

# IOWA ADMINISTRATIVE BULLETIN

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Pages 1389 to 1420

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MAR 21 2000



## Schedule for Rule Making 2000

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. 24 '99	Jan. 12 '00	Feb. 1 '00	Feb. 16 '00	Feb. 18 '00	Mar. 8 '00	Apr. 12 '00	July 10 '00
Jan. 7	Jan. 26	Feb. 15	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 21	Feb. 9	Feb. 29	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 4	Feb. 23	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 18	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sept. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sept. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 12	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	June 23	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sept. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sept. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Aug. 18	Sept. 6	Oct. 11	Jan. 8 '01
July 7	July 26	Aug. 15	Aug. 30	Sept. 1	Sept. 20	Oct. 25	Jan. 22 '01
July 21	Aug. 9	Aug. 29	Sept. 13	Sept. 15	Oct. 4	Nov. 8	Feb. 5 '01
Aug. 4	Aug. 23	Sept. 12	Sept. 27	Sept. 29	Oct. 18	Nov. 22	Feb. 19 '01
Aug. 18	Sept. 6	Sept. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 5 '01
Sept. 1	Sept. 20	Oct. 10	Oct. 25	Oct. 27	Nov. 15	Dec. 20	Mar. 19 '01
Sept. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 10	Nov. 29	Jan. 3 '01	Apr. 2 '01
Sept. 29	Oct. 18	Nov. 7	Nov. 22	Nov. 24	Dec. 13	Jan. 17 '01	Apr. 16 '01
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 8	Dec. 27	Jan. 31 '01	Apr. 30 '01
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Dec. 22	Jan. 10 '01	Feb. 14 '01	May 14 '01
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '01	Jan. 5 '01	Jan. 24 '01	Feb. 28 '01	May 28 '01
Nov. 24	Dec. 13	Jan. 2 '01	Jan. 17 '01	Jan. 19 '01	Feb. 7 '01	Mar. 14 '01	June 11 '01
Dec. 8	Dec. 27	Jan. 16 '01	Jan. 31 '01	Feb. 2 '01	Feb. 21 '01	Mar. 28 '01	June 25 '01
Dec. 22	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5 '01	Jan. 24 '01	Feb. 13 '01	Feb. 28 '01	Mar. 2 '01	Mar. 21 '01	Apr. 25 '01	July 23 '01

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
21	Friday, March 31, 2000	April 19, 2000
22	Friday, April 14, 2000	May 3, 2000
23	Friday, April 28, 2000	May 17, 2000

**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.

## PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies  
FROM: Kathleen K. Bates, Iowa Administrative Code Editor  
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the processing of rule-making documents, we request a 3.5" High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, 1st Floor, Lucas State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

2. Alternatively, if you have Internet E-mail access, you may send your document as an attachment to an E-mail message, addressed to both of the following:

bcarr@legis.state.ia.us  
kbates@legis.state.ia.us

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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### IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM 1999 WINTER EDITION

Containing: **Iowa Administrative Code** (updated through December 1999)  
**Iowa Administrative Bulletins** (July 1999 through December 1999)  
**Iowa Court Rules** (updated through December 1999)

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State Capitol  
Des Moines, Iowa 50319  
Telephone: (515)281-3566 Fax: (515)281-8027  
[lsbinfo@staff.legis.state.ia.us](mailto:lsbinfo@staff.legis.state.ia.us)

*Guide to Rule Making, June 1995 Edition*, available upon request to the Iowa Administrative Code Division,  
Lucas State Office Building, First Floor, Des Moines, Iowa 50319.

The Administrative Rules Review Committee will hold a special meeting on Friday, April 7, 2000, at 8 a.m. in Room 118, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

Bulletin

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Retailers prohibited from selling motor vehicle fuel containing greater than 2 percent MTBE, 85.33, Notice **ARC 9724A** . . . . . 3/8/00

**CIVIL RIGHTS COMMISSION[161]**

Discrimination in housing, 9.6(3), 9.6(4), 9.10(1), Filed **ARC 9730A** . . . . . 3/22/00

**COMMUNITY ACTION AGENCIES DIVISION[427]**

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Application period for low-income home energy assistance program, 10.4, Filed Emergency **ARC 9736A** . . . . . 3/22/00

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

CEBA wage threshold, 53.2, 53.6(1)"f" and "i," Notice **ARC 9726A** . . . . . 3/8/00

Iowa export trade assistance program, 68.2 to 68.4, 68.5(3), 68.7, Notice **ARC 9725A** . . . . . 3/8/00

**EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Temporary one-year classroom monitor authorization pilot program, 14.35, Notice **ARC 9727A** . . . . . 3/8/00

**EDUCATION DEPARTMENT[281]**

Open enrollment, 17.2, 17.3(1), 17.3(2), 17.4, 17.4(1)"a," 17.4(2)"a"(4), 17.7, 17.8(6), 17.8(7), 17.10(7), Filed **ARC 9707A** . . . . . 3/8/00

Access to a school breakfast program, ch 69 division I, 69.1 to 69.10, ch 69 division II, 69.11 to 69.16, Filed **ARC 9708A** . . . . . 3/8/00

**EMERGENCY MANAGEMENT DIVISION[605]**

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Enhanced wireless 911 service plan, 10.7, Filed **ARC 9740A** . . . . . 3/22/00

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Maximum annual Title V operating permit fee, 22.106(1), Filed **ARC 9745A** . . . . . 3/22/00

Adoption by reference—national emission standards for hazardous air pollutants (NESHAPs) and generic national standards for emission control, 23.1(4), Filed **ARC 9744A** . . . . . 3/22/00

**GENERAL SERVICES DEPARTMENT[401]**

Organization and operation of Terrace Hill, 14.1, 14.2, 14.3(2), 14.3(3), 14.7(3), Filed Emergency **ARC 9731A** . . . . . 3/22/00

**HUMAN SERVICES DEPARTMENT[441]**

County management plans for mental health, mental retardation, and developmental disability services, ch 25 division II, 25.11 to 25.19, Filed **ARC 9705A** . . . . . 3/8/00

Reporting and verification of changes in income; determination of self-employment income, 40.21, 40.27(2)"a," 41.27(1)"i," 41.27(2), 41.27(2)"q," 75.50, 75.52(2)"a," 75.57(1)"f," 75.57(2), 75.57(2)"i," Notice **ARC 9737A** . . . . . 3/22/00

Annual adjustments to amount of resources attributable to community spouse and amount used to determine maintenance needs of community spouse; state supplementary assistance program annual increases, 51.4(1), 51.7, 52.1(1) to 52.1(3), 52.1(3)"a"(2), 75.5(3)"d," 75.16(2)"d"(3), 177.4(3), 177.4(7), 177.4(8)"b," Filed **ARC 9704A** . . . . . 3/8/00

Transitional Medicaid—complete quarterly report, 75.1(31)"h," 75.1(31)"i"(1), Filed **ARC 9703A** . . . . . 3/8/00

Medicaid reimbursement rate for non-state-owned nursing facilities, 81.6(16)"d," Notice **ARC 9710A** . . . . . 3/8/00

Child care services—payment when parent is in academic or vocational training, 170.2(2)"b," 170.2(2)"b"(1), Filed **ARC 9702A** . . . . . 3/8/00

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Asbestos control procedures; licensing of business entities, licensing of training courses, and worker certification; asbestos removal and encapsulation, rescind chs 81 and 82, adopt ch 155, Notice **ARC 9741A** . . . . . 3/22/00

**LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Continuing education, 3.1, 3.2(1) to 3.2(4), 3.3, 3.5, 3.7, Filed **ARC 9723A** . . . . . 3/8/00

**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Lands and waters conservation fund program—application deadline,

27.5(2), 27.5(5), <u>Filed Emergency ARC 9714A</u> .....	3/8/00
Increased horsepower limit on Lake Icaria in Adams County, 40.20, <u>Filed ARC 9711A</u> .....	3/8/00
Operation of motor vehicles in meandered streams—addition of Des Moines river segment to meandered streams list, 49.5"1" to "11," <u>Filed ARC 9712A</u> .....	3/8/00
Use of nontoxic shot on wildlife areas—addition of South Twin Lake and Chichaqua to list, 51.9, <u>Notice ARC 9720A</u> .....	3/8/00
Scuba and skin spearing of rough fish—update of legal descriptions of meandered stream locations, 83.2(1)"e" and "k," <u>Filed ARC 9713A</u> .....	3/8/00
Waterfowl and coot hunting seasons, 91.1, 91.3, 91.4(2)"m" and "o," 91.5(1)"c"(2), 91.6, <u>Notice ARC 9719A</u> .....	3/8/00
Wild turkey fall hunting, 99.2(2), 99.2(3), <u>Notice ARC 9721A</u> .....	3/8/00
Deer hunting, 106.1(4), 106.2(4), 106.3(3), 106.4(4), 106.4(5), 106.5(1)"b," 106.5(2), 106.6(3)"a," 106.6(6), 106.8(1), 106.8(2), 106.8(4), <u>Notice ARC 9722A</u> .....	3/8/00

**PERSONNEL DEPARTMENT[581]**IPERS, 21.4(2), 21.11(9), Filed Emergency ARC 9728A .....

3/8/00

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]**Remedial claims, 11.1(3)"r," 11.1(5)"f," Notice ARC 9747A .....

3/22/00

**PHARMACY EXAMINERS BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Pharmacist license certificates, 3.2, Filed ARC 9732A .....

3/22/00

Definition of "pharmacist preceptor," 4.1, Filed ARC 9733A .....

