel with experience in on-site operation review and evaluation of plants and distribution systems; Grades I and II certification only. On-site experience must be in the same classification for which the applicant is applying.

(3) Maintenance personnel employed in water or wastewater treatment plants; Grades I and II certification only. Maintenance experience may be applied to either the water or wastewater experience requirements.

b. Certified operators. The following types of certified operators may be allowed 50 percent credit for work experience toward meeting the operating experience requirements as noted:

(1) Certified water treatment operators; Grades I and II wastewater treatment certification only, or Grades I and II water distribution certification only.

(2) Certified wastewater treatment operators; Grades I and II water treatment certification only.

(3) Certified water distribution operators; Grades I and II water treatment certification only.

c. Limitation. The portion of related work experience that is substituted for operating experience cannot also be used to substitute for education.

81.6(3) *Operating experience and education substitutions.* The following experience or education substitutions may be accepted by the director.

a. Substitution of operating experience for education.

(1) One year of operating experience may be substituted for one year of post-high school education, up to one-half of the post-high school education requirement, as follows:

1. Experience in a Grade II or higher position may substitute as education for a Grade III certification, or

2. Experience in a Grade III or higher position may substitute as education for Grade IV certification.

(2) Two years of DRC experience in a Grade III or higher position may be substituted for one year of directly related post-high school education for Grade IV certification up to three-fourths of the post-high school education requirement.

(3) That portion of operating experience that is applied toward substitution for education cannot also be used for experience.

b. Substitutions of education for operating experience.

(1) Two semester hours, three quarter hours, or three CEUs of directly related post-high school education may be substituted for one-half the operating experience requirement for Grades I and II.

(2) Thirty semester hours, 45 quarter hours, or 45 CEUs of directly related post-high school education may be substituted for one year of experience up to a maximum of one-half the operating experience requirement for Grades II, III and IV.

(3) That portion of education that is applied toward substitution for operating experience cannot also be used for education.

(4) Class hours involving closely supervised on-the-job type training in a pilot or full-scale facility where there are clearly defined educational objectives may be applied to the on-the-job operating experience requirement. The substitution value of such training shall be applicable for Grade I and Grade II certification only and shall not exceed one-half year of on-the-job experience.

1. One hour of on-the-job training is equivalent to three hours of on-the-job operating experience.

2. One month of on-the-job training consists of 20 eight-hour days.

3. Credit for on-the-job training may be applied only to the examination for the type of plant or system in which the experience was obtained.

4. That portion of on-the-job training courses that is applied toward substitution for the on-the-job experience requirement cannot also be used for education.

c. Substitution of education for DRC operating experience. Thirty semester hours, 45 quarter hours, or 45 CEUs of directly related post-high school education may be substituted for one year of DRC operating experience up to one-half the requirement for Grade IV certification.

81.6(4) *Military education, training, or service credit.*

a. An applicant who is serving or has served in the military shall identify the education or experience certification qualification for which the credit is requested.

b. As part of an examination application pursuant to 81.8(1), an applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, as applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

567—81.7(455B) Certification and examination fees.

81.7(1) *Examination fee.* Fee for each examination: \$30.

81.7(2) *Certification fees.*

a. Certification fee for each one-half year of a two-year period from the date of issuance to June 30 of odd-numbered years: \$20.

b. Late certification penalty fee: \$18.

c. Certification renewal fee: \$60.

d. Late certification renewal penalty fee: \$18.

81.7(3) *Fee adjustments.* The department may adjust the fees annually by up to plus or minus 20 percent to cover costs of administering and enforcing these rules and reimbursement for other expenses relating to operator certification. The commission must approve any fee increases above those listed in this rule. All fees collected shall be retained by the department for administration of the operator certification program.

567—81.8(455B) Operator certification examinations.

81.8(1) *Examination application.*

a. All persons wishing to take the examination to become a certified operator of a wastewater or water treatment plant or a water distribution system shall complete an examination application on a form provided by the department.

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

81.8(2) *Application evaluation.* After evaluating an application, the department will notify the applicant of examination eligibility or noneligibility. The director will further review applications when it is indicated that the applicant has falsified information or when questions arise concerning an applicant's qualifications or eligibility for examination or certification.

81.8(3) *Application expiration.* An approved examination application shall be valid for one year from the approval date.

81.8(4) *Examination fee refund.* An applicant who does not qualify for examination at the time of application will have the examination fee refunded if the applicant cannot qualify for examination within one year. If an applicant will qualify for a scheduled examination within one year, the fee will not be refunded.

81.8(5) *Reexamination.*

a. Upon failure of the first examination, an applicant may apply for reexamination.

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

81.8(6) *Application invalidation.* Failure to successfully complete the examination within one year from the application approval date shall invalidate the application.

81.8(7) *Reasonable accommodation.* Upon an applicant's request, the director will consider reasonable accommodation to allow administration of the examination without discrimination on the basis of disability. An applicant shall request an accommodation 30 days prior to the examination date. An applicant shall provide documentation of eligibility for an accommodation with the examination application form.

567—81.9(455B) Operator certification.

