



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXIV
May 16, 2012

NUMBER 23
Pages 1463 to 1504

CONTENTS IN THIS ISSUE

Pages 1469 to 1502 include **ARC 0118C** to **ARC 0121C**, **ARC 0124C**,
and **ARC 0126C** to **ARC 0128C**

ALL AGENCIES

Agency identification numbers	1467
Citation of administrative rules	1464
Schedule for rule making	1465

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Licensure; online filing system; fees, amendments to chs 10 to 15, 20, 22, 25, 29, 51 ARC 0128C	1469
--	------

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Amended Notice, Compliance and enforcement procedures, ch 17 ARC 0126C ...	1488
Notice, Discharge of storm water— reauthorization of General Permit Nos. 1, 2 and 3, 64.15 ARC 0118C	1489
Filed, Water quality certification, 61.2(2)"g" ARC 0121C	1497

NULLIFICATION

House Joint Resolution 2008	1503
-----------------------------------	------

PUBLIC HEARINGS

Summarized list	1466
-----------------------	------

PUBLIC SAFETY DEPARTMENT[661]

Filed, Electrical examining board—reciprocal licensing, failure to pay fees, 502.2(14), 502.4(6), 552.2(4) ARC 0120C	1499
--	------

REVENUE DEPARTMENT[701]

Notice, Taxability of sales of candy, 231.4 ARC 0119C	1491
Filed, Subpoena of records from public or private utility companies, 151.9 ARC 0124C ..	1500

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Notice, Financial incentive program for soil erosion control—agricultural land under conservation cover, 10.20, 10.60(6) ARC 0127C	1496
--	------

PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2012

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 21 '11	Jan. 11 '12	Jan. 31 '12	Feb. 15 '12	Feb. 17 '12	Mar. 7 '12	Apr. 11 '12	July 9 '12
Jan. 6	Jan. 25	Feb. 14	Feb. 29	Mar. 2	Mar. 21	Apr. 25	July 23
Jan. 20	Feb. 8	Feb. 28	Mar. 14	Mar. 16	Apr. 4	May 9	Aug. 6
Feb. 3	Feb. 22	Mar. 13	Mar. 28	Mar. 30	Apr. 18	May 23	Aug. 20
Feb. 17	Mar. 7	Mar. 27	Apr. 11	Apr. 13	May 2	June 6	Sep. 3
Mar. 2	Mar. 21	Apr. 10	Apr. 25	Apr. 27	May 16	June 20	Sep. 17
Mar. 16	Apr. 4	Apr. 24	May 9	May 11	May 30	July 4	Oct. 1
Mar. 30	Apr. 18	May 8	May 23	***May 23***	June 13	July 18	Oct. 15
Apr. 13	May 2	May 22	June 6	June 8	June 27	Aug. 1	Oct. 29
Apr. 27	May 16	June 5	June 20	***June 20***	July 11	Aug. 15	Nov. 12
May 11	May 30	June 19	July 4	July 6	July 25	Aug. 29	Nov. 26
May 23	June 13	July 3	July 18	July 20	Aug. 8	Sep. 12	Dec. 10
June 8	June 27	July 17	Aug. 1	Aug. 3	Aug. 22	Sep. 26	Dec. 24
June 20	July 11	July 31	Aug. 15	Aug. 17	Sep. 5	Oct. 10	Jan. 7 '13
July 6	July 25	Aug. 14	Aug. 29	***Aug. 29***	Sep. 19	Oct. 24	Jan. 21 '13
July 20	Aug. 8	Aug. 28	Sep. 12	Sep. 14	Oct. 3	Nov. 7	Feb. 4 '13
Aug. 3	Aug. 22	Sep. 11	Sep. 26	Sep. 28	Oct. 17	Nov. 21	Feb. 18 '13
Aug. 17	Sep. 5	Sep. 25	Oct. 10	Oct. 12	Oct. 31	Dec. 5	Mar. 4 '13
Aug. 29	Sep. 19	Oct. 9	Oct. 24	***Oct. 24***	Nov. 14	Dec. 19	Mar. 18 '13
Sep. 14	Oct. 3	Oct. 23	Nov. 7	***Nov. 7***	Nov. 28	Jan. 2 '13	Apr. 1 '13
Sep. 28	Oct. 17	Nov. 6	Nov. 21	***Nov. 21***	Dec. 12	Jan. 16 '13	Apr. 15 '13
Oct. 12	Oct. 31	Nov. 20	Dec. 5	***Dec. 5***	Dec. 26	Jan. 30 '13	Apr. 29 '13
Oct. 24	Nov. 14	Dec. 4	Dec. 19	***Dec. 19***	Jan. 9 '13	Feb. 13 '13	May 13 '13
Nov. 7	Nov. 28	Dec. 18	Jan. 2 '13	Jan. 4 '13	Jan. 23 '13	Feb. 27 '13	May 27 '13
Nov. 21	Dec. 12	Jan. 1 '13	Jan. 16 '13	Jan. 18 '13	Feb. 6 '13	Mar. 13 '13	June 10 '13
Dec. 5	Dec. 26	Jan. 15 '13	Jan. 30 '13	Feb. 1 '13	Feb. 20 '13	Mar. 27 '13	June 24 '13
Dec. 19	Jan. 9 '13	Jan. 29 '13	Feb. 13 '13	Feb. 15 '13	Mar. 6 '13	Apr. 10 '13	July 8 '13

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
25	Wednesday, May 23, 2012	June 13, 2012
26	Friday, June 8, 2012	June 27, 2012
1	Wednesday, June 20, 2012	July 11, 2012

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

DENTAL BOARD[650]

Licensure; online filing system; fees, amendments to chs 10 to 15, 20, 22, 25, 29, 51 IAB 5/16/12 ARC 0128C	Suite D 400 SW 8th St. Des Moines, Iowa	June 5, 2012 2:30 p.m.
---	---	---------------------------

EDUCATION DEPARTMENT[281]

School business official knowledge and skills standards and criteria, 81.7 IAB 5/2/12 ARC 0112C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	May 22, 2012 3 to 4 p.m.
---	---	-----------------------------

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, 20.2, 22.3(3), 22.100, 22.108(3), 25.1 IAB 4/18/12 ARC 0087C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	May 18, 2012 1 p.m.
Air quality—fine particulate matter, 33.3 IAB 4/18/12 ARC 0097C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	May 18, 2012 1 p.m.
Discharge of storm water— reauthorization of General Permit Nos. 1, 2 and 3, 64.15 IAB 5/16/12 ARC 0118C	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 6, 2012 10 a.m.

NATURAL RESOURCE COMMISSION[571]

Waterfowl and coot hunting—zones and season dates, amendments to ch 91 IAB 5/2/12 ARC 0116C	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	May 23, 2012 1 p.m.
Deer hunting by residents—license and season restrictions, quotas, November season closed, amendments to ch 106 IAB 5/2/12 ARC 0114C	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	May 23, 2012 1 p.m.
Bobcat and river otter trapping—quotas, 108.7(3) IAB 5/2/12 ARC 0115C	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	May 23, 2012 1 p.m.

TRANSPORTATION DEPARTMENT[761]

Rest area and highway helper sponsorship programs; competition with private enterprise, 25.2(8); chs 123, 124 IAB 5/2/12 ARC 0113C	First Floor South Conference Room DOT Administration Building 800 Lincoln Way Ames, Iowa	May 24, 2012 1 p.m. (If requested)
--	---	--

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]

Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 0128C

DENTAL BOARD[650]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby gives Notice of Intended Action to amend Chapter 10, “General Requirements,” Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Chapter 12, “Dental and Dental Hygiene Examinations,” Chapter 13, “Special Licenses,” Chapter 14, “Renewal,” Chapter 15, “Fees,” Chapter 20, “Dental Assistants,” Chapter 22, “Dental Assistant Radiography Qualification,” Chapter 25, “Continuing Education,” Chapter 29, “Sedation and Nitrous Oxide Inhalation Analgesia,” and Chapter 51, “Contested Cases,” Iowa Administrative Code.

These proposed amendments:

- Update the rules to reflect changes related to a new licensing database system. The new system will offer online filing of all applications (e.g., initial licensure, registration, renewals, reinstatements, reactivation, and continuing education courses) and complaints; license verification; and other electronic services that will increase access to Board services. The amendments eliminate collection of unnecessary application information, streamline the application process and provide for a paperless process.
- Combine fee information currently located in nine chapters into one chapter to make the rules more user-friendly and understandable. These amendments consolidate renewal and reinstatement information currently located in multiple chapters into one chapter for ease of reference.
- Provide that users of the online system will pay a service charge in addition to regular fees for Board services. Service charges are costs charged by external entities for the online system (e.g., fees charged banks for credit card processing, e-payment fees payable to DAS-ITE and the Treasurer of State, and DAS-ITE charge for Enterprise Authentication for each person who logs on to the system).
- Streamline the initial licensure process for applicants applying for a license within three months of the next renewal due date. Applicants applying close to a renewal cycle will pay the application fee and the renewal fee at the same time. Their licenses will be issued for a period of 24 months plus the amount of time remaining until the next renewal due date. This change will eliminate the need for applicants to submit two separate applications and fees within one three-month period. For example, under existing rules a dentist graduating in May 2012 who submits an application for an Iowa dental license will pay a \$200 application fee. Dental licenses are valid for a 24-month period and are renewed in even-numbered years. This newly licensed dentist must renew the license by August 31, 2012, and pay the renewal fee of \$315. This requires the submittal of two applications (one for initial licensure and one for the renewal application due by August 31, 2012) and two checks (a \$200 licensure application fee and a \$315 fee for renewal) within a very short period. The proposed amendments would allow the applicant in this example to submit one application and pay one combined fee of \$515 (\$200 application fee plus the \$315 renewal fee due August 31, 2012). At the time the application for licensure is approved, the license would be issued and valid for a period of 27 months (24 months plus the 3 months remaining until the August 31, 2012, renewal). This change will impact only applicants who are applying within three months of a biennial renewal due date.
- Implement 2011 Iowa Acts, Senate File 438, regarding licensure by credentials. This recent statutory change directed the Board to establish by rule the regional clinical examinations that will be accepted for licensure by credentials. The amendments identify the following regional examinations as approved by the Board for purposes of applications for licensure by credentials: Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board, Inc. (WREB), Southern

DENTAL BOARD[650](cont'd)

Regional Testing Agency (SRTA), North East Regional Board of Dental Examiners (NERB), and Council of Interstate Testing Agencies (CITA).

Written comments about the proposed amendments will be accepted through June 5, 2012. Comments should be directed to Melanie Johnson, Executive Director, Iowa Dental Board, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687, or by e-mail to Melanie.Johnson@iowa.gov.

A public hearing will be held on June 5, 2012, at 2:30 p.m. at the office of the Iowa Dental Board located at 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board office and advise of specific needs.

These amendments were approved at the December 16, 2011, meeting of the Iowa Dental Board.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 153.33.

The following amendments are proposed.

ITEM 1. Amend subrule 10.6(1) as follows:

10.6(1) *Change of address or name.* Each person licensed or registered by the board must notify the board, ~~in writing~~ by written correspondence or through the board's online system, of a change of legal name or address within 60 days of such change. Proof of a legal name change, such as a notarized copy of a marriage certificate, must accompany the request for a name change.

ITEM 2. Amend rule 650—11.1(147,153) as follows:

650—11.1(147,153) Applicant responsibilities. An applicant for dental or dental hygiene licensure bears full responsibility for each of the following:

1. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information required to complete a license or permit application; and

2. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, prior professional experience, education, training, examination scores, and disciplinary history.

3. Submitting complete application materials. An application for a license, permit, or registration or reinstatement of a license or registration will be considered active for 180 days from the date the application is received. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for applications submitted online, the electronic timestamp will be deemed the date of filing. If the applicant does not submit all materials, including a completed fingerprint packet, within this time period or if the applicant does not meet the requirements for the license, permit, registration or reinstatement, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application and application fee.