3/22/00

Disposal of waste materials containing patient-specific or confidential information;

clarification of patient counseling requirements, 8.5(5), 8.20(2), 8.32(6), Filed ARC 9734A .....

3/22/00

Time limit for reporting of disciplinary action taken against a license, registration, or permit

by another state, territory, or country, 36.1(4)"k," Filed ARC 9735A .....

3/22/00

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Waivers or variances from administrative rules, ch 18, Notice ARC 9502A Terminated ARC 9743A .....

3/22/00

Speech pathology and audiology examiners, 300.6(2), 301.4(1)"e," 301.4(3), Filed ARC 9709A .....

3/8/00

**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Business conduct, 1.1, 1.27(1)"c," 1.27(15), 1.41, 1.42(6)"i" and "j," Filed ARC 9739A .....

3/22/00

**REVENUE AND FINANCE DEPARTMENT[701]**

Practice and procedure before the department—power of attorney, 7.34(2), 7.34(6), 7.34(9), 7.34(11),

7.34(13) to 7.34(15), Notice ARC 9718A .....

3/8/00

**SECRETARY OF STATE[721]**

Election forms and instructions—plan III supervisor district candidate signatures after a change

in the number of supervisors, 21.601, Notice ARC 9604A Terminated ARC 9742A .....

3/22/00

**TRANSPORTATION DEPARTMENT[761]**License examination—waiver of knowledge and driving tests, 604.21(2), 604.31(2), Notice ARC 9715A .....

3/8/00

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Individual meter measurement, 19.3(1)"b" to "e," 20.3(1)"b" to "e," Notice ARC 9716A .....

3/8/00

Disconnection and reconnection, 19.4(15)"i"(2), 20.4(15)"i"(2), Notice ARC 9717A .....

3/8/00

Review of fuel procurement practices, 20.13, Notice ARC 9729A .....

3/8/00

**VETERANS AFFAIRS COMMISSION[801]**Uniform waiver rule; procedures for granting waivers, 4.14, 4.15, Notice ARC 9706A .....

3/8/00

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

Extension of contribution surcharge to year 2001,

23.40(2)"a," Filed ARC 9746A ..... 3/22/00

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2003.**

Senator H. Kay Hedge  
3208 335th Street  
Fremont, Iowa 52561

Senator Merlin E. Bartz  
2081 410th Street  
Grafton, Iowa 50440

Senator Patricia M. Harper  
3336 Santa Maria Drive  
Waterloo, Iowa 50702

Senator John P. Kibbie  
P.O. Box 190  
Emmetsburg, Iowa 50536

Senator Sheldon Rittmer  
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Representative Minnette Doderer  
2008 Dunlap Court  
Iowa City, Iowa 52245

Representative Geri Huser  
213 7th Street NW  
Altoona, Iowa 50009

Brian Gentry  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 11  
Des Moines, Iowa 50319

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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#### **ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Community economic betterment program, 53.2, 53.6(1) IAB 3/8/00 <b>ARC 9726A</b>	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	March 29, 2000 10 a.m.
Iowa export trade assistance program, 68.1 to 68.8 IAB 3/8/00 <b>ARC 9725A</b>	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	March 28, 2000 2 p.m.

#### **EDUCATIONAL EXAMINERS BOARD[282]**

Temporary one-year classroom monitor authorization, 14.35 IAB 3/8/00 <b>ARC 9727A</b>	State Board Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	March 28, 2000 4 to 5:30 p.m.
<b>(ICN Network)</b>	ICN Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	March 30, 2000 4 to 5:30 p.m.
	ICN Classroom Southern Prairie AEA 15 2814 N. Court St. Ottumwa, Iowa	March 30, 2000 4 to 5:30 p.m.
	ICN Classroom AEA 7 3712 Cedar Heights Dr. Cedar Falls, Iowa	March 30, 2000 4 to 5:30 p.m.
	ICN Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	April 3, 2000 4 to 5:30 p.m.
	ICN Classroom AEA 4 1382 4th Ave. NE Sioux Center, Iowa	April 3, 2000 4 to 5:30 p.m.
	ICN Classroom Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	April 3, 2000 4 to 5:30 p.m.
	ICN Classroom Southwestern Community College 2300 4th St./Hwy. 34 Red Oak, Iowa	April 3, 2000 4 to 5:30 p.m.

**HUMAN SERVICES DEPARTMENT[441]**

AEA services under Medicaid, 78.32 IAB 3/22/00 <b>ARC 9738A</b> (See also ARC 9613A, IAB 1/26/00)	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	April 12, 2000 10 a.m.
	Administrative Conference Room 417 E. Kanesville Blvd. Council Bluffs, Iowa	April 12, 2000 9 a.m.
	Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Davenport, Iowa	April 13, 2000 10 a.m.
	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	April 12, 2000 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	April 12, 2000 11 a.m.
	Conference Room 3 120 East Main Ottumwa, Iowa	April 12, 2000 10 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	April 12, 2000 1:30 p.m.
	Conference Rooms 443-445 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	April 12, 2000 10 a.m.

**LABOR SERVICES DIVISION[875]**

Asbestos removal and encapsulation, chs 81, 82, 155 IAB 3/22/00 <b>ARC 9741A</b>	1000 E. Grand Ave. Des Moines, Iowa	April 11, 2000 1:30 p.m. (If requested)
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**NATURAL RESOURCE COMMISSION[571]**

Use of nontoxic shot on wildlife areas, 51.9 IAB 3/8/00 <b>ARC 9720A</b>	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.
Waterfowl and coot hunting, 91.1, 91.3, 91.4(2), 91.5(1), 91.6 IAB 3/8/00 <b>ARC 9719A</b>	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.
Wild turkey fall hunting, 99.2 IAB 3/8/00 <b>ARC 9721A</b>	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.
Deer hunting, 106.1(4), 106.2(4), 106.3(3), 106.4 to 106.6, 106.8 IAB 3/8/00 <b>ARC 9722A</b>	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.

**TRANSPORTATION DEPARTMENT[761]**

License examination, 604.21(2), 604.31(2) IAB 3/8/00 <b>ARC 9715A</b>	Conference Room—Lower Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	March 30, 2000 10 a.m. (If requested)
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**VETERANS AFFAIRS COMMISSION[801]**

Waivers, 4.14, 4.15 IAB 3/8/00 <b>ARC 9706A</b>	Ford Memorial Conference Room Iowa Veterans Home 1301 Summit Marshalltown, Iowa	March 28, 2000 10 a.m. (If requested)
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**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(249A)	(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

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

"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 which were not included in the original reorganization legislation as "umbrella" agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
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NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
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NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
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PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
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## NOTICE—CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Code section 668A.1(2b), money from the civil reparations trust fund is available for use for indigent civil litigation programs or insurance assistance programs. The civil reparations trust fund balance as of December 31, 1999, was \$72,041.28. Applications forms are available in the office of the state treasurer by contacting Georganna Madsen, Administrative Secretary, Room 114, State Capitol, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the notice sent by first-class mail, whichever is later. Any person or company that would like to receive future notices should make a request in writing to the above-mentioned contact. Rules regarding the civil reparations trust fund can be found at 361 IAC Chapter 12.

### ARC 9737A

## HUMAN SERVICES DEPARTMENT[441]

### 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 239B.4 and 249A.4, the Department of Human Services proposes to amend Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," and Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

These amendments clarify the definition of "change in income" and the requirements regarding reporting and verification of changes in income and the determination of income from self-employment.

An applicant or recipient is required to report and provide verification of changes in income, which include hours worked, rate of pay, and beginning or ending employment. These amendments make it clearer that reporting and verification are required when there is any change in income. The change also clarifies that income from self-employment is determined by subtracting expenses from gross income.

These amendments do not provide for a waiver in any specified situations because reporting and verification of changes in income should always be required, and because income from self-employment should be determined in the same way for all applicants and recipients. Individuals may request waivers in exceptional situations pursuant to the Department's general rule on exceptions at rule 441—1.8(217).

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before April 12, 2000.

These amendments are intended to implement Iowa Code chapter 239B and Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend rule 441—40.21(239B), definition of "change in income," as follows:

"Change in income" means a permanent change in hours worked, or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

ITEM 2. Amend subrule 40.27(2), paragraph "a," as follows:

a. The recipient reports a change in circumstances (for example, a change in income, as defined at rule 441—40.21(239B)), or

ITEM 3. Amend rule 441—41.27(239B) as follows:

Amend subrule 41.27(1), paragraph "i," as follows:

i. The applicant or recipient shall cooperate in supplying verification of all unearned income and of any change in income, as defined at rule 441—40.21(239B). When the information is available, the local county office shall verify job insurance benefits by using information supplied to the department by the department of workforce development. When the local county office uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the local county office that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment. The client must report the discrepancy prior to the payment month or within ten days of the date on the Notice of Decision, Form PA-3102-0, applicable to the payment month, whichever is later, in order to receive a payment adjustment.

Amend subrule 41.27(2), introductory paragraph, as follows:

41.27(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commission earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. With respect to self-employment, earned income means the net profit determined by comparing from self-employment, defined as gross income with less the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

Further amend subrule 41.27(2), paragraph "q," as follows:

q. The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—40.21(239B). A self-employed individual shall keep any records necessary to establish eligibility.