81.9(1) Examination requirement. All applicants not certified by reciprocity pursuant to 81.9(3) shall successfully pass an operator certification examination prior to receiving certification.

81.9(2) Certification.

a. In order to receive a certificate, an applicant who passes an examination shall submit the certification fee to the department within 60 days of the date the applicant receives notification from the department of passing the examination. Payment may either be digitally submitted in accordance with the instructions on the department's website at www.iowadnr.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.

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 of passing the examination shall be accompanied by the certification fee and the late certification penalty fee.

c. An applicant who does not submit the certification fee within 60 days' notice of passing the examination will not be certified on the basis of that examination.

81.9(3) Certification by reciprocity.

a. Other states' mandatory certification programs. Applicants who have been certified under other states' mandatory certification programs, the equivalency of which has been previously reviewed and accepted by the department, shall be certified in an appropriate classification and grade without examination. The applicant must have passed an examination generally equivalent to the Iowa examination and must meet the education and experience qualifications established in this chapter.

b. Other states' voluntary certification programs. For applicants who have been certified under voluntary certification programs in other states, certification in an appropriate class will be considered. The applicant must have passed an examination generally equivalent to the Iowa examination and must meet the education and experience qualifications established in this chapter. The director may require the applicant to pass the Iowa examination.

c. Reciprocity application.

(1) Applicants seeking reciprocal Iowa certification shall submit a reciprocity application form provided by the department and the certification fee. The applicant shall be certified at the appropriate grade pursuant to 81.6(1).

(2) An applicant who is a veteran shall submit a reciprocity application form provided by the department and the certification fee and shall provide documentation to verify their status as a veteran as defined in Iowa Code section 35.1(2).

d. Lapse of certification obtained through reciprocity. An applicant who obtains certification in Iowa through reciprocity and subsequently allows their Iowa certification to lapse will be required to reapply for certification in accordance with 81.9(5)"e."

81.9(4) Restricted certification. Upon written request by a certified operator, the director may determine that the education qualifications can be waived prior to an examination when a plant or distribution system classification is increased and the operator has been in DRC of the existing plant or distribution system. An operator passing an examination will be restricted to that plant or distribution system until the education qualifications are met.

81.9(5) Certification renewal.

a. Renewal period. All certificates shall expire on June 30 of odd-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—81.10(455B,272C) shall be obtained prior to any certificate renewal.

c. Renewal application and fee.

(1) Certification renewal applications shall be made available to certified operators on the department's website at www.iowadnr.gov 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 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 certification renewal fee and the late certification renewal penalty fee.

e. Failure to renew. If a certified operator 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 meets all education and experience eligibility requirements of rule 567—81.6(455B), successfully passes an examination, and submits the certification fee in accordance with 81.9(2).

f. Expired certificate. An operator may not continue as the OIC of a plant, distribution system, operating shift, or major segment of a plant or distribution system after certificate expiration unless the certificate is renewed.

81.9(6) Certificate upgrade. An operator holding an unexpired certificate may upgrade the certificate by examination to a higher grade in the same classification in accordance with this rule and rules 567—81.6(455B) and 567—81.8(455B). The expiration date of the upgraded certificate shall be the same as the unexpired certificate. An operator who upgrades a certificate during a biennium must also renew the upgraded certificate in accordance with 81.9(5) to maintain certification.

567—81.10(455B,272C) Continuing education.

81.10(1) Continuing education unit (CEU) general requirements.

a. Only those operators 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 operators who did not fulfill the CEU requirements as of April 1 of the second year shall expire on June 30 of each odd-numbered year.

b. CEUs must be earned during two-year periods between April 1 and March 31 of odd-numbered years.

c. A Grade III or IV certified operator must earn two CEUs or 20 contact hours per certificate during each two-year period.

d. All other certified operators must earn one CEU or 10 contact hours per certificate during each two-year period.

e. For those certified operators holding both a water treatment and a water distribution certification, no less than 25 percent of the required CEUs may be earned in any one area.

81.10(2) CEU approval. All activities for which CEU credit will be granted must be approved by an accredited college, university, technical institute, or the department, and must be directly related to the subject matter of the particular certificate to which the credit is being applied. Any entity holding courses in Iowa for which CEU credit is offered for operator certification must provide, at no cost to the department, the opportunity for one staff member to audit the training and receive all training materials.

81.10(3) Exceptions. The following exceptions apply to the requirements of this rule.

a. The director may, in individual cases involving hardship or extenuating circumstances, allow a certified operator up to three additional months to fulfill the minimum CEU requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the certified operator's control that prevent attendance at the required activities. All extension requests must be made prior to March 31 of each biennium.

b. Newly certified operators (previously uncertified) who become certified after April 1 of the second year of a two-year period will not be required to earn CEUs until the next two-year period.

c. If an operator upgrades a certificate after April 1 of the second year of a two-year period and that upgrade increases the CEU requirement, the operator will not be required to meet the higher CEU requirement until the next two-year period, but must fulfill the lower CEU requirement for that period.

81.10(4) CEU reporting. It is the certified operator's personal responsibility to maintain a written record of the CEUs earned during each renewal period and to report the credits to the department by following the instructions on the department's website at www.iowadnr.gov.