ITEM 3. Amend rule 650—11.2(147,153) as follows:

650—11.2(147,153) Dental licensure by examination.

11.2(1) Applications for licensure to practice dentistry in this state shall be made on the form provided by the board and must be ~~completely answered, including complete and include~~ required credentials and documents.

11.2(2) Applications for licensure must be filed with the board along with:

a. Documentation of graduation from dental college. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Certification of good standing from dean or designee. Certification by the dean or other authorized representative of the dental school that the applicant has been a student in good standing while attending that dental school.

DENTAL BOARD[650](cont'd)

c. ~~Certification~~ Evidence of good standing in each state where licensed. If the applicant is a dentist licensed by another jurisdiction, the applicant shall furnish ~~certification from the board of dental examiners of that jurisdiction that~~ evidence that the applicant is a licensed dentist in good standing in those states in which the applicant is licensed.

d. Documentation of passage of national dental examination. Evidence of successful completion of ~~Part I and Part II~~ of the examination, ~~with resulting scores~~, administered by the Joint Commission on National Dental Examinations. ~~At the discretion of the board, any~~ Any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.

e. Documentation of passage of a regional clinical examination.

(1) Successful passage of CRDTS. Evidence of successful completion of the examination taken in the last five years, ~~with resulting scores~~, administered by the Central Regional Dental Testing Service, Inc. (CRDTS).

(2) Special transition period for dentists passing WREB or ADEX examination prior to September 1, 2011. An applicant who has successfully taken and passed the WREB or ADEX examination within the five years prior to September 1, 2011, may apply for licensure by examination by submitting evidence of successful completion of the WREB or ADEX examination.

f. to h. No change.

i. Current CPR certification. Evidence A statement:

(1) Confirming that the applicant possesses a valid certificate in from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

j. ~~Current photograph.~~ A photograph of the applicant suitable for positive identification.

k. ~~j.~~ Completed fingerprint packet. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.2(3) The board may require a personal appearance or any additional information relating to the character, education and experience of the applicant.

11.2(4) Applications must be signed and ~~notarized~~ verified as to the truth of the statements contained therein.

This rule is intended to implement Iowa Code sections 147.3, 147.29, and 147.34.

ITEM 4. Amend rule 650—11.3(153) as follows:

650—11.3(153) Dental licensure by credentials.

11.3(1) Applications for licensure by credentials to practice dentistry in this state shall be made on the form provided by the board and must be completely answered, including required credentials and documents.

11.3(2) Applications must be filed with the board along with:

a. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Evidence of successful completion of ~~Parts I and II~~ of the examination of the Joint Commission on National Dental Examinations, ~~with resulting scores~~, or evidence of having passed a written examination during the last ten years that is comparable to the examination given by the Joint Commission on National Dental Examinations. Any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.

c. A statement of any dental examinations taken by the applicant, ~~with resulting scores~~ with indication of pass/fail for each examination taken. Any dentist who has lawfully practiced dentistry in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dentistry in another state, territory or district of the United States issued ~~upon clinical examination~~ under requirements equivalent or substantially equivalent to those of this state.

DENTAL BOARD[650](cont'd)

~~e. Certification by a state board of dentistry, or equivalent authority, from a state in which applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dentistry in that state for three years immediately preceding the date of application or evidence of three years of practice satisfactory to the board. Evidence that the applicant has met at least one of the following:~~

~~(1) Passed an examination approved by the board in accordance with Iowa Code section 147.34(1) and administered by a regional or national testing service. The clinical examinations approved by the board are specified in 650—subrule 12.1(5); or~~

~~(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dentistry in such other state, territory or district of the United States.~~

~~f. Certification by Evidence from the state board of dentistry, or equivalent authority, from each state in which applicant has engaged in the been licensed to practice of dentistry, that the applicant has not been the subject of final or pending disciplinary action.~~

~~g. A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).~~

~~h. The nonrefundable application fee for licensure by credentials, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.~~

~~i. Current CPR certification. Evidence A statement:~~

~~(1) Confirming that the applicant possesses a valid certificate in from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;~~

~~(2) Providing the expiration date of the CPR certificate; and~~

~~(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.~~

~~j. Evidence of successful completion of the jurisprudence examination administered by the board of dental examiners Iowa dental board.~~

~~k. A photograph of the applicant suitable for positive identification.~~

~~l. k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.~~

11.3(3) The board may require a personal appearance or may require any additional information relating to the character, education, and experience of the applicant.

11.3(4) The board may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

11.3(5) Applications must be signed and notarized verified attesting to the truth of the statements contained therein.

This rule is intended to implement Iowa Code chapters 147 and 153.

ITEM 5. Amend subrule 11.5(2) as follows:

11.5(2) Applications for licensure must be filed with the dental hygiene committee along with:

a. Documentation of graduation from dental hygiene school. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Certification of good standing from dean or designee. Certification by the dean or other authorized representative of the school of dental hygiene that the applicant has been a student in good standing while attending that dental hygiene school.

c. ~~Certification~~ Evidence of good standing in each state where licensed. If the applicant is licensed as a dental hygienist by another jurisdiction, the applicant shall furnish evidence from the appropriate examining board of that jurisdiction that the applicant is a licensed dental hygienist in good standing.

DENTAL BOARD[650](cont'd)

d. Documentation of completion of national examination. Evidence of successful completion of the examination, ~~with resulting scores,~~ administered by the Joint Commission on National Dental Examinations.

e. Passage of regional clinical examination.

(1) Successful passage of CRDTS. Evidence of ~~successful completion of the examination taken having successfully completed~~ in the last five years, ~~with resulting scores,~~ the examination administered by the Central Regional Dental Testing Service, Inc. (CRDTS).

(2) Special transition period for dental hygienists passing WREB examination prior to September 1, 2011. An applicant who has successfully taken and passed the WREB examination within the five years prior to September 1, 2011, may apply for licensure by examination by submitting evidence of successful completion of the WREB examination.

f. Payment of application, fingerprint and background check fees. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

g. Documentation of passage of jurisprudence examination. Evidence of successful completion of the jurisprudence examination administered by the dental hygiene committee.

h. Current CPR certification. Evidence A statement:

(1) Confirming that the applicant possesses a valid certificate in from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

i. Explanation of any legal or administrative actions. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

~~*j. Current photograph.* A photograph of the applicant suitable for positive identification.~~

~~*k. j. Completed fingerprint packet.* A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.~~

ITEM 6. Amend subrule 11.5(4) as follows:

11.5(4) Applications must be signed and ~~notarized~~ verified as to the truth of the statements contained therein.

ITEM 7. Amend subrule 11.6(2) as follows:

11.6(2) Applications must be filed with the dental hygiene committee along with:

a. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Evidence of successful completion of the examination of the Joint Commission on National Dental Examinations ~~with resulting scores,~~ or evidence of having passed a written examination that is comparable to the examination given by the Joint Commission on National Dental Examinations.

c. A statement of any dental hygiene examinations taken by the applicant, ~~with resulting scores~~ with indication of pass/fail for each examination taken. Any dental hygienist who has lawfully practiced dental hygiene in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dental hygiene in another state, territory or district of the United States issued ~~upon clinical examination~~ under requirements equivalent or substantially equivalent to those of this state.

~~*e.* Certification by the state board of dentistry, or equivalent authority, from a state in which applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dental hygiene in that state for three years immediately~~

DENTAL BOARD[650](cont'd)

~~preceding the date of application or evidence of practice satisfactory to the dental hygiene committee.~~
Evidence that the applicant has met at least one of the following:

(1) Passed an examination approved by the board in accordance with Iowa Code section 147.34(1) and administered by a regional or national testing service. The clinical examinations approved by the board are specified in 650—subrule 12.1(5).

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dental hygiene in such other state, territory or district of the United States.

~~f. Certification by~~ Evidence from the state board of dentistry, or equivalent authority, in each state in which applicant has ~~engaged in the~~ been licensed to practice of dental hygiene, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

h. The nonrefundable application fee for licensure by credentials, plus the initial licensure fee and the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

~~i. Evidence~~ A statement:

(1) Confirming that the applicant possesses a valid certificate in from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

j. Successful completion of the jurisprudence examination administered by the dental hygiene committee.

~~k. A photograph of the applicant suitable for positive identification.~~

~~l. k.~~ A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

ITEM 8. Amend subrule 11.6(5) as follows:

11.6(5) Applications must be signed and ~~notarized~~ verified attesting to the truth of the statements contained therein.

ITEM 9. Amend subrule 11.7(2) as follows:

11.7(2) Permit renewal. ~~Prior to June 30, 2006, the permit shall expire on June 30 of every even-numbered year. For the renewal period beginning July 1, 2006, and ending June 30, 2007, the permit shall expire on June 30, 2007. A permit due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007. After August 30, 2007, the~~ The permit shall expire on August 31 of every odd-numbered year. To renew the permit, the dental hygienist must:

a. At the time of renewal, document evidence of holding an active Iowa dental hygiene license.

b. Submit the application fee for renewal of the permit as specified in 650—Chapter 15.

ITEM 10. Adopt the following new subrule 12.1(5):

12.1(5) *Clinical examinations accepted for purposes of licensure by credentials.* The board is authorized by 2011 Iowa Code Supplement section 153.21 to establish the regional or national testing service examinations that will be accepted for purposes of licensure by credentials. The following regional examinations are approved by the board for purposes of application for licensure by credentials submitted pursuant to 650—Chapter 11: Central Regional Dental Testing Service, Inc. (CRDTS), Western Regional Examining Board, Inc. (WREB), Southern Regional Testing Agency (SRTA), North East Regional Board of Dental Examiners (NERB), and Council of Interstate Testing Agencies (CITA).

DENTAL BOARD[650](cont'd)

ITEM 11. Adopt the following **new** subrule 12.3(5):

12.3(5) *Clinical examinations accepted for purposes of licensure by credentials.* The board is authorized by 2011 Iowa Code Supplement section 153.21 to establish the regional or national testing service examinations that will be accepted for purposes of licensure by credentials. The following regional examinations are approved by the board for purposes of application for licensure by credentials submitted pursuant to 650—Chapter 11: Central Regional Dental Testing Service, Inc. (CRDTS), Western Regional Examining Board, Inc. (WREB), Southern Regional Testing Agency (SRTA), North East Regional Board of Dental Examiners (NERB), and Council of Interstate Testing Agencies (CITA).

ITEM 12. Amend subrule 13.1(5) as follows:

13.1(5) A resident license may be extended past the original expected completion date of the training program at the discretion of the board. A licensee who wishes to extend the expiration date of the license shall submit to the board office an extension application ~~to the board~~ that includes a letter explaining the need for an extension, an extension fee of ~~\$40~~ in the amount specified in 650—Chapter 15, and a statement from the director of the resident training program attesting to the progress of the resident in the training program, the new expected date of completion of the program, and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action.

ITEM 13. Amend subrules 13.2(2), 13.2(3) and 13.2(7) as follows:

13.2(2) The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the board or the dental hygiene committee those bona fide members of the college's or a dental hygiene program's faculty who are not licensed to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing duties in the college of dentistry or a dental hygiene program, make on official board forms written application to the board or the dental hygiene committee for a permit and shall provide the following:

a. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

b. Information regarding the professional qualifications and background of the applicant.

c. A completed fingerprint packet to facilitate a criminal history background ~~check~~ checks by the DCI and FBI.

d. If the applicant is licensed by another jurisdiction, the applicant shall furnish ~~certification~~ evidence from the board of dental examiners of that jurisdiction that the applicant is licensed in good standing and has not been the subject of final or pending disciplinary action.

e. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

~~f. A photograph of the applicant suitable for positive identification.~~

~~g. f. Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. A statement:~~

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

~~h. g.~~ Such additional information as the board may deem necessary to enable it to determine the character, education or experience of such applicant.

~~i. h.~~ Applications must be signed and ~~notarized~~ verified as to the truth of the statements contained therein and include required credentials and documents, and all questions must be completely answered.