ITEM 4. Amend rule 441—75.50(249A), definition of "change in income," as follows:

"Change in income" means a permanent change in hours worked, or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

ITEM 5. Amend subrule 75.52(2), paragraph "a," as follows:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

a. The recipient reports a change in circumstances (*for example, a change in income, as defined at rule 441—75.50(249A)*), or

ITEM 6. Amend rule 441—75.57(249A) as follows:

Amend subrule 75.57(1), paragraph “f,” as follows:

f. The applicant or recipient shall cooperate in supplying verification of all unearned income *and of any change in income, as defined at rule 441—75.50(249A)*. When the information is available, the county office shall verify job insurance benefits by using information supplied to the department by Iowa workforce development. When the county office uses this information as verification, job insurance benefits shall be considered received the second day after the date *that* the check was mailed by Iowa workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the county office that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy prior to the eligibility month or within ten days of the date on the Notice of Decision, Form PA-3102-0, applicable to the eligibility month, whichever is later.

Amend subrule 75.57(2), introductory paragraph, as follows:

**75.57(2) Earned income.** Earned income is defined as income in the form of a salary, wages, tips, bonuses, commission earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. With respect to self-employment, earned income means the *net profit determined by comparing from self-employment, defined as gross income with less the allowable costs of producing the income.* Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

Further amend subrule 75.57(2), paragraph “l,” as follows:

l. The applicant or recipient shall cooperate in supplying verification of all earned income *and of any change in income, as defined at rule 441—75.50(249A)*. A self-employed individual shall keep any records necessary to establish eligibility.

**ARC 9738A****HUMAN SERVICES  
DEPARTMENT[441]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action that public hearings as set forth below will be held in order to receive oral or written comments on amendments to rule 441—78.32(249A) which revise the coverage of area education agency services under Medicaid. These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on January 26, 2000, as **ARC 9613A**.

Oral presentations may be made by persons appearing at the following meetings. Written comments will also be accepted at these times.

Cedar Rapids - April 12, 2000 10 a.m.  
Cedar Rapids Regional Office  
Iowa Building - Suite 600  
Sixth Floor Conference Room  
411 Third St. S.E.  
Cedar Rapids, Iowa 52401

Council Bluffs - April 12, 2000 9 a.m.  
Administrative Conference Room  
Council Bluffs Regional Office  
417 E. Kaneshville Boulevard  
Council Bluffs, Iowa 51501

Davenport - April 13, 2000 10 a.m.  
Davenport Area Office  
Bicentennial Building - Fifth Floor  
Large Conference Room  
428 Western  
Davenport, Iowa 52801

Des Moines - April 12, 2000 10 a.m.  
Des Moines Regional Office  
City View Plaza  
Conference Room 104  
1200 University  
Des Moines, Iowa 50314

Mason City - April 12, 2000 11 a.m.  
Mason City Area Office  
Mohawk Square, Liberty Room  
22 North Georgia Avenue  
Mason City, Iowa 50401

Ottumwa - April 12, 2000 10 a.m.  
Ottumwa Area Office  
Conference Room 3  
120 East Main  
Ottumwa, Iowa 52501

Sioux City - April 12, 2000 1:30 p.m.  
Sioux City Regional Office  
Fifth Floor  
520 Nebraska St.  
Sioux City, Iowa 51101

Waterloo - April 12, 2000 10 a.m.  
Waterloo Regional Office  
Pinecrest Office Building  
Conference Rooms 443-445  
1407 Independence Avenue  
Waterloo, Iowa 50703

Any persons who intend to attend a public hearing and have special requirements such as hearing or vision impairments should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

## ARC 9741A

## LABOR SERVICES DIVISION[875]

## 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 88B.3, 91.6, 252J.8, and 261.126, the Labor Commissioner hereby gives Notice of Intended Action to rescind Chapter 81, "Asbestos Control Procedures," and Chapter 82, "Licensing of Business Entities, Licensing of Training Courses, and Worker Certification," and to adopt new Chapter 155, "Asbestos Removal and Encapsulation," Iowa Administrative Code.

Chapter 155 describes regulation of asbestos removal and encapsulation. The rules are intended to replace the existing rules in Chapters 81 and 82; reduce the likelihood of fraudulent applications; implement Iowa Code chapters 252J and 261; allow filing of ten-day notices by facsimile; make rules clearer; make technical changes; provide a fee for issuance of a duplicate license or permit; expand the project records retained by permittees; make rules more consistent with current forms and other requirements; and prohibit training providers who are also license holders from training themselves.

If requested no later than April 7, 2000, by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having not less than 25 members, a public hearing will be held on April 11, 2000, at 1:30 p.m. at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than April 11, 2000, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

The Division of Labor Services will issue a regulatory analysis as provided by 1998 Iowa Acts, chapter 1202, section 10, if a written request is submitted no later than April 24, 2000, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons who each qualify as a small business, or an organization representing at least 25 small businesses. The organization shall list the names, addresses and telephone numbers of not less than 25 small businesses it represents.

These amendments will not necessitate combined expenditures exceeding \$100,000 by all political subdivisions or agencies and entities that contract with political subdivisions to provide services.

These amendments are intended to implement Iowa Code chapters 88B, 252J and 261.

The following amendments are proposed.

ITEM 1. Rescind and reserve 875—Chapters 81 and 82.

ITEM 2. Adopt the following new chapter:

## CHAPTER 155

## ASBESTOS REMOVAL AND ENCAPSULATION

## 875—155.1(88B) Definitions.

"Asbestos" means material containing at least 1 percent by weight of chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos or any combination of these minerals. Chemical treatment or alteration does not exempt the material from this definition.

"Asbestos project" means any activity involving the removal or encapsulation of friable asbestos materials, other releases of asbestos such as by the operation of hand-operated or power-operated tools that may produce or release fibers of asbestos, or other substantial alteration of asbestos-containing, nonfriable material. Any activities which do not qualify as construction pursuant to rule 875—150.2(91C) are not asbestos projects.

"Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern. A business entity that uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities is not included.

"Contractor/supervisor" means a person who supervises workers on asbestos projects or a person who enters into contracts to perform asbestos projects and personally completes the work.

"Division" means the division of labor services.

"Friable asbestos material" means any material containing more than 1 percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder by hand pressure when dry.

"Inspector" means a person who inspects for asbestos-containing building materials in a school or a public or commercial building.

"License" means an authorization issued by the division permitting an individual to be employed as a worker, contractor/supervisor, inspector, management planner, or project designer, or combination thereof.

"Management planner" means a person who prepares asbestos management plans for a school building.

"Permit" means an authorization issued by the division permitting a business entity to remove or encapsulate asbestos.

"Project designer" means a person who designs asbestos response or maintenance projects for a school or a public or commercial building.

"Worker" means a person who performs response or maintenance activities on one or more asbestos projects.

## 875—155.2(88B) Permit application procedures.

155.2(1) Application. To apply for or to renew a permit, a business entity shall submit a completed application Form 309-6504 to the division. All requested applicable information and attachments must be provided. A \$500 nonrefundable application fee shall accompany each permit application.

155.2(2) Action on application. A permit shall be valid for one year from the date of issuance. A permit may be denied for the reasons set forth in rule 155.8(17A,88B,252J,261) or if the application package is incomplete. If within 60 days after receiving a completed application for a new permit the division has not issued a permit or denied the permit application, the application is deemed denied. If within 30 days after receiving a completed application for a permit renewal the division has not issued a renewal or denied the application, the application is deemed denied. Applications re-

## LABOR SERVICES DIVISION[875](cont'd)

ceived after expiration of a prior permit will be considered applications for new permits rather than renewals.

**875—155.3(88B) Other asbestos regulations.** Regulation of encapsulation, removal and abatement procedures are found in 875—Chapters 10 and 26 and 567—Chapter 23.

**875—155.4(88B) Asbestos project records.** The permittee shall keep a record of each asbestos project it performs and shall make the record available to the division at any reasonable time. Records required by this rule shall be kept for at least six years. The records shall include:

**155.4(1)** The name, address, and license number of the individual who supervised the asbestos project and of each employee or agent who worked on the project.

**155.4(2)** The location and a description of the project and the amount of asbestos material that was removed.

**155.4(3)** The start and completion dates of each instance of removal or encapsulation.

**155.4(4)** A summary of the procedures that were used to comply with all applicable standards.

**155.4(5)** The name and address of each asbestos disposal site where the asbestos-containing waste was deposited.

**155.4(6)** A receipt from the asbestos disposal site indicating the amount of asbestos and disposal date.

**155.4(7)** Copies of reports required by 29 CFR 1926.1101(k)(3)(iii).

**155.4(8)** Copies of air sampling results or initial negative assessment as required by 29 CFR 1926.1101(c).

**155.4(9)** Material safety data sheets for all solvents used on the asbestos project.

**875—155.5(88B) Ten-day notices.**

**155.5(1) General.** Permittees shall notify the division at least ten working days before an asbestos project begins. A project begins when site preparations begin; when asbestos abatement, encapsulation, or removal begins; or when demolition begins, whichever is sooner. The division is considered notified when the notice is received in the division's office. Notices may be sent by facsimile transmission to (515)281-7995.

**155.5(2) Emergency.** When there is an immediate danger to life, health or property, the permittee may file the notice within five days after beginning the project. An explanation of the emergency must be included.

**155.5(3) Format.** The notice shall be on an 8½ l by 11 l sheet of paper and shall contain the following information:

- a. The name, address, and telephone number of and contact person for the permittee performing the project.
- b. The name, address, and telephone number of the project.
- c. A description of the structure and work to be performed.
- d. The anticipated dates of the project's start and end.
- e. Designation of the asbestos disposal site.
- f. The signature and printed name of the person who completed the form.
- g. The shift or work schedule on which the project will be performed.