567—81.11(455B) Operator by affidavit.

81.11(1) Affidavit allowance. The owner of a plant or distribution system required to have a Grade A, I, II, or III certified operator may sign an affidavit with a certified operator of the required classification and grade.

81.11(2) Affidavit requirements.

a. An affidavit will verify that the certified operator is the OIC and has direct responsibility for a plant or distribution system that does not have first rights on the services of that operator.

b. The department shall provide an affidavit form that requires the certified operator's name and signature, the operator's certification number, classification and grade, and the date of last renewal of the operator's certificate. The affidavit form shall be proof that the certified operator has agreed to be directly responsible for the operation and maintenance of the plant or distribution system.

c. The affidavit must be returned to and approved by the local regional field office of the department, based upon the ability of the certified operator to properly operate and maintain additional facilities. Upon affidavit approval, the department may specify additional operational and maintenance requirements based on the complexity and size of the plant or distribution system.

d. In the event of affidavit disapproval, the plant or distribution system owner must terminate the agreement with the certified operator and seek the services of another certified operator.

e. Both the plant or distribution system owner and the certified operator shall notify the director at least 30 days before the termination of an affidavit.

567—81.12(455B,272C) Disciplinary actions.

81.12(1) Reasons for disciplinary action. Disciplinary action may be taken against a certified operator on any of the grounds specified in Iowa Code section 455B.219 and chapter 272C and the following more specific grounds:

a. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator.

(1) Examples of wastewater operator duties are specified in the Water Environment Federation Manual of Practice #11, 1996; California State University—Sacramento (CSUS) Operation of Wastewater Treatment Plants, Vol. I, 4th edition, 1998; CSUS Operation of Wastewater Treatment Plants, Vol. II, 4th edition, 1998; CSUS Advanced Waste Treatment, 3rd edition, 1998; and 567—Chapters 60 through 63, 67, and 83.

(2) Examples of water treatment or distribution system operator duties are specified in the American Water Works Association (AWWA) Manuals of Water Supply Practice (Volumes 1, 3-7, 9, 11-12, 14, 17, 19-38, 41-42, 44-48); AWWA Water Supply Operations Series, 2nd edition: Vol. 1, 1995; Vol. 2, 1995; Vol. 3, 1996; Vol. 4, 1995; and Vol. 5, 1995; AWWA Water Distribution Operator Handbook, 2nd edition, 1976; California State University—Sacramento (CSUS) Water Treatment Plant Operation, Vol. I, 4th edition, 1999; CSUS Water Treatment Plant Operation, Vol. II, 3rd edition, 1998; CSUS Small Water System Operation and Maintenance, 4th edition, 1999; CSUS Water Distribution System Operation and Maintenance, 4th edition, 2000; and 567—Chapters 40 through 43 and 83.

b. Failure to submit records of operation or other reports required under applicable permits or department rules, including failure to submit complete records or reports.

c. 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 department rule.

81.12(2) Disciplinary sanctions. Disciplinary sanctions may include those specified in Iowa Code section 272C.3(2) and the following:

a. Certificate revocation. Revocation 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 operation of a plant or distribution system, including the restriction of operation to a particular plant or distribution system, or a particular classification of plant or distribution system.

c. Probation. Probation under specified conditions relevant to the specific grounds for disciplinary action.

d. Additional requirements. Additional education, training, or reexamination may be required as a condition of certificate reinstatement.

e. Penalties. Civil penalties not to exceed \$1,000 may be assessed for the reasons identified in 81.12(1).

81.12(3) Procedure.

a. General. All disciplinary action taken under this rule shall comply with the procedures of rule 561—7.19(17A,455A) and all other applicable rules governing contested cases. At any time, the licensee and the department may enter into a settlement agreement, subject to approval by the director, which provides for a disciplinary sanction.

b. Appeal and review of proposed decision. After a contested case hearing conducted in accordance with 561—Chapter 7, the director shall review the presiding officer's proposed decision. The proposed decision shall constitute a final decision of the director and the department.

c. Emergency disciplinary action. The director may initiate an emergency suspension or other disciplinary action upon such grounds and following the procedures provided in rule 561—7.18(17A,455A). The terms of the emergency order shall be effective upon service as provided in rule 561—7.18(17A,455A). The department shall promptly give notice of an opportunity to appeal and request a contested case hearing following the procedures specified above.

d. Reinstatement of revoked certificates. Upon revocation of a certificate in accordance with the authority provided in Iowa Code section 455B.219 and chapter 272C, application for certification may be allowed after two years from the date of revocation unless otherwise specified in 81.12(2). Any such applicant shall meet all education and experience eligibility requirements, pass an examination, and be certified in the same manner as a new applicant in accordance with the requirements of this chapter.

81.12(4) Procedures for noncompliance with child support order. Upon receipt of a certification of noncompliance with a child support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for operator certification or renewal or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue to the person by certified mail a notice of its intent to deny or suspend operator certification based on receipt of a certificate of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4)“c.” Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

These rules are intended to implement Iowa Code sections 455B.211 through 455B.224 and chapter 272C.