~~j. i.~~ Evidence of successful completion of the jurisprudence examination administered by the Iowa dental board.

DENTAL BOARD[650](cont'd)

13.2(3) A faculty permit shall expire on August 31 of every even-numbered year and may, at the sole discretion of the board, be renewed on a biennial basis. ~~Prior to June 30, 2006, a faculty permit expired on June 30 of every even-numbered year. A faculty permit due to expire on June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008.~~

13.2(7) Faculty ~~To renew the permit, faculty permit holders shall also be required to submit evidence of current certification in a nationally recognized course in cardiopulmonary resuscitation to renew the permit. a statement:~~

- ~~a. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;~~
- ~~b. Providing the expiration date of the CPR certificate; and~~
- ~~c. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.~~

ITEM 14. Amend paragraph **13.3(1)“g”** as follows:

g. A temporary permit holder shall notify the board ~~in writing~~ by written correspondence or through the board’s online system of any change in name or mailing address within seven days of the change. A certified copy of a marriage license or a certified copy of court documents is required for proof of a name change.

ITEM 15. Amend subrules 13.3(2) and 13.3(3) as follows:

13.3(2) Eligibility for a temporary permit to fulfill an urgent need or serve an educational purpose. An application for a temporary permit shall be filed on the form provided by the board and must be completely answered, including required credentials and documents. An applicant for a temporary permit may submit an application online or on a paper form. To be eligible for a temporary permit to fulfill an urgent need or serve an educational purpose, an applicant shall provide all of the following:

a. Satisfactory evidence of graduation with a DDS or DMD degree for applicants seeking a temporary permit to practice dentistry or satisfactory evidence of graduation from a dental hygiene school for applicants seeking a temporary permit to practice dental hygiene.

b. The nonrefundable application fee for a temporary permit to fulfill an urgent need or serve an educational purpose as specified in 650—Chapter 15.

~~c. Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. A statement:~~

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

d. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges against the applicant.

e. Certification from the state board of dentistry, or equivalent authority, from a state in which the applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dentistry in that state for three years immediately preceding the date of application or evidence of three years of practice satisfactory to the board. The applicant must also provide evidence that the applicant has not been the subject of final or pending disciplinary action.

~~f. Certification~~ Evidence from the appropriate examining board from each jurisdiction in which the applicant has ever held a license. At least one license must be issued on the basis of clinical examination.

g. A request for the temporary permit from those individuals or organizations seeking the applicant’s services that establishes, to the board’s satisfaction, the justification for the temporary permit, the dates the applicant’s services are needed, and the location or locations where those services will be delivered.

13.3(3) Eligibility for a temporary permit to provide volunteer services.

DENTAL BOARD[650](cont'd)

a. A temporary permit to provide volunteer services is intended for dentists and dental hygienists who will provide volunteer services at a free or nonprofit dental clinic and who will not receive compensation for dental services provided. A temporary permit issued under this subrule shall be valid only at the location specified on the permit, which shall be a free clinic or a dental clinic for a nonprofit organization, as described under Section 501(c)(3) of the Internal Revenue Code.

b. An application for a temporary permit shall be filed on the form provided by the board and must be completely answered, including required credentials and documents. To be eligible for a temporary permit to provide volunteer services, an applicant shall provide all of the following:

~~(1) Satisfactory evidence of graduation with a DDS or DMD degree for applicants seeking a temporary permit to practice dentistry or satisfactory evidence of graduation from a dental hygiene school for applicants seeking a temporary permit to practice dental hygiene.~~

~~(2) (1) The nonrefundable application fee for a temporary permit to provide volunteer services as specified in 650—Chapter 15.~~

~~(3) (2) Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. A statement:~~

1. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

2. Providing the expiration date of the CPR certificate; and

3. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

~~(4) (3) A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges against the applicant.~~

~~(5) (4) Evidence that the applicant holds an active, permanent license in good standing to practice in at least one United States jurisdiction and that no formal disciplinary action is pending or has even ever been taken.~~

~~(6) (5) Certification Evidence from the appropriate examining board from each jurisdiction in which the applicant has ever held a license. At least one license must be issued on the basis of clinical examination.~~

~~(7) (6) A request for the temporary permit from those individuals or organizations seeking the applicant’s services that establishes, to the board’s satisfaction, the justification for the temporary permit, the dates the applicant’s services are needed, and the location or locations where those services will be delivered.~~

~~(8) (7) A statement from the applicant seeking the temporary permit that the applicant shall practice only in a free dental clinic or dental clinic for a nonprofit organization and that the applicant shall not receive compensation directly or indirectly for providing dental services.~~

ITEM 16. Amend **650—Chapter 14**, title, as follows:

RENEWAL AND REINSTATEMENT

ITEM 17. Amend rule 650—14.1(147,153,272C) as follows:

650—14.1(147,153,272C) Renewal of license to practice dentistry or dental hygiene. A license to practice dentistry or a license to practice dental hygiene must be renewed prior to the expiration date of the license. ~~Prior to July 1, 2008, dental licenses expired on June 30 of every even-numbered year. A dental license due to expire on June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008. Beginning July 1, 2008, dental licenses expire on August 31 of every even-numbered year. Prior to July 1, 2006, dental hygiene licenses expired on June 30 of every even-numbered year. However, for the renewal period beginning July 1, 2006, a dental hygiene license expires on June 30, 2007. A dental hygiene license due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007. Beginning July 1, 2007, dental hygiene licenses expire on August 31 of every odd-numbered year. Dental licenses expire August 31 of every even-numbered year. The board will notify each licensee by mail of the expiration of the license.~~

DENTAL BOARD[650](cont'd)

~~14.1(1) *Application renewal procedures.* Application for renewal must be made in writing on forms provided by the board at least 30 days before the current license expires.~~

~~a. *Renewal notice.* The board office will send a renewal notice by regular mail or e-mail to each licensee at the licensee's last-known mailing or e-mail address.~~

~~b. *Licensee and permit holder obligation.* The licensee or permit holder is responsible for renewing the license or permit prior to its expiration. Failure of the licensee or permit holder to receive the notice does not relieve the licensee or permit holder of the responsibility for renewing that license or permit in order to continue practicing in the state of Iowa.~~

~~c. *Renewal application form.* Application for renewal must be made on forms provided by the board office. Licensees and permit holders may renew their licenses and permits online or via paper application.~~

~~d. *Complete and timely filed application.* No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will be not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.~~

~~14.1(2) *Application fee.* The appropriate fee as specified in 650—Chapter 15 of these rules must accompany the application for renewal. A penalty shall be assessed by the board for late renewal, as specified in 650—Chapter 15.~~

~~14.1(3) *Continuing education requirements.* Completion of continuing education in accordance with 650—Chapter 25 is required for renewal of an active license. However, licensees are exempt from the continuing education requirement for the current biennium in which the license is first issued.~~

~~14.1(4) *CPR certification.* In order to renew a license, evidence of current certification in a nationally recognized course in cardiopulmonary resuscitation is required. The course must include a clinical component. an applicant must submit a statement:~~

~~a. *Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;*~~

~~b. *Providing the expiration date of the CPR certificate; and*~~

~~c. *Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.*~~

~~14.1(5) *Dental hygiene committee review.* The dental hygiene committee may, in its discretion, review any applications for renewal of a dental hygiene license and make recommendations to the board. The board's review is subject to 650—Chapter 1.~~

~~This rule is intended to implement Iowa Code section 147.10 and chapters 153 and 272C.~~

~~ITEM 18. Adopt the following **new** rule 650—14.2(153):~~

~~**650—14.2(153) Renewal of registration as a dental assistant.** A certificate of registration as a registered dental assistant must be renewed biennially. Registration certificates shall expire on August 31 of every odd-numbered year.~~

~~14.2(1) *Renewal procedures.*~~

~~a. *Renewal notice.* The board office will send a renewal notice by regular mail or e-mail to each registrant at the registrant's last-known mailing address or e-mail address. The board will notify each registrant by mail or e-mail of the expiration of the registration certificate.~~

~~b. *Registrant obligation.* The registrant is responsible for renewing the registration prior to its expiration. Failure of the registrant to receive the notice does not relieve the registrant of the responsibility for renewing that registration in order to continue practicing in the state of Iowa.~~

~~c. *Renewal application form.* Registrants may renew their registration online or via paper application. Paper application for renewal must be made in writing on forms provided by the board office before the current registration expires.~~

~~d. *Complete and timely filed application.* No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will be not be accepted. For purposes of~~

DENTAL BOARD[650](cont'd)

establishing timely filing, the postmark on a paper submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.

14.2(2) Application fee. The appropriate fee as specified in 650—Chapter 15 must accompany the application for renewal. A penalty shall be assessed by the board for late renewal, as specified in 650—Chapter 15.

14.2(3) Continuing education requirements. Completion of continuing education as specified in rule 650—20.11(153) and 650—Chapter 25 is required for renewal of an active registration. Failure to meet the requirements of renewal in the time specified by rule will automatically result in a lapsed registration.

14.2(4) CPR certification. In order to renew a registration, an applicant must submit a statement:

- a. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;
- b. Providing the expiration date of the CPR certificate; and
- c. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

This rule is intended to implement Iowa Code sections 147.10 and 153.39.

ITEM 19. Renumber rules **650—14.3(147,153,272C)** to **650—14.5(147,153,272C)** as **650—14.4(147,153,272C)** to **650—14.6(147,153,272C)**.

ITEM 20. Adopt the following new rule 650—14.3(136C,153):

650—14.3(136C,153) Renewal of dental assistant radiography qualification. A certificate of radiography qualification must be renewed biennially. Radiography qualification certificates shall expire on August 31 of every odd-numbered year.

14.3(1) Renewal procedures.

a. *Renewal notice.* The board office will send a renewal notice by regular mail or e-mail to each registrant at the registrant’s last-known mailing address or e-mail address. The board will notify each registrant by mail or e-mail of the expiration of the radiography qualification.

b. *Registrant obligation.* The registrant is responsible for renewing the radiography qualification prior to its expiration. Failure of the registrant to receive the notice does not relieve the registrant of the responsibility for renewing that radiography qualification if the registrant wants to continue taking dental radiographs in the state of Iowa.

c. *Renewal application form.* Application for renewal must be made in writing on forms provided by the board office before the current radiography qualification expires. Registrants may renew their radiography qualification online or via paper application.

d. *Complete and timely filed application.* No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will be not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.

14.3(2) Application fee. The appropriate fee as specified in 650—Chapter 15 must accompany the application for renewal. A penalty shall be assessed by the board for late renewal, as specified in 650—Chapter 15.

14.3(3) Continuing education requirements. In order to renew a radiography qualification, the dental assistant shall obtain at least two hours of continuing education in the subject area of dental radiography. Proof of attendance shall be retained by the dental assistant and must be submitted to the board office upon request.

14.3(4) CPR certification. In order to renew a radiography qualification, an applicant must submit a statement:

- a. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;
- b. Providing the expiration date of the CPR certificate; and

DENTAL BOARD[650](cont'd)

c. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

This rule is intended to implement Iowa Code chapters 136C and 153.

ITEM 21. Amend renumbered rules 650—14.4(147,153,272C) to 650—14.6(147,153,272C) as follows:

650—14.4(147,153,272C) Grounds for nonrenewal. The board may refuse to renew a license₂ or registration or radiography qualification on the following grounds:

14.4(1) After proper notice and hearing, for a violation of these rules or Iowa Code chapter 147, 153, or 272C during the term of the last license₂ or registration or radiography qualification or renewal of license₂ or registration or radiography qualification.

14.4(2) Failure to pay required fees.

14.4(3) Failure to obtain required continuing education.

14.4(4) Failure to provide proof a statement of current certification in cardiopulmonary resuscitation in a course that includes a clinical component.

14.4(5) Receipt of a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services in accordance with 650—Chapter 33 and 650—Chapter 34.