**875—155.6(88B) License application procedures.**

**155.6(1) Forms.** Iowa Form 309-2068 must be used for all new and renewal asbestos license applications. The second page of the form is the respirator fit test and the third page is a physician's certification. Forms from other states may not be substituted for the Iowa form or any part thereof. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only worker and

contractor/supervisor license applicants must submit the respirator fit test and physician's certification forms. Photocopies of the forms shall not be accepted.

**155.6(2) Training.** A certificate of appropriate training from a course provider approved for asbestos training by the U.S. Environmental Protection Agency must accompany all applications. Applicants for a license must be trained by a training provider other than their own employer.

**155.6(3) Photographs.** Two passport-sized (1½ l by 1½ l) photographs clearly showing the applicant's face shall accompany all license applications received after July 1, 2000.

**155.6(4) Worker licenses.** All persons seeking a license as an asbestos abatement worker shall complete an initial three-day training course and thereafter complete an annual one-day asbestos abatement worker refresher training course. A nonrefundable fee of \$20 shall accompany the application.

**155.6(5) Contractor/supervisor licenses.** All persons seeking a license as an asbestos abatement contractor/supervisor shall complete an initial four-day training course and thereafter complete an annual one-day asbestos abatement contractor/supervisor refresher training course. A nonrefundable fee of \$50 shall accompany the application.

**155.6(6) Inspector licenses.** All persons seeking a license as an asbestos inspector shall complete an initial three-day training course and thereafter complete an annual one-half-day asbestos inspector refresher training course. A nonrefundable fee of \$20 shall accompany the application.

**155.6(7) Management planner licenses.** All persons seeking a license as an asbestos management planner shall complete an initial three-day inspector training course and an initial two-day management planning training course. Thereafter, an annual one-half-day asbestos inspector refresher training course plus an additional one-half-day course on management planning is required. A nonrefundable fee of \$20 shall accompany the application.

**155.6(8) Abatement project designer licenses.** All persons seeking a license as an asbestos abatement project designer shall complete either an initial three-day abatement project designer training course or an initial four-day asbestos abatement contractor/supervisor training course. Thereafter, an annual one-day asbestos abatement project designer refresher training course is required. A nonrefundable fee of \$50 shall accompany the application.

**155.6(9) Action on application.** If a license is issued, it will expire one year from the date the training was completed. An application may be denied for the reasons set forth in rule 155.8(17A,88B,252J,261) or if the application package is incomplete. If within 30 days after receiving a completed application the division has not issued a license or denied the license application, the application is deemed denied.

**155.6(10) License on job site.** While conducting asbestos work that requires a license, the license or a legible copy of the license shall be in the licensee's possession at the work site.

**875—155.7(88B) Duplicate permits and licenses.** Duplicate original permits and licenses are available from the division for a \$10 fee.

**875—155.8(17A,88B,252J,261) Denial, suspension and revocation.**

**155.8(1) Grounds.** The division may deny an application or suspend or revoke a permit or license when an investigation reasonably determines any of the following:

## LABOR SERVICES DIVISION[875](cont'd)

- a. Fraud or deception was utilized in obtaining or attempting to obtain a permit or license.
- b. The qualifications for a permit or license are not met.
- c. Any applicable federal or state standard for removal or encapsulation of asbestos was violated.
- d. An unlicensed or untrained person was employed or allowed to work on an asbestos project.
- e. The division received a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services.
- f. Penalties or other debts are owed by the applicant to the division and are 30 days or more in arrears.

**155.8(2)** Relinquishing license or permit upon revocation. Licensees and permittees must return the original license or permit to the division when a revocation or suspension becomes final.

**155.8(3)** Suspension period. Unless ordered otherwise, a suspension shall last for 12 months.

**875—155.9(17A,88B) Contested cases.**

**155.9(1)** Scope. This rule applies to civil penalty assessments and to denials, revocations and suspensions of asbestos licenses and permits.

**155.9(2)** Procedures. The labor commissioner shall serve a notice of intended action by restricted certified mail, return receipt requested, or by other service as permitted by Iowa Code section 17A.8. A notice of contest must be received by the labor commissioner within 20 days after service of the notice of intended action. If a notice of contest is not timely filed, the action stated in the notice of intended action shall automatically be effective. Hearing procedures for asbestos contested cases are set forth in 875—Chapter 1, Division V. If a contested case is based on receipt by the division of a certificate of noncompliance, procedures outlined in Iowa Code chapter 252J or 261 will apply.

These rules are intended to implement Iowa Code chapters 88B, 252J, and 261.

**ARC 9747A**

**PETROLEUM UNDERGROUND  
STORAGE TANK FUND BOARD,  
IOWA COMPREHENSIVE[591]**

**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 455G.4(3)“a,” the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, “Remedial Claims,” Iowa Administrative Code.

The proposed amendments are intended to implement an administrative change to the risk-based corrective action deadline imposed by the board. The change will keep the June 30, 2000, deadline in place, but allow the commencement of work to satisfy the requirement as long as there is a contract with a timeline attached that meets the Department of Natural Resources published deadlines.

Public comments concerning the proposed amendments will be accepted until 4 p.m. on April 11, 2000. Interested persons may submit written or oral comments by contacting the Office of the Deputy Commissioner of Insurance, Division of Insurance, 330 Maple Street, Des Moines, Iowa 50319; telephone (515)281-5705.

These amendments do not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

These amendments are intended to implement Iowa Code chapter 455G.

The following amendments are proposed.

ITEM 1. Amend subrule **11.1(3)**, paragraph “r,” as follows:

r. Compliance with report submittal deadlines. To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements, as published in 567—Chapter 135, and must, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later, submit provide a copy of an executed contract with a certified groundwater professional which contract must include a timetable that meets department deadlines for completion of a Tier 1, and Tier 2 if required, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later.

ITEM 2. Amend subrule **11.1(5)**, paragraph “f,” as follows:

f. Compliance with report submittal deadlines. To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements, as published in 567—Chapter 135, and must, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later, submit provide a copy of an executed contract with a certified groundwater professional which contract must include a timetable that meets department deadlines for completion of a Tier 1, and Tier 2 if required, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later.

**ARC 9743A**

**PROFESSIONAL LICENSURE  
DIVISION[645]**

**Notice of Termination**

Pursuant to the authority of Iowa Code section 147.53, the Professional Licensure Division of the Public Health Department terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 1, 1999, as **ARC 9502A**, to adopt Chapter 18, “Waivers or Variances from Administrative Rules,” Iowa Administrative Code.

The Notice proposed to adopt Chapter 18, providing a uniform process for the granting of waivers or variances from rules adopted by the Department, in compliance with Executive Order Number 11.

The Division is terminating the rule making commenced in **ARC 9502A** and will renote the proposed rules to incor-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

porate further changes to and clarifications of requirements under Executive Order Number 11.

**ARC 9742A**

**SECRETARY OF STATE[721]**

**Notice of Termination**

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State terminates the rule making initiated by the Notice of Intended Action published in the Iowa Administrative Bulletin on January 12, 2000, as **ARC 9604A** to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code, by adopting new rule 21.601(43).

This amendment was also Adopted and Filed Emergency as **ARC 9603A**. The period for public comment on the Notice has passed. No comments were received. The Secretary finds no further purpose for the continuation of the rule-making process, since the rule is currently in effect. The rule-making process with regard to **ARC 9604A** is therefore terminated.

**NOTICE—PUBLIC FUNDS  
INTEREST RATES**

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Holmes Foster, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for March is 8.75%.

**INTEREST RATES FOR PUBLIC  
OBLIGATIONS AND ASSESSMENTS**

- 74A.2 Unpaid Warrants . . . . . Maximum 6.0%
- 74A.4 Special Assessments . . . . . Maximum 9.0%

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective March 11, 2000, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

**TIME DEPOSITS**

- 7-31 days . . . . . Minimum 5.10%
- 32-89 days . . . . . Minimum 5.30%
- 90-179 days . . . . . Minimum 5.60%
- 180-364 days . . . . . Minimum 5.70%
- One year . . . . . Minimum 5.70%
- Two years or more . . . . . Minimum 6.10%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

## ARC 9736A

COMMUNITY ACTION  
AGENCIES DIVISION[427]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 216A.92B, the Division of Community Action Agencies hereby amends Chapter 10, "Low-Income Home Energy Assistance Program," Iowa Administrative Code.

This amendment relates to an extension of the application period for the Low-Income Home Energy Assistance Program, to be effective for calendar year 2000 only. The Division will be receiving emergency energy assistance funds from the federal government, and the amendment will allow applications for energy assistance to be accepted through the last working day of March instead of February.

This amendment was approved by the Commission on Community Action Agencies on February 18, 2000.

In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are impracticable because the allocation of additional federal funds results in the immediate need to extend the application period.

Pursuant to Iowa Code section 17A.5(2)"b"(2), this amendment became effective upon filing on February 28, 2000. The Division finds that this amendment confers a benefit on the people of Iowa by extending the application period and providing additional energy assistance benefits to qualified low-income Iowans.

A waiver is not considered at this time, as the amendment is not a significant revision of the program as a whole.

This amendment is intended to implement 1999 Iowa Acts, chapter 193, section 11.

This amendment became effective February 28, 2000.

The following amendment is adopted.

Amend rule 427—10.4(216A,PL97-35,PL98-558) as follows:

**427—10.4(216A,PL97-35,PL98-558) Application period.** Clients may apply for energy assistance between the first working day of October and the last working day of February each year. Applications will be processed and the applicant and the appropriate energy suppliers notified of eligibility within 30 days of the date of application to comply with the terms of the winter moratorium on disconnections. *For calendar year 2000 only, the application period shall be extended to the last working day of March.*

[Filed Emergency 2/28/00, effective 2/28/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

## ARC 9731A

GENERAL SERVICES  
DEPARTMENT[401]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 18.8A, the Terrace Hill Commission hereby amends Chapter 14, "Organization and Operation of Terrace Hill," Iowa Administrative Code.