This rule is intended to implement Iowa Code section 153.23 and chapters 147, 252J, 261, and 272C.

650—14.5(147,153,272C) Late fee renewal.

~~14.5(1) No renewal application shall be considered timely and sufficient until received by the board and accompanied by the material required for renewal and all applicable renewal and late fees.~~

14.5(1) Failure to renew license or permit.

a. Failure to renew the a dental or dental hygiene license or permit prior to September 1 following expiration shall result in a late fee of \$100 in the amount specified in 650—Chapter 15 being assessed by the board in addition to the renewal fee.

b. Failure to renew prior to October 1 following expiration shall result in assessment of a late fee of \$150 being assessed in the amount specified in 650—Chapter 15.

c. 14.5(2) Failure of a licensee or permit holder to renew a license or permit prior to November 1 following expiration shall cause the license or permit to lapse and become invalid. A licensee or permit holder whose license or permit has lapsed and become invalid is prohibited from the practice of dentistry or dental hygiene until the license or permit is reinstated in accordance with rule 14.5(153) 650—14.6(147,153,272C).

14.5(2) Failure to renew registration.

a. Failure to renew a dental assistant registration prior to September 1 following expiration shall result in a late fee in the amount specified in 650—Chapter 15 assessed by the board in addition to the renewal fee.

b. Failure to renew prior to October 1 following expiration shall result in assessment of a late fee in the amount specified in 650—Chapter 15.

c. Failure to renew a registration prior to November 1 following expiration shall cause the registration to lapse and become invalid. A registrant whose registration has lapsed and become invalid is prohibited from practicing as a dental assistant until the registration is reinstated in accordance with rule 650—14.6(147,153,272C).

14.5(3) Failure to renew radiography qualification. Failure to renew a radiography qualification prior to November 1 following expiration shall cause the radiography qualification to lapse and become invalid. A dental assistant whose radiography qualification is lapsed is prohibited from engaging in dental radiography until the qualification is reinstated in accordance with rule 650—14.7(136C,153).

This rule is intended to implement Iowa Code sections 147.10, 147.11, 153.30 and 272C.2.

DENTAL BOARD[650](cont'd)

650—14.6(147,153,272C) Reinstatement of a lapsed license or registration.

14.6(1) A licensee or a registrant who allows a license or registration to lapse by failing to renew may be have the license or registration reinstated at the discretion of the board by submitting the following:

a. to d. No change.

e. Payment of all renewal fees past due, ~~not to exceed \$750~~ as specified in 650—Chapter 15, plus the reinstatement fee as specified in 650—Chapter 15.

f. to j. No change.

14.6(2) to 14.6(4) No change.

This rule is intended to implement Iowa Code sections 147.10, 147.11, ~~153.30~~ and 272C.2.

ITEM 22. Adopt the following new rule 650—14.7(136C,153):

650—14.7(136C,153) Reinstatement of lapsed radiography qualification. A dental assistant who allows a radiography qualification to lapse by failing to renew may have the radiography qualification reinstated at the discretion of the board by submitting the following:

14.7(1) A completed application for reinstatement of the dental assistant radiography qualification.

14.7(2) Payment of the radiography reinstatement application fee and the current renewal fee, both as specified in 650—Chapter 15.

14.7(3) Proof of current registration as a dental assistant or proof of an active Iowa nursing license.

14.7(4) If the radiography qualification has been lapsed for less than four years, proof of two hours of continuing education in the subject area of dental radiography, taken within the previous two-year period.

14.7(5) If the radiography qualification has been lapsed for more than four years, the dental assistant shall be required to retake and successfully complete an examination in dental radiography. A dental assistant who presents proof of a current radiography qualification issued by another state and who has engaged in dental radiography in that state is exempt from the examination requirement.

This rule is intended to implement Iowa Code section 136C.3 and chapter 153.

ITEM 23. Amend 650—Chapter 15 as follows:

CHAPTER 15

FEES

650—15.1(147,153) Establishment of fees. The board is self-supporting through the collection of fees and does not receive an appropriation from the general fund. Pursuant to Iowa Code section 147.80, the board is to establish fees by rule based on the costs of sustaining the board and the actual costs of the services performed by the board. Under Iowa law, the board is required to annually prepare an estimate of projected revenues generated by the fees received and review projected expenses to ensure that there are sufficient funds to cover projected expenses.

650—15.2(147,153) Definitions. The following definitions apply to this chapter:

“Fee” means the amount charged for the services described in this chapter. All fees are nonrefundable. The board office will refund any overpayment of fees.

“Service charge” means the amount charged for making a service available online and is in addition to the actual fee for a service itself. For example, a licensee who renews a license online will pay the license renewal fee and a service charge.

650—15.1 650—15.3(153) License application Application fees. All fees are nonrefundable. In addition to the fees specified in this rule, an applicant will pay a service charge for filing online.

15.1(1) 15.3(1) Dental licensure on the basis of examination. The fees for a dental license issued on the basis of examination include an application fee, a fee for evaluation of a fingerprint packet and criminal background check and, if applying within three months or less of a biennial renewal due date, the renewal fee.

a. Application fee. The application fee for a license to practice dentistry is \$200.

DENTAL BOARD[650](cont'd)

b. Initial licensure period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in 650—15.4(153).

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is specified in subrule 15.7(4).

~~15.1(2)~~ **15.3(2)** *Dental hygiene licensure on the basis of examination.* The fees for a dental hygiene license issued on the basis of examination include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. Application fee. The application fee for a license to practice dental hygiene is \$100.

b. Initial licensure period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in 650—15.4(153).

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is specified in subrule 15.7(4).

~~15.1(3)~~ **15.3(3)** *Resident dental license.* The application fee for a resident dentist dental license is \$120.

~~15.1(4)~~ **15.3(4)** *Faculty permit.* The application fee for a faculty permit is \$200.

~~15.1(5)~~ **15.3(5)** *Dental licensure on the basis of credentials.* The fees for a dental license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. Application fee. The application fee for a license to practice dentistry issued on the basis of credentials is \$550.

b. Initial licensure period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in 650—15.4(153).

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is specified in subrule 15.7(4).

~~15.1(6)~~ **15.3(6)** *Dental hygiene licensure on the basis of credentials.* The fees for a dental hygiene license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. Application fee. The application fee for a license to practice dental hygiene issued on the basis of credentials is \$200.

b. Initial licensure period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in 650—15.4(153).

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is specified in subrule 15.7(4).

~~15.1(7)~~ **15.3(7)** *Reactivation of an inactive license or registration.* The fee for a reinstatement reactivation application for inactive practitioners is \$50.

~~15.1(8)~~ **15.3(8)** *Reinstatement of an inactive license or registration.* The fee for a reinstatement application for a lapsed license or registration is \$150.

~~15.1(9)~~ **15.3(9)** *General anesthesia permit application.* The application fee for a general anesthesia permit is \$500.

~~15.1(10)~~ **15.3(10)** *Moderate sedation permit application.* The application fee for a conscious moderate sedation permit is \$500.

~~15.1(11)~~ **15.3(11)** *Local anesthesia permit—initial application and reinstatement.* The application or reinstatement fee for a permit to authorize a dental hygienist to administer local anesthesia is \$70.

DENTAL BOARD[650](cont'd)

~~15.1(12)~~ **15.3(12)** *Dental assistant trainee application.* The fee for an application for registration as a dental assistant trainee is \$25.

~~15.1(13)~~ **15.3(13)** *Dental assistant registration only application.* The fee for an application for registration as a registered dental assistant is \$40.

~~15.1(14)~~ The fee for evaluation of a fingerprint packet and the criminal history background checks is \$46. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

15.3(14) *Combined application—dental assistant registration and qualification in radiography.* The fee for a combined application for both registration as a registered dental assistant and radiography qualification is \$60.

~~15.1(15)~~ **15.3(15)** *Dental assistant radiography qualification application fee.* The fee for an application for dental assistant radiography qualification is \$40.

~~15.1(16)~~ **15.3(16)** *Temporary permit—urgent need or educational services.* The fee for an application for a temporary permit to serve an urgent need or provide educational services is \$100 if an application is submitted online or \$150 if submitted via paper application.

~~15.1(17)~~ **15.3(17)** *Temporary permit—volunteer services.* The fee for an application for a temporary permit to provide volunteer services is \$25.

650—15.2 650—15.4(153) Renewal fees. All fees are nonrefundable. Each two-year renewal period begins on September 1 and runs through August 31. Dental licenses, moderate sedation permits, and general anesthesia permits expire in even-numbered years. Dental hygiene licenses, local anesthesia permits, dental assistant registration and qualification in dental radiography expire in odd-numbered years. To avoid late fees, paper renewal applications must be postmarked on or received in the board office by August 31. To avoid late fees, online renewal applications must be time-stamped no later than 11:59 p.m. (CST) on August 31.

~~15.2(1)~~ **15.4(1)** *Dental license renewal.* The fee for renewal of a license to practice dentistry for a biennial period is \$315 for an active practitioner and \$315 for an inactive practitioner.

~~15.2(2)~~ **15.4(2)** *Dental hygiene license renewal.* The fee for renewal of a license to practice dental hygiene for a biennial period is \$150 for an active practitioner and \$150 for an inactive practitioner.

~~15.2(3)~~ **15.4(3)** *General anesthesia permit renewal.* The fee for renewal of a general anesthesia permit is \$125.

~~15.2(4)~~ **15.4(4)** *Moderate sedation permit renewal.* The fee for renewal of a ~~conscious~~ moderate sedation permit is \$125.

~~15.2(5)~~ **15.4(5)** *Local anesthesia permit renewal.* The fee for renewal of a permit to authorize a dental hygienist to administer local anesthesia is \$25.

~~15.2(6)~~ **15.4(6)** *Dental assistant registration renewal.* The fee for renewal of registration as a registered dental assistant is \$75.

15.4(7) *Combined renewal application—dental assistant registration and qualification in radiography.* The fee for a combined application to renew both a registration as a registered dental assistant and a radiography qualification is \$115.

~~15.2(7)~~ **15.4(8)** *Dental assistant qualification in radiography renewal.* The fee for renewal of a certificate of qualification in dental radiography is \$40.

~~15.2(8)~~ **15.4(9)** *Faculty permit renewal.* The fee for renewal of a faculty permit is \$315.

~~15.2(9)~~ **15.4(10)** *Resident license renewal.* The fee for renewal or extension of a resident license is \$40.

650—15.3 650—15.5(153) Late renewal fees. All fees are nonrefundable. A licensee, registrant or permit holder who fails to renew a license, registration or permit to practice following expiration is subject to late renewal fees pursuant to ~~650—Chapter 14~~ as described in this rule. ~~A registrant who fails to renew a registration to practice following expiration is subject to late renewal fees pursuant to 650—Chapter 20.~~

DENTAL BOARD[650](cont'd)

15.5(1) Failure to renew a license, registration or permit prior to September 1. Failure by a licensee, registrant or permit holder to renew the license, registration or permit prior to September 1 following expiration shall result in the following late fees:

- a. Dental license or permit. A late fee of \$100 shall be assessed, in addition to the renewal fee.
- b. Dental hygiene license. A late fee of \$100 shall be assessed, in addition to the renewal fee.
- c. Dental assistant registration. A late fee of \$20 shall be assessed, in addition to the renewal fee.

15.5(2) Failure to renew a license, registration or permit prior to October 1. Failure by a licensee, registrant or permit holder to renew the license, registration or permit prior to October 1 following expiration shall result in the following late fees:

- a. Dental license or permit. A late fee of \$150 shall be assessed, in addition to the renewal fee.
- b. Dental hygiene license. A late fee of \$150 shall be assessed, in addition to the renewal fee.
- c. Dental assistant registration. A late fee of \$40 shall be assessed, in addition to the renewal fee.

15.5(3) Failure to renew a license, registration or permit prior to November 1. Failure by a licensee, registrant or permit holder to renew a license, registration or permit prior to November 1 following expiration shall cause the license, registration or permit to lapse and become invalid. A licensee, registrant or permit holder whose license, registration or permit has lapsed and become invalid is prohibited from the practice of dentistry, dental hygiene, or dental assisting until the license, registration or permit is reinstated.

650—15.6(147,153) Reinstatement fees. If a license, registration or permit lapses or is inactive, a licensee, registrant or permit holder may submit an application for reinstatement. Licensees, registrants or permit holders are subject to reinstatement fees as described in this rule.

15.6(1) Reinstatement of a dental license. In addition to the reinstatement application fee specified in 15.3(8), the applicant must pay all back renewal fees (not to exceed \$750) and the fee for evaluation of a fingerprint packet and criminal background check as specified in 15.7(4).

15.6(2) Reinstatement of a dental hygiene license. In addition to the reinstatement application fee specified in 15.3(8), the applicant must pay all back renewal fees (not to exceed \$750) and the fee for evaluation of a fingerprint packet and criminal background check as specified in 15.7(4).

15.6(3) Reinstatement of a dental assistant registration. In addition to the reinstatement application fee specified in 15.3(8), the applicant must pay all back renewal fees (not to exceed \$750).

15.6(4) Combined reinstatement application—dental assistant registration and qualification in radiography. The fee for a combined application to reinstate both a registration as a registered dental assistant and a radiography qualification is specified in 15.3(8).

15.6(5) Reinstatement of qualification in radiography. In addition to the reinstatement application fee specified in 15.3(8), the applicant must pay all back renewal fees (not to exceed \$750).

650—15.4 650—15.7(153) Miscellaneous fees. Payments made to the Iowa Board of Dental Examiners Dental Board, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to release of the requested document.

~~15.4(1)~~ 15.7(1) Duplicates. The fee for issuance of a duplicate license, permit or registration certificate or current renewal is \$25.

~~15.4(2)~~ 15.7(2) Certification or verification. The fee for a certification or written verification of an Iowa license, permit or registration is \$25.

~~15.4(3)~~ 15.7(3) Trainee manual. The fee for the dental assistant trainee manual is \$70.

15.7(4) Fingerprint packet and criminal history background check. The fee for evaluation of a fingerprint packet and the criminal history background checks is \$46.

15.7(5) IPRC monitoring. The fee for monitoring for compliance with an IPRC agreement is \$100 per quarter, unless otherwise stated in the Iowa practitioner program contract entered into pursuant to 650—Chapter 35.

15.7(6) Monitoring for compliance with settlement agreements. The fee for monitoring a licensee's, registrant's or permit holder's compliance with a settlement agreement entered into pursuant to 650—subrule 51.19(9) is \$300 per quarter, unless otherwise stated in the settlement agreement.

DENTAL BOARD[650](cont'd)

15.7(7) Disciplinary hearings—fees and costs.

a. Definitions. As used in this subrule in relation to fees related to a formal disciplinary action filed by the board against a licensee, registrant or permit holder:

“Deposition” means the testimony of a person pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“Expenses” means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“Medical examination fees” means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

“Transcript” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“Witness fees” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72 as the case may be.

b. The board may charge a fee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board. In addition to the fee, the board may recover from the licensee costs for the following procedures and personnel:

- (1) Transcript.
- (2) Witness fees and expenses.
- (3) Depositions.
- (4) Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147.

650—15.8(153) Continuing education fees.

15.8(1) Application for prior approval of activities. The fee for an application for prior approval of a continuing education activity is \$10.

15.8(2) Application for postapproval of activities. The fee for an application for postapproval of a continuing education activity is \$10.

15.8(3) Application for approved sponsor status. The fee for an application to become an approved sponsor for a continuing education activity is \$100. The biennial renewal fee is \$100.

650—15.9(153) Facility inspection fee. The actual costs for an on-site evaluation of a facility at which deep sedation/general anesthesia or moderate sedation is authorized pursuant to 650—Chapter 29 shall not exceed \$500 per facility per inspection.

650—15.5 650—15.10(22,147,153) Public records. Public records are available according to 650—Chapter 6, “Public Records and Fair Information Practices.” Payment made to the Iowa Dental Board of Dental Examiners, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to the release of the records.

15.5(4) 15.10(1) Copies of public records shall be calculated at \$.25 per page plus labor. A \$16 per hour fee shall be charged for labor in excess of one-half hour for searching and copying documents or retrieving and copying information stored electronically. No additional fee shall be charged for delivery of the records by mail or fax. A fax is an option if the requested records are fewer than 30 pages. The board office shall not require payment when the fees for the request would be less than \$5 total.

15.5(2) 15.10(2) Electronic copies of public records delivered by e-mail shall be calculated at \$.10 per page; the minimum charge shall be \$5. A \$16 per hour fee shall be charged for labor in excess of one-half hour for searching and copying documents or retrieving and copying information stored

DENTAL BOARD[650](cont'd)

electronically. The board office shall not require payment when the fee for the request would be less than \$5 total.

~~15.5(3)~~ **15.10(3)** Electronic files of statements of charges, final orders and consent agreements from each board meeting delivered via e-mail may be available for an annual subscription fee of \$24.

~~15.5(4)~~ **15.10(4)** Printed copies of statements of charges, final orders and consent agreements from each board meeting shall be available for an annual subscription fee of \$120.

~~650—15.6~~ **650—15.11(22,147,153)** **Purchase of a mailing list or data list.** Payment made to the Iowa Dental Board of ~~Dental Examiners~~, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to the release of a list.

~~15.6(1)~~ **15.11(1)** *Mailing list.* The standard mailing list for all active dental and dental hygiene licensees and dental assistant registrants includes the full name, address, city, state, and ZIP code. The standard mailing list of dentists or dental hygienists does not include resident licensees or faculty permit holders.

- a. Printed mailing list, \$65 per profession requested.
- b. Mailing list on ~~diskette~~ disc or DVD, \$45 per profession requested.
- c. Mailing list in an electronic file, \$35 per profession requested.

~~15.6(2)~~ **15.11(2)** *Data list for dentists, hygienists, or assistants.* The standard data list for active licensees or registrants includes full name, address, Iowa county (if applicable), issue date, expiration date, license or registration number, and license or registration status. Additional data elements, programming or sorting increases the following fees by \$25.

- a. Printed standard data list, \$75 per profession requested.
- b. Standard data list on ~~diskette~~ disc or DVD, \$55 per profession requested.
- c. Standard data list in an electronic file, \$45 per profession requested.

~~650—15.7~~ **650—15.12(147,153)** **Returned checks.** The board shall charge a fee of \$25 ~~\$39~~ for a check returned for any reason. If a license or registration had been issued by the board office based on a check that is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification of the returned check by certified mail, the licensee or registrant shall be subject to disciplinary action for noncompliance with board rules.

~~650—15.8~~ **650—15.13(147,153,272C)** **Copies of the laws and rules.** Copies of laws and rules pertaining to the practice of dentistry, dental hygiene, or dental assisting are available from the board office for the following fees.

1. Iowa Code and Iowa Administrative Code access, no fee, available at www.state.ia.us/dentalboard.
2. Printed copies of the Iowa Code chapters that pertain to the practice of dentistry, \$10.
3. Printed copies of dental board rules in the Iowa Administrative Code, \$15.

~~650—15.9~~ **650—15.14(17A,147,153,272C)** **Waiver prohibited.** Rules in this chapter are not subject to waiver pursuant to 650—Chapter 7 or any other provision of law.

These rules are intended to implement Iowa Code sections 147.10, 147.80 and 153.22.

ITEM 24. Amend subparagraph **20.6(2)“b”(8)** as follows:

~~(8) Evidence of current certification in cardiopulmonary resuscitation sponsored by a nationally recognized provider. A statement:~~

1. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;
2. Providing the expiration date of the CPR certificate; and
3. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

DENTAL BOARD[650](cont'd)

ITEM 25. Rescind rule **650—20.11(153)**.

ITEM 26. Renumber rules **650—20.12(153)** to **650—20.16(153)** as **650—20.11(153)** to **650—20.15(153)**.

ITEM 27. Rescind rules **650—22.6(136C,153)** and **650—22.7(136C,153)**.

ITEM 28. Renumber rule **650—22.8(136C,153)** as **650—22.6(136C,153)**.

ITEM 29. Amend subrules 25.3(5) and 25.3(6) as follows:

25.3(5) Prior approval of activities. An organization or person, other than an approved sponsor, that desires prior approval for a course, program or other continuing education activity or that desires to establish approval of the activity prior to attendance shall apply for approval to the board at least 90 days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny the application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information. An application fee of \$10, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, as specified in 650—Chapter 15 is required.

25.3(6) Postapproval of activities. A licensee or registrant seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved may submit to the board, within 60 days after completion of such activity, its dates, subjects, instructors, and their qualifications, the number of credit hours and proof of attendance. Within 90 days after receipt of such application the board shall advise the licensee or registrant in writing by ordinary mail whether the activity is approved and the number of hours allowed. All requests may be reviewed by the advisory committee on continuing education prior to final approval or denial by the board. A licensee or registrant not complying with the requirements of this paragraph may be denied credit for such activity. An application fee of \$10, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, as specified in 650—Chapter 15 is required.

ITEM 30. Amend subrule 25.4(2) as follows:

25.4(2) Prospective sponsors must apply to the Iowa dental board of dental examiners using a “Sponsor Approval Form” in order to obtain approved sponsor status. An application fee of \$100 as specified in 650—Chapter 15 is required, which shall be considered a repayment receipt as defined in Iowa Code section 8.2. Board-approved sponsors must pay the biennial renewal fee of \$100, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, as specified in 650—Chapter 15 and file a sponsor recertification record report biennially.

ITEM 31. Amend subrule 29.5(7) as follows:

29.5(7) The actual costs associated with the on-site evaluation of the facility shall be the primary responsibility of the licensee. The cost to the licensee shall not exceed \$500 per facility the fee as specified in 650—Chapter 15.

ITEM 32. Amend subrules 51.19(3) and 51.19(9) as follows:

51.19(3) Consent to negotiation by the respondent during informal settlement negotiation constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chairperson or designee(s).

51.19(9) A provision for payment of the actual costs or a \$300 a quarterly fee to cover the board’s expenses associated with monitoring a licensee’s or registrant’s compliance with the settlement agreement may be included in the settlement agreement. Actual costs include mileage, meals, travel expenses, hourly investigative time, and all incidental expenses associated with monitoring compliance. Monitoring costs shall be considered repayment receipts as defined in Iowa Code section 8.2 as stated in 650—Chapter 15 or such other fees as specified by the board may be included in the settlement agreement.

DENTAL BOARD[650](cont'd)

ITEM 33. Amend rule 650—51.35(272C) as follows:

650—51.35(272C) Disciplinary hearings—fees and costs.

51.35(1) Definitions. As used in this chapter in relation to a formal disciplinary action filed by the board against a licensee:

“*Deposition*” means the testimony of a person pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“*Expenses*” means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“*Medical examination fees*” means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

“*Transcript*” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“*Witness fees*” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72 as the case may be.

51.35(1) Fees. The fees related to a formal disciplinary action filed by the board are specified in 650—Chapter 15.

51.35(2) The board may charge a fee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board. In addition to the fee, the board may recover from the licensee costs for the following procedures and personnel:

a. Transcript.

b. Witness fees and expenses.

c. Depositions.

d. Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147.

51.35(3) Fees and costs assessed by the board pursuant to subrule 51.35(2) shall be calculated by the board’s executive director and shall be entered as part of the board’s final disciplinary order. The board’s final disciplinary order shall specify the time period in which the fees and costs shall be paid by the licensee.

51.35(4) Fees and costs collected by the board pursuant to subrule 51.35(2) shall be allocated to the expenditure category of the board in which the hearing costs were incurred. The fees and costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

51.35(5) 51.35(2) Failure of a licensee, registrant or permit holder to pay the fees and costs assessed herein in 650—Chapter 15 in the time specified in the board’s final disciplinary order shall constitute a violation of a lawful order of the board.