Items 1, 2, and 4 update references to the Iowa Code in the Commission's existing rules.

Item 3 adds the governor's spouse as an ex-officio member of the Terrace Hill Commission and amends the quorum and majority voting requirements of the Commission to reflect the changed composition of the Commission and to comply with Iowa Code section 17A.2.

Pursuant to Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary for Items 1, 2, and 4 as they merely correct outdated Code references in current rules. The Commission further finds it contrary to the public interest to delay implementation of Item 3.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Commission finds these amendments will confer a benefit on the public. Items 1, 2, and 4 make corrective amendments to Commission rules. Item 3 ensures participation of the governor's spouse in the Commission's decision making.

These amendments are intended to implement Iowa Code section 18.8A.

These amendments became effective February 18, 2000, upon filing in the office of the Administrative Rules Coordinator.

The following amendments are adopted.

ITEM 1. Amend rule **401—14.1(18)**, definition of "commission," as follows:

"Commission" means the Terrace Hill commission as established by Iowa Code ~~Supplement~~ section 18.8A.

ITEM 2. Amend rule 401—14.2(18) as follows:

**401—14.2(18) Mission statement.** The Terrace Hill commission exists in accordance with Iowa Code ~~Supplement~~ section 18.8A to preserve, maintain, renovate, landscape, and administer the Terrace Hill facility. The commission has authority to approve the ongoing expenditures for preservation, renovation, and landscaping of Terrace Hill and seeks necessary funds for these activities. Terrace Hill is maintained as the official residence for the governor of Iowa and serves as a facility for public and private functions.

ITEM 3. Amend subrules 14.3(2) and 14.3(3) as follows:

**14.3(2) Composition.** The commission consists of nine members appointed by the governor in accordance with Iowa Code ~~Supplement~~ section 18.8A. *The governor's spouse shall serve as an ex-officio voting member of the commission.*

## GENERAL SERVICES DEPARTMENT[401](cont'd)

**14.3(3) Meetings.** The ~~commissions~~ *commission* shall meet at the call of the chair. ~~Six~~ *Seven* members present and voting constitutes a quorum and an affirmative vote of ~~five~~ *six* members is required for approval of an item.

All meetings are open to the public under Iowa Code chapter 21, and in accordance with Robert's Rules of Order, Revised Edition. Public notice of all meetings shall be distributed to the news media. The tentative agenda for meetings shall be posted in the governor's office at the State Capitol at least 24 hours prior to the commencement of any meeting in accordance with Iowa Code chapter 21.

ITEM 4. Amend subrule 14.7(3) as follows:

**14.7(3) Fees.** Fees may be charged and collected by the commission and shall be administered according to Iowa Code Supplement section 18.8A. Fees may be charged for, but are not limited to, admission, special events, use of images, and technical services. All fees charged shall be approved by the commission and shall become effective upon 30 days' notice. This notice shall be a public posting in the facility. All fees shall be permanently posted.

[Filed Emergency 2/18/00, effective 2/18/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

## ARC 9730A

## CIVIL RIGHTS COMMISSION[161]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 216.5(10), the Civil Rights Commission amends Chapter 9, "Discrimination in Housing," Iowa Administrative Code.

These amendments are intended to implement Iowa Code section 216.5(13) which gives the Commission the authority to order discovery in the investigation of alleged unfair or discriminatory housing practices. The amendments are based on a combination of the Iowa Rules of Civil Procedure and an analysis of the Commission's needs during a housing investigation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 20, 1999, as **ARC 9435A**. A public hearing was held on November 9, 1999. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Civil Rights Commission on January 28, 2000.

These amendments will become effective April 26, 2000.

These amendments are intended to implement Iowa Code section 216.5(13).

The following amendments are adopted.

ITEM 1. Amend rule 161—9.6(216) by renumbering existing subrule **9.6(3)** as **9.6(4)** and adopting the following new subrule:

**9.6(3)** Notice of person's rights in the discovery process shall be given to the person from whom discovery is sought. This notice is sufficient if it sets out in brief the person's rights under these rules: to object to the discovery method; to seek a protective order; and to legal counsel.

ITEM 2. Amend subrule 9.10(1) as follows:

**9.10(1)** Availability; procedures for requests. The commission may serve upon any party a written request for the admission, for purposes of all proceedings relating to the pending complaint only, of the truth of any matters within the scope of rule 9.7(216) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

Each matter of which an admission is requested shall be separately set forth.

*Notice of the effect of an admission shall be given to the person from whom the admission is sought.*

The commission shall not serve more than 30 requests for admission on any party except upon agreement of the party from whom admissions are sought or leave of the presiding officer for discovery granted upon a showing of good cause. A motion for leave of the presiding officer for discovery to serve more than 30 requests for admission must be in writing and shall set forth the proposed requests and the reasons establishing good cause for their use.

[Filed 2/18/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

## ARC 9740A

EMERGENCY MANAGEMENT  
DIVISION[605]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 34A.7A, the Emergency Management Division amends Chapter 10, "Enhanced 911 Telephone Systems," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 26, 2000, as **ARC 9632A**. No public comment was received on these amendments. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 9633A**. These amendments are identical to the amendments published under the Notice of Intended Action and Adopted and Filed Emergency.

These amendments formally complete the Wireless Enhanced 911 Implementation and Operation Plan as required by Iowa Code chapter 34A.

These amendments were adopted by the Emergency Management Division on March 1, 2000.

These amendments shall become effective April 26, 2000, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code chapter 34A.

The following amendments are adopted.

Amend rule 605—10.7(34A) as follows:

**605—10.7(34A) Enhanced wireless 911 service plan.** Each joint E911 service board, the department of public safety, the E911 communications council, and wireless service providers shall cooperate with the E911 program manager in preparing an enhanced wireless 911 service plan for state-wide implementation of enhanced wireless 911 phase I and phase II implementation.

**10.7(1) Plan specifications.** The enhanced wireless 911 service plan shall include, at a minimum, the following information:

1. Maps showing geographic area to be served by each PSAP receiving enhanced wireless 911 telephone calls.

2. A list of all public and private safety agencies within the enhanced wireless 911 service area.

3. The geographic location of each PSAP receiving enhanced wireless 911 calls and the name of the person responsible for the management of the PSAP.

4. A set of guidelines for determining eligible cost for wireless service providers, wire-line service providers, and public safety answering points.

5. A statement of estimated charges for the implementation and operation of enhanced wireless 911 phase I and phase II service, detailing the equipment operated or needed to operate enhanced wireless 911 service, including any technology upgrades necessary to provide service. Charges must be directly attributable to the implementation and operation of enhanced wireless 911 service. Charges shall be detailed showing item(s) or unit(s) of cost, or both, and include estimated charges from:

§ Wireless service providers.

§ Wire-line service providers for implementation and operation of enhanced wireless 911 service.

§ Public safety answering points.

6. A schedule for the implementation of enhanced wireless 911 phase I and phase II service.

## EMERGENCY MANAGEMENT DIVISION[605](cont'd)

**10.7(2) Adoption by reference.** The "Wireless Enhanced 911 Implementation and Operation Plan," effective February 1, 2000, and available from the Emergency Management Division, Hoover State Office Building, Des Moines, Iowa, or at the Law Library in the Capitol Building, Des Moines, Iowa, is hereby adopted by reference.

[Filed 3/2/00, effective 4/26/00]  
[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

**ARC 9745A****ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, "Controlling Pollution," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 15, 1999, as **ARC 9536A**. A public hearing was held on January 14, 2000, at the Air Quality Bureau in Urbandale. Written comments were provided by two organizations. No changes were made to the Notice of Intended Action as a result of comments received during the public comment period.

The purpose of this rule making is to change the maximum annual Title V Operating Permit fee that the Department can charge from the current fixed dollar amount of \$24 to \$29.

The Commission will continue to be asked annually to approve the Title V fee that is charged to permit applicants as justified by the Air Quality Bureau's projected budget and the reported tonnage of air contaminant emissions.

This amendment is intended to implement Iowa Code section 455B.133.

This amendment shall become effective on April 26, 2000.

The following amendment is adopted.

Amend subrule 22.106(1) as follows:

**22.106(1)** Fee established. Any person required to obtain a Title V permit shall pay an annual fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on July 1 of each year. The fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than \$24 \$29 per

ton without adopting the change pursuant to formal rule making.

[Filed 3/3/00, effective 4/26/00]  
[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

**ARC 9744A****ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 15, 1999, as **ARC 9535A**. A public hearing was held on January 14, 2000, at the Air Quality Bureau in Urbandale. No changes were made to the Notice of Intended Action.

The purpose of this rule making is to adopt by reference 13 national emission standards for hazardous air pollutants (NESHAPs) and four generic national standards for emission control that were promulgated by the Environmental Protection Agency.

This rule making updates the reference to 40 CFR Part 63 through June 29, 1999, and amends the list of federal regulations excepted from adoption by reference. Part 63 was amended through this date by the promulgation of 13 national emission standards for hazardous air pollutants and four generic standards for emission control.