ARC 0126C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 459.207, the Department of Natural Resources hereby gives notice of extension through August 16, 2012, of the public comment period for new Chapter 17, “Compliance and Enforcement Procedures,” Iowa Administrative Code, which formalizes the Department’s current compliance and enforcement options and which was published under Notice of Intended Action in the Iowa Administrative Bulletin on March 21, 2012, as **ARC 0051C**. The comment period is being extended to allow more time to receive stakeholder input.

ARC 0118C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455B.103A and 455B.105(3), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

These proposed amendments to Chapter 64 reissue General Permits Nos. 1, 2 and 3, which authorize the discharge of storm water. General Permits Nos. 1, 2 and 3 were issued in 2007 for a five-year duration and expire October 1, 2012. This action will renew all three permits, extending their coverage another five years to October 1, 2017. General permits for storm water discharges are required to be adopted as rules and are effective for no more than five years as specified in the Iowa Administrative Code. In addition, these amendments strike wording that was inserted in subrule 64.15(2) in error several years ago. The wording was intended by the Commission to be inserted into General Permit No. 2 but was instead inserted into the Iowa Administrative Code.

Several minor changes for clarification are being made in the general permits. Also, substantive changes in General Permit No. 2 are required to implement recent changes in federal regulations published in the Federal Register (FR), Volume 74, No. 229 (74 Fed. Reg. 63057) on December 1, 2009, and implemented in 40 CFR 450.21. Most of the measures in the Federal Register notice are already included in General Permit No. 2. The substantive change being made in General Permit No. 2 involves topsoil preservation at construction sites. The Code of Federal Regulations as amended by the Federal Register notice now requires topsoil preservation “unless unfeasible” at construction sites required to have a permit. Topsoil preservation has not been defined in the federal regulations. For clarity, the Commission has defined “topsoil preservation” as retaining a minimum of 4 inches of topsoil at construction sites when this is consistent with land use practices after construction has been completed. This depth was chosen after consultation with developers and city officials and consultation of the Statewide Urban Design and Specifications manual that stipulates, among other things, design standards for city streets, driveways and sidewalks. The 4-inch topsoil depth requirement is consistent with these specifications and current development practices and will not impede the construction of these types of infrastructure. The Commission believes retention of this depth of topsoil satisfies the federal requirement to preserve topsoil.

The fee structure of the current permits has been retained.

It is not the intent of the Commission that the textual changes in the general permits be adopted in the Iowa Administrative Code but that these changes be made in the general permits themselves, which are adopted by reference into the Iowa Administrative Code.

Copies of the proposed revised General Permit Nos. 1, 2 and 3 are available upon request by writing or calling the Department of Natural Resources at the address or telephone number below.

Any interested party may make written comments on the proposed amendments on or before June 6, 2012. Written comments should be directed to the Storm Water Coordinator, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-8895. People who wish to convey their views orally should contact the Storm Water Coordinator at (515)281-7017 or at the Department’s offices on the fifth floor of the Wallace State Office Building.

A public hearing will be held June 6, 2012, at 10 a.m. in the Third Floor Conference Room of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

After analysis and review of this rule making, no adverse impact on jobs has been found. The Department of Natural Resources included the development and housing industry while narrowly tailoring this rule making to minimize any adverse impact on jobs and maximize any positive impact on jobs. Stakeholders believe there could be a savings for developers and homebuilders in many instances because companies can use existing topsoil on site. A copy of the Jobs Impact Statement is available upon request.

These amendments are intended to implement Iowa Code chapter 455B, division I.

The following amendments are proposed.

ITEM 1. Amend subrule 64.15(1) as follows:

64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective October 1, ~~2007 2012~~, to October 1, ~~2012 2017~~. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

ITEM 2. Amend subrule 64.15(2) as follows:

64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective October 1, ~~2007 2012~~, to October 1, ~~2012 2017~~.

~~a. Part I, provision B, section 1, paragraph A of General Permit No. 2 is amended to read as follows:~~

~~Except for discharges identified under Parts I.B.2. and I.B.3., this permit may authorize the discharge of storm water associated with industrial activity from construction sites, (those sites or common plans of development or sale that will result in the disturbance of one or more acres of total land area),~~

~~b. Part VIII, under the definition: Storm water discharge associated with industrial activity, paragraph (x) of General Permit No. 2 is amended to read as follows:~~

~~Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than one acre of total land area which is not part of a larger common plan of development or sale.~~

ITEM 3. Amend subrule 64.15(3) as follows:

64.15(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective October 1, ~~2007 2012~~, to October 1, ~~2012 2017~~. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

ARC 0119C

REVENUE DEPARTMENT[701]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 231, “Exemptions Primarily of Benefit to Consumers,” Iowa Administrative Code.

The subject matter of rule 701—231.4(423) is the definition and taxability of “candy.” An amendment to the rule is proposed to implement the amendment made by the Streamlined Sales Tax Governing Board to the Streamlined Sales and Use Tax Agreement (SSUTA), as required by the SSUTA, adopted under 2011 Iowa Code chapter 423. The Department must make this amendment in order to maintain compliance with the Agreement. Compliance enables the Department to collect upwards of \$13 million a year from remote sellers.

The proposed amendment to rule 701—231.4(423) adds definitions of “preparation,” “bars,” “drops,” “pieces,” “flour,” “other ingredients or flavorings,” “natural or artificial sweeteners,” and “requires refrigeration” as used in rule 701—231.4(423) and provides examples. The amendment clarifies what “candy, candy-coated items and candy products” are under subrule 231.4(2). It also adds a new subrule 231.4(3) that provides guidance on the taxability of a “bundled transaction,” which is a combination of items that are defined as “candy” and items that are defined as “food and food ingredients” and sold for one non-itemized price. The amendment also updates the implementation clause.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than June 18, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before June 5, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by June 5, 2012.

After analysis and review of this rule making, the Department has determined the proposed amendment will not have an impact on jobs.

This amendment is intended to implement 2011 Iowa Code section 423.3(57).

The following amendment is proposed.

REVENUE DEPARTMENT[701](cont'd)

Amend rule 701—231.4(423) as follows:

701—231.4(423) Sales of candy.

231.4(1) *Definition Definitions.* Sales of candy were excluded from exemption prior to July 1, 2004; however, the definition of “candy” applicable to the exclusion was slightly different from the definition set out in this rule. Reference rule 701—21.1(422,423) 701—20.1(422,423). For the purposes of this rule, “candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration. Any preparation to which flour has been added only for the purpose of excluding its sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. This rule and the following definitions apply to sales of candy on or after July 1, 2004.

a. *Candy.* For the purposes of this rule, “candy” is a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration. Any preparation to which flour has been added only for the purpose of excluding the candy’s sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. This definition is intended to be used when a person is trying to determine if a product that is commonly thought of as “candy” is in fact “candy.” For example, the definition would be applied in a situation where a person is trying to determine if a product is “candy” as opposed to a cookie. The definition is not intended to be applied to every type of food product sold. Many products, such as meat products, breakfast cereals, potato chips, and canned fruits and vegetables are not commonly thought of as “candy.” The definition of “candy” is not applicable to products such as these since they are not commonly thought of as candy.

b. *Preparation.* Candy must be a “preparation” that contains certain ingredients, other than flour. A “preparation” is a product that is made by means of heating, coloring, molding, or otherwise processing any of the ingredients listed in the definition of “candy.” For example, reducing maple syrup into pieces and adding coloring to make maple candy is a form of preparation.

c. *Bars, drops or pieces.* Candy must be sold in the form of bars, drops, or pieces.

(1) A “bar” is a product that is sold in the form of a square, oblong, or similar form. For example, if Company A sells one-pound square blocks of chocolate, the blocks of chocolate are “bars.”

(2) A “drop” is a product that is sold in a round, oval, pear-shaped, or similar form. For example, if Company B sells chocolate chips in a bag, each individual chocolate chip contains all of the ingredients indicated on the label and the chocolate chips are “drops.”

(3) A “piece” is a portion that has the same makeup as the product as a whole. Individual ingredients and loose mixtures of items that make up the product as a whole are not pieces. EXCEPTION: If a loose mixture of different items that make up the product as a whole are all individually considered candy and are sold as one product, that product is also candy.

EXAMPLE 1: Company C sells jellybeans in a bag. Each jellybean is made up of the ingredients indicated on the label. Each jellybean is a “piece” or “drop.”

EXAMPLE 2: Company D sells trail mix in a bag. The product being sold (trail mix) is made up of a mixture of carob chips, peanuts, raisins, and sunflower seeds. The individual items that make up the trail mix are not “pieces,” but instead are the ingredients, which, when combined, make up the trail mix. Therefore, the trail mix is not sold in the form of bars, drops, or pieces.

EXAMPLE 3: Company E sells a product called “candy lovers mix.” Candy lovers mix is a product that is made up of a loose mixture of jellybeans, toffee, and caramels. Individually, the jellybeans, toffee, and caramels are all candy. The sale of the mixture is the sale of candy since all of the individual items that make up the product are individually considered to be candy.

EXAMPLE 4: Company F sells cotton candy which is packaged and sold in grocery stores. Cotton candy contains sugar, corn syrup, water, coloring, and flavoring; it does not contain flour. Cotton candy is not “candy” because it is not sold in the form of a bar, drop, or piece. Cotton candy is, however, “prepared food” under Iowa Code section 423.3(57)“f.”

REVENUE DEPARTMENT[701](cont'd)

d. Flour. In order for a product to be treated as containing “flour,” the product label must specifically list the word “flour” as one of the ingredients. There is no requirement that the “flour” be grain-based, and it does not matter what the flour is made from. Many products that are commonly thought of as “candy” contain flour, as indicated on the ingredient label and therefore are specifically excluded from the definition of “candy.” Ingredient labels must be examined to determine which products contain flour and which products do not contain flour. Any preparation to which flour has been added only for the purpose of excluding its sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. For example, a candy bar that contains flour, for a legitimate purpose, is excluded from the definition of “candy.”

EXAMPLE 1: The ingredient list for a breakfast bar lists “flour” as one of the ingredients. This breakfast bar is not “candy” since it contains flour.

EXAMPLE 2: The ingredient list for a breakfast bar lists “peanut flour” as one of the ingredients. This breakfast bar is not “candy” because it contains flour.

EXAMPLE 3: The ingredient list for a breakfast bar that otherwise meets the definition of “candy” lists “whole grain” as one of the ingredients, but does not specifically list “flour” as one of the ingredients. This breakfast bar is “candy” because the word “flour” is not included in the ingredient list.

EXAMPLE 4: Company E sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates identifies flour as one of the ingredients. The box of chocolates is not “candy” since flour is identified as one of the ingredients on the label.

EXAMPLE 5: Company F sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates, which otherwise meets the definition of “candy,” does not identify flour as one of the ingredients. The box of chocolates is “candy.”

EXAMPLE 6: Company G sells high-end licorice—licorice A and licorice B. Licorice A would otherwise be “candy,” but its wrapper lists “flour” as an ingredient. Licorice A is not “candy.” Licorice B is the same as licorice A, except it does not contain “flour.” Licorice B is “candy.”

e. Other ingredients or flavorings. “Other ingredients or flavorings” as used in this rule means other ingredients or flavorings that are similar to chocolate, fruits or nuts. This phrase includes candy coatings such as carob, vanilla and yogurt; flavorings or extracts such as vanilla, maple, mint, and almond; and seeds and other items similar to the classes of ingredients or flavorings. This phrase does not include meats, spices, seasonings such as barbeque or cheddar flavor, or herbs which are not similar to the classes of ingredients or flavorings associated with chocolate, fruits, or nuts, unless the product otherwise meets the definition of “candy.”

EXAMPLE 1: Retailer A sells barbeque-flavored peanuts. The ingredient label for the barbeque-flavored peanuts indicates that the product contains peanuts, sugar and various other ingredients, including barbeque flavoring. Since the barbeque-flavored peanuts contain a combination of sweeteners and nuts, and flour is not listed on the label and the nuts do not require refrigeration, barbeque-flavored peanuts are “candy.”