This rule making adopts by reference new NESHAPs that were promulgated for: Portland cement manufacturing; phosphoric acid manufacturing; phosphate fertilizer production; wool fiberglass manufacturing; generic maximum achievable control technology; oil and gas production; natural gas transmission and storage; pesticide active ingredients production; ferroalloys production; ferromanganese and silicomanganese; polyether polyols production; steel pickling—HCL process facilities and hydrochloric acid regeneration plants; mineral wool production; and primary lead smelting. New generic emission control standards that will be referenced in future rule making are also adopted by reference. The four generic emission control standards relate to: closed vent systems, control devices, recovery devices and routing to a fuel gas system or a process; equipment leaks—control level 1; equipment leaks—control level 2; and storage vessels (tanks)—control level 2.

These amendments may impact small business.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments shall become effective on April 26, 2000.

The following amendments are adopted.

Amend subrule 23.1(4) as follows:

**23.1(4)** Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended through December

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

28, 1998 June 29, 1999, are adopted by reference, except 40 CFR §§63.6(g) and (h)(9), 63.7(c)(2)(i), 63.7(e)(2)(ii) and (f), 63.8(f), 63.10(f), 63.12, 63.14, 63.15, 63.40(a), 63.42(a) and (b), 63.43(c) and (f) to (m), 63.177, 63.560(b) and (e)(2) and (3), and 63.562(c) and (d), 63.772, 63.777, 63.1157, 63.1158, 63.1161(d)(1), 63.1162(a)(2) to (5), 63.1162(b)(1) to (3), 63.1165, 63.1282, and 63.1287 and shall apply to the following affected facilities. The corresponding 40 CFR Part 63 Subpart designation is in parentheses. 40 CFR Part 63 Subpart B incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded ( $F_{bio}$ ) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, "hazardous air pollutant" has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an "area source" means any stationary source of hazardous air pollutants that is not a major stationary source as defined in this paragraph. Paragraph 23.1(4)"a," general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

a. to y. No change.

z. to ~~ab~~. Reserved.

aa. *Emission standards for hazardous air pollutants for phosphoric acid manufacturing. These standards apply to all new and existing major sources of phosphoric acid manufacturing. Affected processes include, but are not limited to, wet process phosphoric acid process lines, superphosphoric acid process lines, phosphate rock dryers, phosphate rock calciners, and purified phosphoric acid process lines.* (Subpart AA)

ab. *Emission standards for hazardous air pollutants for phosphate fertilizers production. These standards apply to all new and existing major sources of phosphate fertilizer production plants. Affected processes include, but are not limited to, diammonium and monoammonium phosphate process lines, granular triple superphosphate process lines, and granular triple superphosphate storage buildings.* (Subpart BB)

ac. to ag. No change.

ah. ~~Reserved.~~ *Emission standards for hazardous air pollutants for oil and natural gas production. These standards apply to all new and existing major sources of oil and natural gas production. Affected sources include, but are not limited to, processing of liquid or gaseous hydrocarbons, such as ethane, propane, butane, pentane, natural gas, and condensate extracted from field natural gas.* (Subpart HH)

ai. to ak. No change.

al. to ~~bf~~. ar. Reserved.

as. *Emission standards for closed vent systems, control devices, recovery devices and routing to a fuel gas system or a process. These provisions apply when another paragraph under this rule references the use of this paragraph for such*

*air emission control. These air emission standards are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)"a," general provisions, (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph.* (Subpart SS)

at. *Emission standards for equipment leaks—control level 1. These provisions apply to the control of air emissions from equipment leaks for which another paragraph under this rule references the use of this paragraph for such emission control. These air emission standards for equipment leaks are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)"a," general provisions, (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph.* (Subpart TT)

au. *Emission standards for equipment leaks—control level 2 standards. These provisions apply to the control of air emissions from equipment leaks for which another paragraph under this rule references the use of this paragraph for such air emission control. These air emission standards for equipment leaks are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)"a," general provisions, (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph.* (Subpart UU)

av. Reserved.

aw. *Emission standards for storage vessels (tanks)—control level 2. These provisions apply to the control of air emissions from storage vessels for which another paragraph under this rule references the use of this paragraph for such air emission control. These air emission standards for storage vessels are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)"a," general provisions, (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph.* (Subpart WW)

ax. Reserved.

ay. *Emission standards for hazardous air pollutants: generic maximum achievable control technology (Generic MACT). These standards apply to new and existing major sources of acetal resins (AR) production, acrylic and modacrylic fiber (AMF) production, hydrogen fluoride (HF) production and polycarbonate (PC) production. Affected processes include, but are not limited to, producers of homo-polymers and copolymers of alternating oxymethylene units, acrylic fiber, modacrylic fiber synthetics composed of acrylonitrile (AN) units, hydrogen fluoride and polycarbonate.* (Subpart YY)

az. to bb. Reserved.

bc. *Emission standards for hazardous air pollutants for steel pickling—HCL process facilities and hydrochloric acid regeneration plants. Unless exempted, these standards apply to all new and existing major sources of hydrochloric acid process steel pickling facilities and hydrochloric acid regeneration plants. Affected processes include, but are not limited to, equipment and tanks configured for the pickling process, including the immersion, drain and rinse tanks and hydrochloric acid regeneration plants.* (Subpart CCC)

bd. *Emission standards for hazardous air pollutants for mineral wool production. These standards apply to all new and existing major sources of mineral wool production. Af-*

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

affected processes include, but are not limited to, cupolas and curing ovens. (Subpart DDD)

be. and bf. Reserved.

bg. No change.

bh. ~~Reserved.~~ Emission standards for hazardous air pollutants for natural gas transmission and storage. These standards apply to all new and existing major sources of natural gas transmission and storage. Natural gas transmission and storage facilities are those that transport or store natural gas prior to its entering the pipeline to a local distribution company. Affected sources include, but are not limited to, mains, valves, meters, boosters, regulators, storage vessels, dehydrators, compressors and delivery systems. (Subpart HHH)

bi. and bj. No change.

bk. Reserved.

bl. Emission standards for hazardous air pollutants for Portland cement manufacturing operations. These standards apply to all new and existing major and area sources of Portland cement manufacturing unless exempted. Cement kiln dust (CKD) storage facilities, including CKD piles and landfills, are excluded from this standard. Affected processes include, but are not limited to, all cement kilns and in-line kiln/raw mills, unless they burn hazardous waste. (Subpart LLL)

bm. Emission standards for hazardous air pollutants for pesticide active ingredient production. These standards apply to all new and existing major sources of pesticide active ingredient production that manufacture organic pesticide active ingredients (PAI), including herbicides, insecticides and fungicides. Affected processes include, but are not limited to, processing equipment, connected piping and ducts, associated storage vessels, pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves and connectors. Exempted sources include research and development facilities, storage vessels already subject to another 40 CFR Part 63 NESHAP, production of ethylene, storm water from segregated sewers, water from fire-fighting and deluge systems (including testing of such systems) and various spills. (Subpart MMM)

bn. Emission standards for hazardous air pollutants for wool fiberglass manufacturing. These standards apply to all new and existing major sources of wool fiberglass manufacturing. Affected processes include, but are not limited to, all glass-melting furnaces, rotary spin (RS) manufacturing lines that produce bonded building insulation, flame attenuation (FA) manufacturing lines producing bonded pipe insulation and new FA manufacturing lines producing bonded heavy-density products. (Subpart NNN)

bo. Reserved.

bp. Emission standards for hazardous air pollutants for polyether polyols production. These standards apply to all new and existing major sources of polyether polyols. Polyether polyols are compounds formed through polymerization of ethylene oxide, propylene oxide or other cyclic ethers with compounds having one or more reactive hydrogens to form polyethers. Affected processes include, but are not limited to, storage vessels, process vents, heat exchange systems, equipment leaks and wastewater operations. (Subpart PPP)

bq. to bs. Reserved.

bt. Emission standards for hazardous air pollutants for primary lead smelting. These standards apply to all new and existing major sources of primary lead smelting. Affected processes include, but are not limited to, sintering machines, blast furnaces, dross furnaces and process fugitive sources. (Subpart TTT)

bu. to bw. Reserved.

bx. Emission standards for hazardous air pollutants for ferroalloys production: ferromanganese and silicomanganese. These standards apply to all new and existing major sources of ferroalloys production of ferromanganese and silicomanganese. Affected processes include, but are not limited to, submerged arc furnaces, metal oxygen refining (MOR) processes, crushing and screening operations, and fugitive dust sources. (Subpart XXX)

[Filed 3/3/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

## ARC 9732A

PHARMACY EXAMINERS  
BOARD[657]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 3, "License Fees, Renewal Dates, Fees for Duplicate Licenses and Certification of Examination Scores," Iowa Administrative Code.

The amendment is intended to clarify information regarding original pharmacist license certificates and the means of obtaining additional certificates. Current language is confusing, appearing to provide for the photocopying of or other means of duplicating a pharmacist license certificate. The intent is to provide for the purchase of pharmacist license certificates in addition to the original certificate provided at the time of initial licensure.

Notice of Intended Action was published in the December 15, 1999, Iowa Administrative Bulletin as **ARC 9542A**. The adopted amendment is identical to that published under Notice.

The amendment was approved during the February 1, 2000, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on April 26, 2000.

This amendment is intended to implement Iowa Code section 155A.10.

The following amendment is adopted.

Amend rule 657—3.2(155A) as follows:

**657—3.2(155A) Fees.** Only original or ~~duplicate~~ license certificates for ~~licensed pharmacists~~ issued by the board of pharmacy examiners for licensed pharmacists are valid. ~~Duplicate~~ Additional original license certificates for licensed pharmacists may be issued obtained from the board of pharmacy examiners for a prepaid fee of \$5 each.

This rule is intended to implement Iowa Code section 155A.10.

[Filed 2/18/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

## ARC 9733A

PHARMACY EXAMINERS  
BOARD[657]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6, the Board of Pharmacy Examiners hereby amends Chapter 4, "Pharmacist-Intern Registration and Minimum Standards for Evaluating Practical Experience," Iowa Administrative Code.

The amendment modifies the definition of "pharmacist preceptor" by removing the prohibition against a pharmacist who has been the subject of disciplinary action within the past three years from serving as a preceptor. In addition to being difficult to enforce, this provision makes it difficult for pharmacist-interns to determine the eligibility and qualifications of a potential preceptor.

Notice of Intended Action was published in the December 15, 1999, Iowa Administrative Bulletin as **ARC 9543A**.

The adopted amendment differs from that published under Notice. Language regarding disciplinary sanctions has been revised to make it more understandable. The last sentence, providing that a pharmacist who has been the subject of disciplinary action could petition the Board for approval to act as a preceptor, has been stricken. Iowa Code section 155A.3 defines "preceptor" as a "pharmacist in good standing." Based on that Code definition, a pharmacist whose license is under disciplinary sanction may not act as a preceptor nor may the Board consider a request to permit that pharmacist to act as a preceptor.

The amendment was approved during the February 1, 2000, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on April 26, 2000.

This amendment is intended to implement Iowa Code section 155A.6.

The following amendment is adopted.

Amend rule **657—4.1(155A)**, definition of "pharmacist preceptor," as follows:

"Pharmacist preceptor" or "preceptor" means a pharmacist licensed to practice pharmacy whose license is current and in good standing. Preceptors shall meet the conditions and requirements of rule 4.9(155A). No pharmacist shall serve as a preceptor ~~if while the pharmacist's license to practice pharmacy has been~~ *is the subject of an order of the disciplinary sanction by a pharmacist licensing authority having jurisdiction over the pharmacist's license imposing any disciplinary sanctions during the time the pharmacist is serving as preceptor or within the three-year period immediately preceding the time the pharmacist begins serving as a preceptor. Provided, however, a pharmacist who has been the subject of such disciplinary order may petition the board in writing for approval to act as preceptor.*

[Filed 2/18/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

## ARC 9734A

PHARMACY EXAMINERS  
BOARD[657]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 155A.13, the Board of Pharmacy Examiners hereby amends Chapter 8, "Minimum Standards for the Practice of Pharmacy," Iowa Administrative Code.

The amendments require that pharmacies dispose of waste materials containing patient-specific or confidential information in a manner to preserve patient confidentiality, clarify patient counseling requirements by defining and describing "not practicable," and correct a reference contained in subrule 8.32(6). Concerns regarding improper or haphazard disposal of pharmacy waste, particularly that containing confidential and patient-specific information, have prompted the Board to direct pharmacies to determine appropriate means of ensuring patient confidentiality when disposing of such materials. Confusion or misinterpretation of the Board's rules regarding patient counseling, particularly those pertaining to when a pharmacist may use alternative forms of counseling in lieu of oral counseling, has prompted the Board to further clarify the intent of the rule by defining "not practicable."

Notice of Intended Action was published in the December 15, 1999, Iowa Administrative Bulletin as **ARC 9544A**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the February 1, 2000, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on April 26, 2000.

These amendments are intended to implement Iowa Code sections 147.55, 155A.12, 155A.13, and 155A.15.

The following amendments are adopted.

ITEM 1. Amend subrule 8.5(5) as follows:

**8.5(5) Confidentiality.** In the absence of express consent from the patient or order or direction of a court, except where the best interests of the patient require, a pharmacist shall not divulge or reveal to any person other than the patient or the patient's authorized representative, the prescriber or other licensed practitioner then caring for the patient, another licensed pharmacist, or a person duly authorized by law to receive such information, *any of the following*:

a. ~~the~~ *The* contents of any prescription or the therapeutic effect thereof or the nature of professional pharmaceutical services rendered to a patient;

b. ~~the~~ *The* nature, extent, or degree of illness suffered by any patient; or

c. ~~any~~ *Any* medical information furnished by the prescriber.

This shall not prevent pharmacists from ~~doing any of the following~~: transferring a prescription to another pharmacy, providing a copy of a nonrefillable prescription to the person for whom the prescription was issued which *copy* is marked "For Information Purposes Only," providing drug therapy information to physicians for their patients, or providing information to the board or its representative.

*Disposal of any materials containing or including patient-specific or confidential information shall be conducted in a manner to preserve patient confidentiality.*

## PHARMACY EXAMINERS BOARD[657](cont'd)

ITEM 2. Amend subrule 8.20(2) as follows:

**8.20(2)** If in the pharmacist's professional judgment oral counseling is not practicable, the pharmacist may use alternative forms of patient information. *"Not practicable" refers to patient variables including, but not limited to, the absence of the patient or patient's caregiver, the patient's or caregiver's hearing impairment, or a language barrier. "Not practicable" does not include pharmacy variables such as inadequate staffing, technology failure, or high prescription volume.* Alternative forms of patient information may include written information leaflets, pictogram labels, video programs, or information generated by electronic data processing equipment. When used in place of oral counseling, alternative forms of patient information shall advise the patient or caregiver that the pharmacist may be contacted for consultation in person at the pharmacy by toll-free telephone or collect telephone call. A combination of oral counseling and alternative forms of counseling is encouraged.

ITEM 3. Amend subrule 8.32(6) as follows: .

**8.32(6)** Labeling—interior. All drugs contained in the emergency/first dose drug supply shall be labeled in accordance with subrule 8.3(2) or 657—subrule ~~23.12(3)~~ 23.12(2), as appropriate.

[Filed 2/18/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

**ARC 9735A****PHARMACY EXAMINERS BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301, 147.76, and 272C.4, the Board of Pharmacy Examiners hereby amends Chapter 36, "Discipline," Iowa Administrative Code.

The amendment provides for a time limit for the reporting, by a licensee, registrant, or permittee, of disciplinary action against a license, registration, or permit taken by another state, territory, or country. The amendment clarifies what is required to be reported and that timely reporting means reporting within 30 days of final disciplinary action.

Notice of Intended Action was published in the December 15, 1999, Iowa Administrative Bulletin as **ARC 9545A**. This amendment is identical to that published under Notice.

The amendment was approved during the February 1, 2000, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on April 26, 2000.

This amendment is intended to implement Iowa Code sections 124.304, 124B.12, 155A.6, 155A.12, 155A.13A, 155A.15, and 155A.17.

The following amendment is adopted.

Amend subrule **36.1(4)**, paragraph "k," as follows:

k. Failure to ~~report~~ *notify the board within 30 days after a final decision entered by the licensing authority of another state, territory, or country which decision resulted in a license or registration revocation, suspension, or other disci-*

~~plinary action taken by another state, territory or country sanction.~~

[Filed 2/18/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

**ARC 9739A****REAL ESTATE COMMISSION[193E]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby amends Chapter 1, "Business Conduct," Iowa Administrative Code.

These amendments are adopted to comply with changes made to Iowa Code section 543B.34(9a) and new section 543B.60A regarding restrictions on payment of commission to others.

The amendments to Chapter 1 add a new definition for "referral fee" or "finder's fee." New rule 193E—1.41(543B) clarifies the Commission's position relating to payment of rebates and inducements by licensees. Subrule 1.27(1) is amended to reflect the amount of personal funds allowable in the trust account as set in Iowa Code section 543B.46(4). New subrule 1.27(15) clarifies record retention requirements and record availability for trust account and compliance audits.

Notice of Intended Action was published in the January 12, 2000, Iowa Administrative Bulletin as **ARC 9600A**. Two written comments were received prior to the public hearing held February 1, 2000, and one person provided comments at the public hearing.

Nonsubstantive changes in language have been made for clarity and conciseness in the following: rule 1.41(543B), introductory paragraph, subrules 1.41(2) to 1.41(7), 1.41(8), paragraphs "c" and "d," and subrule 1.42(6), paragraphs "i" and "j."

These amendments were approved by the Commission on February 22, 2000.

These amendments shall become effective April 26, 2000.

These amendments are intended to implement Iowa Code sections 543B.9 and 543B.18.

The following amendments are adopted.

ITEM 1. Amend rule **193E—1.1(543B)** by adopting the following new definition in alphabetical order:

"Referral fee" or "finder's fee" means any fee or other valuable consideration paid by a licensee to any unlicensed person or entity for the purpose of procuring prospects for the sale, exchange, purchase, rental or leasing of real estate.

ITEM 2. Amend subrule **1.27(1)**, paragraph "c," as follows:

c. A broker shall not commingle personal funds in a trust account; provided, however, that not more than \$100, ~~or the amount specified in Iowa Code section 543B.46(4), \$500~~ of the broker's personal funds may be maintained in each separate account if (1) such personal funds are separately accounted for and (2) such personal funds are intended to be used by the broker to pay for expenses directly related to maintaining the account.

## REAL ESTATE COMMISSION[193E](cont'd)

The broker shall ensure that personal funds are deposited to cover bank service charges as specified in Iowa Code section 543B.46, and that at no time are trust moneys used to cover any charges. Upon notification that the broker's personal funds are not sufficient to cover service charges initiated by the bank that are above the normal maintenance charges, the broker shall deposit personal funds to correct the deficiency within 15 days of the closing date of that bank statement.

ITEM 3. Amend rule 193E—1.27(543B) by adopting the following **new** subrule:

**1.27(15)** Every broker shall retain for a period of at least five years true copies of all business books; accounts, including voided checks; records; contracts; closing statements; disclosures; signed documents; and correspondence relating to each real estate transaction that the broker has handled and each property managed. The records shall be made available for inspection by the commission, staff, and its authorized representatives at all times during usual business hours at the broker's regular place of business. If the brokerage closes, the records shall be made available for inspection by the commission, staff, and its authorized representatives upon request.