EXAMPLE 2: Retailer B sells barbeque potato chips. Potato chips are potatoes, a vegetable, and are not commonly thought of as candy. The barbeque potato chips are “food and food ingredients” and not “candy.” The fact that the ingredient label for the barbeque potato chips indicates that the product contains barbeque seasoning which contains a sweetener does not change the fact that the barbeque potato chips are not commonly thought of as candy.

f. Sweeteners. The term “natural or artificial sweeteners” as used in this rule means an ingredient of a food product that adds a sugary sweetness to the taste of the food product and includes, but is not limited to, corn syrup, dextrose, invert sugar, sucrose, fructose, sucralose, saccharin, aspartame, stevia, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, maltitol, agave, and artificial sweeteners.

g. Refrigeration. A product that otherwise meets the definition of “candy” is not “candy” if it requires refrigeration. A product “requires refrigeration” if it must be refrigerated at the time of sale or after being opened. In order for a product to be treated as requiring refrigeration, the product label must indicate that refrigeration is required. If the label on a product that contains multiple servings indicates that it “requires refrigeration,” smaller size packages of the same product are also considered to “require

REVENUE DEPARTMENT[701](cont'd)

refrigeration.” A product that otherwise meets the definition of “candy” is “candy” if the product is not required to be refrigerated, but is sold refrigerated for the convenience or preference of the customer, retailer, or manufacturer.

EXAMPLE 1: Company A sells sweetened fruit snacks in a bag that contains multiple servings. The label on the bag indicates that after opening, the sweetened fruit snacks must be refrigerated. The sweetened fruit snacks “require refrigeration.”

EXAMPLE 2: Company A sells sweetened fruit snacks in single-serving containers. Other than for packaging, the sweetened fruit snacks are identical to the sweetened fruit snacks in Example 1 above. However, since this container of sweetened fruit snacks only contains one serving, it is presumed that it will be used immediately, and the label does not indicate that after opening, the product must be refrigerated. Even though the label does not contain the statement that after opening the sweetened fruit snacks must be refrigerated, these sweetened fruit snacks are considered to “require refrigeration.”

EXAMPLE 3: Company A sells chocolate truffles. The label on the truffles indicates to keep the product cool and dry, but does not indicate that the product must be refrigerated. Since the chocolate truffles are not required to be refrigerated, even though the label indicates to keep them cool, the chocolate truffles do not “require refrigeration.”

231.4(2) Candy, candy-coated items and candy products. Candy-coated items and candy products include those products normally considered to be “candy.” Their sales were taxable prior to July 1, 2004, and remain taxable after that date.

a. Candy. Candy is a prepared food made of a sugar paste or syrup or other natural or artificial sweeteners often enriched and varied with coloring and flavoring and formed into various shapes.

b. Candy-coated items. Candy-coated items are products like fruit or nuts which are dipped or otherwise substantially covered with candy and which would normally be considered candy and which are “candy” under the definition set out in subrule 231.4(1).

c. Candy products. Candy products include mixtures containing both candy and noncandy items. The inclusion of candy merely as an incidental ingredient in a product does not make the item a candy product.

d. Taxable candy, candy-coated items, and candy products. Candy, candy-coated items, and candy products include: preparation of fruits, nuts or other ingredients in combination with sugar, honey or other natural or artificial sweeteners in the form of bars, drops or pieces; caramel-coated or other candy-coated apples or other fruit; candy-coated popcorn; hard or soft candies including jelly beans, taffy, licorice not containing flour, marshmallows, and mints; dried fruit leathers or other similar products prepared with natural or artificial sweeteners; ~~cotton candy~~; candy breath mints; chewing gum; and mixes of candy pieces, dried fruits, nuts, and similar items.

Sales of items which are normally sold for use as ingredients in recipes but which can be eaten as candy are taxable on and after July 1, 2004. Examples of these items include but are not limited to the following: white, milk, and German chocolate baking squares; unsweetened or sweetened baking chocolate in bars or pieces; white and dark chocolate almond bark; toffee bits; M&M’s sold for baking; candy primarily intended for decorating baked goods; and the following baking chips: mint, mint-chocolate, peanut butter, peanut butter and chocolate, butterscotch, chocolate, and butterscotch and chocolate.

e. Nontaxable items and products. Candy, candy-coated items, or candy products do not include: jams, jellies, preserves, or syrups; frostings; dried fruits; ~~marshmallows~~; breakfast cereals; prepared fruit in a sugar or similar base; ice cream or other frozen desserts covered with chocolate or similar coverings; ~~caramel-coated or other candy-coated apples or other fruit; candy-coated popcorn; cotton candy~~; cakes, cookies, and similar products covered with chocolate or other similar coating; and granola bars. However, these and similar items are taxable if sold as prepared food under rule 701—231.5(423).

231.4(3) Bundled transaction including candy. “Bundled transaction” is defined as the retail sale of two or more products, except real property and services to real property, where (1) the products are otherwise distinct and identifiable and (2) the products are sold for one non-itemized price.

a. Candy and food. Products that are a combination of items that are defined as “candy” under this rule and items that are defined as “food and food ingredients” under rule 701—231.3(423) are “bundled

REVENUE DEPARTMENT[701](cont'd)

transactions” when the items are distinct and identifiable and are sold for one non-itemized price. For example, a bag of multiple types of individually wrapped bars that is sold for one price is two or more distinct and identifiable products sold for one non-itemized price. For purposes of determining whether such a bag of individually wrapped bars is a “bundled transaction,” the following criteria apply:

(1) Ingredients listed separately.

1. If a package contains individually wrapped bars, drops, or pieces and the product label on the package separately lists the ingredients for each type of bar, drop, or piece included in the package, those bars, drops, or pieces that have “flour” listed as an ingredient are “food and food ingredients” and those bars, drops, or pieces which do not have “flour” listed as an ingredient are “candy.” The determination of whether the package as a whole meets the definition of “bundled transaction” is based on the percentage of bars, drops, or pieces that meet the definition of “food and food ingredient” as compared to the percentage of bars, drops, or pieces that meet the definition of “candy.”

2. Determining the percentage. For purposes of determining the percentage of the sales price or purchase price of the bars, drops, or pieces that meet the definition of “candy” as compared to all of the bars, drops, or pieces contained in the package, the retailer may presume that each bar, drop, or piece contained in the package has the same value.

3. Presumption of product amount. A retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise.

EXAMPLE 1: Retailer A sells a package that contains 100 total pieces of food and food ingredients. There are ten different types of foods and food ingredients in the package. Eight of the types of food and food ingredients included in the package meet the definition of “candy,” while two of the types included do not meet the definition of “candy.” It is a reasonable presumption that 20 (2/10 times 100) of the pieces are not “candy” and 80 (8/10 times 100) of the pieces are “candy.” Therefore, since 80 percent of the product is “candy,” the retailer shall treat the entire package as a bundled transaction containing primarily “candy.” Sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8).

EXAMPLE 2: Retailer B sells bulk food and food ingredients by the pound. Each food and food ingredient is in a separate bin or container. Some of the food and food ingredients are “candy” and some of them are not because they contain flour. However, regardless of the items chosen, the retailer charges the customer \$3.49/lb. Customer C selects some items that are “candy” and some that are not and puts them in a bag. Since some of the items in the bag are “candy,” the retailer shall treat the entire package as a bundled transaction containing primarily “candy,” unless the retailer ascertains that 50 percent or less of the items in the bag are “candy.” Even if the retailer ascertains that 50 percent or less of the items in the bag are “candy,” sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8).

(2) Ingredients listed together. If a package contains individually wrapped bars, drops, or pieces and all of the ingredients for each of the products included in the package are listed together, as opposed to being listed separately by each product included as explained in subparagraph (1) above, and even if the ingredient lists “flour” as an ingredient, the product will be treated as “candy,” unless the retailer is able to ascertain that 50 percent or less of the products are “candy.” Even if the retailer ascertains that 50 percent or less of the items in the bag are “candy,” sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8).

The retailer may presume that each bar, drop, or piece contained in the package has the same value. The retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise.

b. *Combination of ingredients.* Products whose ingredients are a combination of various unwrapped food ingredients that alone are not “candy,” along with unwrapped food ingredients that alone are “candy,” such as breakfast cereal and trail mix with candy pieces, are considered “food and food ingredients,” but not “candy.” Sales of these products are not “bundled transactions” because there are not two or more distinct and identifiable products being sold. The combination of the ingredients results in a single product.

This rule is intended to implement ~~2005~~ 2011 Iowa Code subsection 423.3(56) 423.3(57).

ARC 0127C

SOIL CONSERVATION DIVISION[27]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Financial Incentive Program for Soil Erosion Control,” Iowa Administrative Code.

The proposed amendments conform the rules to statutory changes made in 2012 Iowa Acts, Senate File 2311, effective July 1, 2012. In the current rules, the time period for determining if the land has been plowed or used for row crops is 1966 to 1981; the proposed amendments would change the time period to “the prior 15 years.” This determination is used in calculating the amount of cost-share funds available for conservation practices.

Any interested persons may make written suggestions or comments on the proposed amendments on or before June 5, 2012. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division’s general waiver provisions.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement 2012 Iowa Acts, Senate File 2311, section 18.

The following amendments are proposed.

ITEM 1. Amend rule **27—10.20(161A)**, definition of “Conservation cover,” as follows:

“*Conservation cover*” means that if a tract of agricultural land has not been plowed or used for growing row crops at any time within the prior 15 years ~~prior to January 1, 1981~~, it shall be classified as agricultural land under conservation cover.

ITEM 2. Amend subrule 10.60(6) as follows:

10.60(6) Conservation cover. Cost share for certain lands is restricted by Iowa Code chapter 161A. Each tract of agricultural land which has not been plowed or used for growing row crops at any time within the prior 15 years ~~prior to January 1, 1981~~, shall be considered classified as agricultural land under conservation cover. “Agricultural land” has the meaning assigned that term by Iowa Code section 9H.1. If any tract of land so classified is thereafter plowed or used for growing row crops, the district commissioners shall not approve use of state cost-share funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-share funds which would be available for that land if it were not classified as agricultural land under conservation cover. This restriction shall apply even if an administrative order or court order has been issued requiring establishment of conservation practice.

ARC 0121C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 61, "Water Quality Standards," Iowa Administrative Code.

This amendment provides water quality certification pursuant to Section 401 of the federal Clean Water Act (33 U.S.C. Section 1341) for U.S. Army Corps of Engineers' 2012 Nationwide Permits (NWP) and the associated conditions and definitions.

Section 404 of the Clean Water Act (CWA) requires a permit from the Corps of Engineers (Corps) for the discharge of dredged or fill materials into the nation's waters. Section 401 of the CWA requires that before the Corps can issue a Section 404 permit, the state water quality agency must certify that the proposed activity will not violate state water quality standards.

Section 404 authorizes the Corps to issue general permits on a state, regional or nationwide basis for categories of activities where such activities will have minimal adverse effects. The Corps has used its general permit authority to issue a number of general permits on a nationwide basis (i.e., NWP). General permits, including NWP, can be issued for a period not exceeding five years, and a state water quality agency must provide Section 401 certification for a Section 404 general permit before the general permit is valid for that particular state. The Commission previously provided Section 401 certification for the existing NWP and regional permits. These permits are referenced in paragraph 61.2(2)"g."