ITEM 4. Adopt the following **new** rule:

**193E—1.41(543B) Rebates and inducements.** With proper written disclosure, rebates and inducements may be paid to a party to the transaction, consistent with Iowa Code sections 543B.6 and 543B.34(9a), provided such party does not engage in any activity that requires a real estate license. A rebate or inducement shall not be made without the required written disclosures to the parties as provided in 193E—1.42(543B).

**1.41(1)** A licensee shall not pay a commission, any part of the commission, or valuable consideration to an unlicensed third party for performing brokerage functions or engaging in any activity that requires a real estate license. Referral fees or finder's fees paid to unlicensed third parties for performing brokerage activities, or engaging in any activity that requires a real estate license, are prohibited.

**1.41(2)** In a listing contract, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller or landlord that is a principal party to the listing contract. This will be deemed a reduction in the amount of the earned commission.

**1.41(3)** Payment to an unlicensed buyer or tenant is often referred to as "rebating." A broker's intention to pay money or costs associated with a transaction to a buyer or tenant may be advertised and promoted as a sales inducement. The payment to the buyer or tenant is permissible, when disclosed, because the broker is licensed and authorized to negotiate and the buyer or tenant may negotiate on the buyer's or tenant's own account.

**1.41(4)** A licensee may present a gratuitous gift, such as flowers or a door knocker, to the buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease. The permission and disclosure requirements of 193E—1.42(543B) do not apply as long as any client relationship has terminated.

**1.41(5)** A licensee may present free gifts, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease, prior to signing a contract to purchase or lease and not promised or offered as an inducement to buy or lease. It is the licensee's responsibility to ensure that the promotion is in compliance with other Iowa laws,

such as gaming regulations. The permission and disclosure requirements of 193E—1.42(543B) do not apply as long as no client relationship has been established with the buyer or lessee.

**1.41(6)** The offering by a licensee of a free gift, prize, money, or other valuable consideration as an inducement shall be free from deception and shall not serve to distort the true value of the real estate service being promoted.

**1.41(7)** No broker shall pay a commission, referral or finder's fee, or other valuable consideration to another broker knowing that a portion will be paid to an unlicensed person or party for performing any activity for which a real estate license is required, or which otherwise constitutes a commission, referral or finder's fee, or other valuable consideration, requested after a bona fide offer to purchase has been accepted or a bona fide listing agreement or buyer's brokerage agreement has been signed, or which constitutes an undisclosed rebate or inducement.

**1.41(8)** A licensee may make donations to a charity, or other not-for-profit organization, for each listing or closing, or both, that the licensee has during a specific time period. The receiving entity may be selected by the licensee or by a party to the transaction. The contribution may be in the name of the licensee or in the name of a party to the transaction. Contributions are permissible only if the following conditions are met:

- a. There are no restrictions placed on the payment;
- b. The donation is for a specific amount;
- c. The receiving entity does not act or participate in any manner that would require a license;
- d. The licensee exercises reasonable care to ensure that the organization or fund is a bona fide nonprofit;
- e. The licensee exercises reasonable care to ensure that the promotional materials clearly explain the terms under which the donations will be made; and
- f. All required disclosures are made.

ITEM 5. Amend subrule **1.42(6)** by adopting the following **new** paragraphs "i" and "j":

i. The provisions of these rules and subrules do not apply to a gratuitous gift, such as flowers or a door knocker, to a buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease as long as any client relationship has terminated.

j. The provisions of these rules and subrules do not apply to a free gift, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease prior to signing a contract to purchase or lease and not promised or offered as an inducement to sell, buy, or lease as long as no client relationship has been established with the buyer or lessee.

[Filed 3/2/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.

**ARC 9746A****WORKFORCE DEVELOPMENT  
DEPARTMENT[871]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 96.11, the Director of the Workforce Development Department hereby amends Chapter 23, "Employer's Contribution and Charges," Iowa Administrative Code.

Notice of Intended Action was published in the January 26, 2000, Iowa Administrative Bulletin as **ARC 9630A**.

Subrule 23.40(2), paragraph "a," is amended by extending the contribution surcharge to the year 2001.

Proposed new Chapter 41 is not being adopted at this time.

This amendment is intended to implement 1998 Iowa Acts, chapter 1051.

This amendment will become effective on April 26, 2000  
The following amendment is adopted.

Amend subrule **23.40(2)**, paragraph "**a**," as follows:

a. For calendar years 1988 through ~~1998~~ 2001, each employer except a governmental entity and a 501(c)(3) non profit organization will have an administrative contribution surcharge added to the contribution rate. The administrative contribution surcharge shall be a percentage, rounded to the next highest one-hundredth of 1 percent, of the taxable wage base in effect for the rate year following the computation date, which is equal to one-tenth of 1 percent of the Federal Unemployment Tax Act (FUTA) taxable wage base in effect on the computation date.

[Filed 3/3/00, effective 4/26/00]

[Published 3/22/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/22/00.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\* EXECUTIVE ORDER NUMBER FOURTEEN**

- WHEREAS,** the State of Iowa provides the promise of a high quality of life to its residents; and
- WHEREAS,** the people of this state are our most valuable resource; and
- WHEREAS,** the overall productivity of this state declines whenever barriers preclude residents from gaining full access to quality health-care services; and
- WHEREAS,** existing barriers preclude many Iowans from gaining access to quality health-care services; and
- WHEREAS,** the State of Iowa currently enjoys an unparalleled opportunity to become a national leader in the treatment and prevention of health-related illnesses; and
- WHEREAS,** many Iowans possess important insights that can help policy-makers improve the quality of health care across this state; and
- WHEREAS,** all residents of the State of Iowa, as consumers, are entitled to lend their voices to policy discussions, by participating in the development of a comprehensive quality health-care policy for this state; and
- WHEREAS,** I, as governor, believe that it is imperative for state government to partner with health-care consumers in an effort to penetrate the barriers that surround the state's health-care system.

**NOW, THEREFORE,** I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa hereby order and proclaim the establishment of the **HEALTH CONSUMER ADVISORY COUNCIL**. This Council shall operate within the framework and guidelines set forth in Articles I through III, below.

**ARTICLE I: PURPOSE AND FOCUS**

The Council has been established to advise the Governor and Lieutenant Governor on health-related public policy issues. The Council will serve to broaden the pool of participants who engage in the development of health-care policy within this state by linking state policy-makers with health-care consumers.

The Council has been established to serve the following functions:

1. to identify important health-related issues by surveying state residents;
2. to enhance the leadership skills of health-care consumers and advocates;
3. to facilitate communication between consumers and policy-makers by providing a forum for discussing health-related public policy issues;
4. to create a partnership between consumers and state government in an effort to reduce bureaucratic obstacles that may limit an individual's access to quality health-care.

## **ARTICLE II: STRUCTURE**

The Honorable Sally J. Pederson, Lieutenant Governor, shall be named Honorary Chair of the Council. Other Council members shall be appointed by the governor.

The Council shall be composed of citizens representing the state's diverse health-care consumer pool. Representation shall include persons familiar with difficulties encountered by health-care consumers with special service delivery needs.

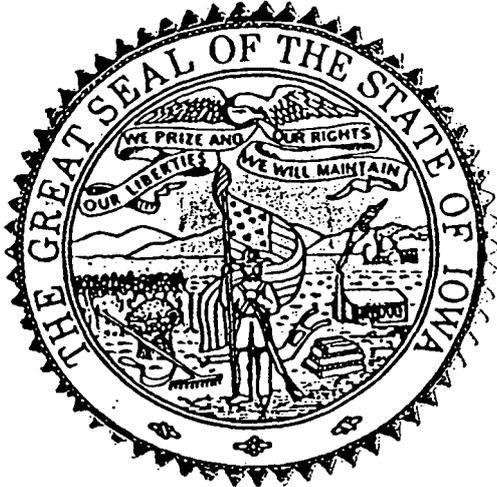
Representation on this Council shall include, but not be limited to: a parent of an asthmatic child; a patient undergoing cardiac rehabilitation; a mental health clinic patient; a small business owner; a farmer; a factory worker; and a parent with a child enrolled in the state's HAWK-I plan. Health-care providers, professional advocates, and insurers may participate in this initiative by serving as a resource to the Council, however, they may not serve on the Council as voting members.

The Council shall form a Consumer Health Network of Iowans from across the state. The Council shall solicit input from the Network, through various media, when evaluating health-care services provided and/or funded by state government and other providers. The Council shall place a special emphasis on consumer perceptions of the existing health-care system.

The Council shall prepare and submit a preliminary report of its findings to the Governor, Lieutenant Governor, Director of Human Services, and Director of Public Health by September 1, 2000. The Council shall submit a final report outlining its findings, conclusions, and recommendations by April 1, 2001.

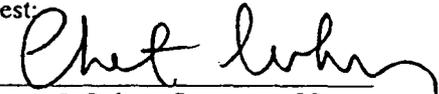
ARTICLE III: FUNDING

Funding for the Health Consumer Advisory Council shall be provided for by the Iowa Department of Human Services and the Iowa Department of Public Health, through contributions and donations earmarked for the purposes set forth in this Executive Order.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done in Des Moines, Iowa on this the 25<sup>th</sup> day of February in the year of our Lord two thousand.

  
\_\_\_\_\_  
Thomas J. Vilsack, Governor

Attest:  
  
\_\_\_\_\_  
Chester J. Culver, Secretary of State

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