The Corps issued the final 2012 Nationwide Permits (NWP) in the Federal Register on February 21, 2012. The Corps allowed one NWP to expire and not be reissued. This NWP was never used in Iowa. The Corps issued two new NWP. The Rock Island District deleted a Regional Condition to be used within the state of Iowa that has been incorporated into the NWP at the Corps Headquarters level. This amendment provides Section 401 certification for the modified and new NWP, conditions and definitions.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 8, 2012, as **ARC 9998B**. Changes were made to Notice based upon the comments received on March 13, 2012. A new Iowa Section 401 Water Quality Certification condition dealing with heavy equipment use in stream channels was added to Chapter 61 (new subparagraph 61.2(2)"g"(9)), and the Category 4c Impaired Waters list is being added to the special waters of concern for coordination with the Department before the Corps takes action on applications for projects impacting those water bodies. No other changes were made from the Notice of Intended Action.

With the adoption of this amendment, the DNR is certifying the nationwide permits, general conditions and definitions.

After analysis and review of this rule making, there should be a positive impact on jobs. This amendment is intended to have a positive impact on small businesses. The Iowa certification of the NWP will reduce the regulatory burden on permit applicants by allowing these businesses to avoid individual certifications for their projects. The adoption of this amendment will allow projects to proceed more rapidly and should therefore allow more projects to be undertaken and completed, thus boosting economic activity.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

This amendment will become effective on June 20, 2012.

The following amendment is adopted.

Amend paragraph **61.2(2)"g"** as follows:

g. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. United States Army Corps of Engineers (Corps)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, ~~and 50, 51, and 52~~ as well as Corps regional permits 7, 27, 33, and 34 as promulgated ~~February 16, 2011~~ June 20, 2012, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:

(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.

(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.

(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into waters of the United States.

~~(4) For discharges of dredged or fill material resulting in the permanent loss of more than 1/10 acre of waters of the United States (including jurisdictional wetlands), a compensatory mitigation plan to offset those losses will be required. In addition, a preconstruction notice to the Corps of Engineers in accordance with general condition 27 will be required.~~

~~(5)~~ (4) For newly constructed channels through areas that are unvegetated, native grass filter strips, or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.

~~(6)~~ (5) For single-family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.

~~(7)~~ (6) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.

~~(8)~~ (7) For projects that impact an outstanding national resource water, outstanding Iowa water, fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

~~(9)~~ (8) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

(9) Heavy equipment shall not be used or operated within the stream channel. If in-stream work is unavoidable, it shall be performed in such a manner as to minimize the duration of the disturbance, turbidity increases, substrate disturbance, bank disturbance, and disturbance to riparian vegetation. This condition does not further restrict otherwise authorized drainage ditch maintenance activities (Iowa Section 401 Water Quality Certification condition).

Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide ~~permit~~ permits or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require a preconstruction notice under nationwide permit conditions.

[Filed 4/24/12, effective 6/20/12]

[Published 5/16/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/16/12.

ARC 0120C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 103.6, the Electrical Examining Board hereby amends Chapter 502, "Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees," and Chapter 552, "Electrical Inspection Program—Permits and Inspections," Iowa Administrative Code.

Iowa Code chapter 103 establishes the Electrical Examining Board and assigns it responsibility to establish and operate the statewide Electrician and Electrical Contractor Licensing Program and Electrical Inspection Program and to adopt administrative rules for these programs. The amendments adopted herein are intended to accomplish three things: (1) to clarify the requirements for an electrician to obtain an Iowa journeyman electrician license without having to take an examination, based upon the electrician's being licensed in another state which has entered into a reciprocity agreement with the Iowa Electrical Examining Board, (2) to clarify the circumstances under which issuance of a new or renewal license may be denied based upon the licensee's failure to pay fees which are due, and (3) to spell out the consequences of failure to pay fees resulting from the modification of a permit for electrical installation work.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0038C** on March 7, 2012. A public hearing was held on the proposed amendments, and no comments on the amendments were received at the hearing or otherwise. The Board made only one minor change in subparagraph 502.2(14)"e"(2) to clarify the provision for licensees qualifying for issuance of a license based upon work experience as an electrician rather than completion of an approved apprenticeship program.

Any fiscal impact of these amendments is anticipated to be less than \$100,000 annually.

After analysis and review of this rule making, there should be a positive impact on jobs. This rule making lessens the burden for electricians to enter into Iowa's market, simplifying the examination process. Further, this rule making should allow Iowans to obtain business in other markets. The Board will continue to work with stakeholders to maximize this rule making's positive impact on jobs.

These amendments are intended to implement Iowa Code chapter 103.

These amendments will become effective on July 1, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 502.2(14) as follows:

502.2(14) Reciprocal licensing. A journeyman class A license may be issued, without examination, to a person who holds a license from another state provided that:

a. the The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and that the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued. ~~The person applying for an Iowa license based on this subrule shall provide a copy of the license from the other state, a completed application for an Iowa license, and the applicable license fee. The board may require additional evidence that the person's license is current.; and~~

b. The applicant has successfully completed a supervised written examination approved by the other state with a score of 75 or higher in order to obtain the license from the other state; and

c. The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

d. The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

PUBLIC SAFETY DEPARTMENT[661](cont'd)

- (4) The sworn affidavit required under subparagraph 502.2(14)“e”(2), if applicable; and
 (5) Any other information required by the board; and
 e. The applicant has either:
 (1) Completed an approved apprenticeship program; or
 (2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, as documented by submission of a sworn affidavit signed by the applicant.

ITEM 2. Adopt the following **new** subrule 502.4(6):

502.4(6) The applicant has unpaid fees due to the board which are 120 days or more past due. The license for which the applicant applied may be issued after the fees are paid if the applicant is not otherwise disqualified from obtaining the license.

ITEM 3. Adopt the following **new** subrule 552.2(4):

552.2(4) Modification of permits and failure to pay inspection fees. Inspection fees will normally be paid at the time a permit is obtained. However, additional fees may apply if a permit is modified by an inspector, based upon inspection of the electrical installation. The person who obtained the original permit shall be notified immediately by the inspector of the modification and of the amount of any additional fees which are due. Any additional fees shall be due at the time the person responsible for payment receives notification of modification of the permit.

a. If an additional fee or portion of the fee is more than 60 days past due, the staff of the board shall notify the person responsible for payment of the fee of the necessity of promptly making the payment.

b. If an additional fee or portion of the fee is more than 120 days past due, the secretary of the board may suspend the ability of the person responsible for the payment to obtain inspection permits. The secretary shall restore the person’s ability to obtain permits when payment of the past due amount has been received. Suspension of a person’s ability to obtain permits may be appealed to the board as provided in rule 661—503.4(103).

c. If payment of a fee or portion of a fee is more than 180 days past due, the board may refer the debt for collection to the department of revenue pursuant to Iowa Code chapter 272D.

[Filed 4/23/12, effective 7/1/12]

[Published 5/16/12]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/16/12.

ARC 0124C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby amends Chapter 151, “Collection of Debts Owed to the State of Iowa or a State Agency,” Iowa Administrative Code.

The new rule is intended to implement Iowa Code section 421.17(32), the Director’s authority to subpoena certain records from utility companies. These records will be used to assist the Department in locating individuals who have a debt or obligation placed with the centralized collection unit of the Department. Subpoenas for these records will be issued when the Department, through reasonable efforts, has been unable to locate these individuals.

The new rule provides more specific guidance on the procedures to be followed by both the Department and the utility company when such a subpoena is issued. This rule ensures consistency in Department procedures for issuing such subpoenas. The rule also provides better guidance to utilities about their rights and obligations with regard to such subpoenas. Finally, the prescribed procedures help ensure that account information is handled in a secure and confidential manner.

The amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions. Any person who believes that the application of

REVENUE DEPARTMENT[701](cont'd)

the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 21, 2012, as **ARC 0052C**. The Department received written comments from the Iowa Telecommunications Association. After meeting with a representative from the Association, the Department has incorporated many of the Association's suggestions and made additional clarifications as follows:

1. Added a definition of "utility" so that it can be used in the rule instead of repeatedly using the term "public or private utility company."
2. Added the term "data transfer" to the catchwords for subrule 151.9(2) to better reflect the content of the subrule.
3. Provided a better description of the actual process and procedures of the Department and utilities by adding new paragraph 151.9(2)"a" and amending relettered paragraphs "b" and "c" of subrule 151.9(2).

After review, the Department has determined this rule will not have an impact on jobs.

This amendment is intended to implement Iowa Code section 421.17(32).

This amendment will become effective June 20, 2012.

The following amendment is adopted.

Adopt the following **new** rule 701—151.9(421):

701—151.9(421) Subpoena of records from public or private utility companies. The director may, to the extent permissible by federal law, subpoena certain records held by a public or private utility company with respect to an individual who has a debt or obligation placed with the centralized collection unit of the department. This authority may be used only after reasonable efforts have been made by the centralized collection unit of the department to locate the individual.

151.9(1) Definitions.

a. "Public or private utility company" means a public utility, cable, video, or satellite television company, cellular telephone company, or Internet service provider.

b. "Reasonable efforts," for purposes of this rule, will be considered complete when the following procedures have been performed by the department:

- (1) The department has received returned and undeliverable mail sent to the individual's most recent address known to the department; and
- (2) The department has attempted to reach the individual at the listed telephone number and discovered that the telephone number is incorrect or the telephone has been disconnected.

c. "Utility" means the same as "public or private utility company" as defined in paragraph 151.9(1)"a."

151.9(2) Procedure for issuing a subpoena; data transfer.

a. The department will contact the utility to obtain agreement upon the subpoena process; the form, format and transmission method of a secure data file; and the schedule for both the subpoena and the data.

b. The department shall submit the subpoena to the utility's designated recipient on or before the date a secure data file is submitted for processing. The subpoena will include the director's authority to make the request, the name of the file submitted for processing, the information to be provided for each individual, the expected response date, and the department's contact information. The data file provided to the utility by the department will include social security numbers, names, and last-known addresses in the mutually agreed-upon format.

c. Upon receipt of the department's data file, the utility will match the data file against its current customer information and return to the department the current last name, first name, middle name, address 1, address 2, city, state, ZIP code and telephone number for any current customer information that matches the social security number and designated characters of the last name as provided by the department. The department will not request or require any information from the utility other than the current address and telephone number.

REVENUE DEPARTMENT[701](cont'd)

d. Within 30 days of receiving the department's data file, the utility will process and return the data file to the department using the agreed-upon secure file transfer process.

e. When the data file is returned, the department will match the returned data with the social security number and designated characters of the current customer's last name before updating its collections system with the new address or telephone number.

f. The department will use the address and telephone number received from the utility to contact the individual for collection purposes.

151.9(3) Confidentiality. The utility must keep confidential all records received from the department. After the department has received the requested information from the utility, the utility must delete the data files it received in a secure manner. The department must keep confidential all records received from the utility in compliance with all applicable state and federal laws regarding individual privacy and the privacy rights of public and private utility companies.

This rule is intended to implement Iowa Code section 421.17(32).

[Filed 4/25/12, effective 6/20/12]

[Published 5/16/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/16/12.



House Joint Resolution 2008

A JOINT RESOLUTION

NULLIFYING A DEPARTMENT OF HUMAN SERVICES RULE RELATING TO REIMBURSEMENT OF PHYSICIANS FOR SERVICES RENDERED IN A FACILITY SETTING, AND INCLUDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. The amendment to 441 Iowa administrative code, rule 79.1, subrule (7), paragraph (b), as appearing in ARC 9959B, as published in the Iowa administrative bulletin, volume XXXIV, number 14, dated January 11, 2012, p. 968, is nullified.

Sec. 2. EFFECTIVE UPON ENACTMENT. This joint resolution, being deemed of immediate importance, takes effect upon enactment.

A handwritten signature in cursive script, appearing to read 'Craig Paulsen', written over a horizontal line.

KRAIG PAULSEN
Speaker of the House

A handwritten signature in cursive script, appearing to read 'John P. Kibbie', written over a horizontal line.

JOHN P. KIBBIE
President of the Senate

I hereby certify that this joint resolution originated in the House and is known as House Joint Resolution 2008, Eighty-fourth General Assembly.

A handwritten signature in cursive script, appearing to read 'W. Charles Smithson', written over a horizontal line.

W. CHARLES SMITHSON
Chief Clerk of the House