



**ADMINISTRATIVE RULES – FISCAL IMPACT SUMMARIES**

*Section 17A.4(3) Iowa Code Supplement requires the Legislative Services Agency (LSA) to analyze the fiscal impact of all administrative rules with an impact of \$100,000 or more and provide a summary of the impact to the Administrative Rules Review Committee (ARRC). Fiscal Impact Statements filed by State agencies can be found on our website at [http://staffweb.legis.state.ia.us/lfb/docs/Admin\\_Rules/arfiscal\\_notes.htm](http://staffweb.legis.state.ia.us/lfb/docs/Admin_Rules/arfiscal_notes.htm).*

**DEPARTMENT OF HUMAN SERVICES**

**ARC 5582B**

**Rule Summary** Establishes rules for the new Preparation for Adult Living Services (PALS) Program. The Program will serve youth leaving State-paid foster care on or after age 18, who were in foster care for six of the past 12 months, by providing a monthly stipend up to their 21<sup>st</sup> birthday, as long as the youth is engaged in full-time employment, continuing education, or a training program.

**Fiscal Impact** The Program will serve an average monthly population of approximately 130 youths at a cost of \$1.1 million in both FY 2007 and FY 2008. House File 2734 (FY 2007 Health and Human Services Appropriations Act) provided an estimated increase of \$854,000 in the Child and Family Services appropriation for this purpose for FY 2007.

The estimates above do not include the cost of providing Medicaid coverage for those aging out of foster care, which will cost an additional estimated \$1.1 million in FY 2007 for 413 youths and \$2.2 million in FY 2008 for 826 youths.

**ARC 5579B**

**Rule Summary** Implements HF 2319 (Medicaid Personal Needs Allowance Act), which directs the Department of Human Services (DHS) to allow residents of nursing facilities participating in the Medicaid Program to retain a personal needs allowance of \$50 per month from their income, such as Social Security benefits.

**Fiscal Impact** House File 2734 appropriated an estimated increase of \$1.4 million in the Medicaid appropriation for this purpose in FY 2007.

**ARC 5626B**

**Rule Summary** Combines several different Medicaid provider enrollment forms into a single form. They also require that Medicaid providers be assigned a national provider identifier number as required by federal law.

**Fiscal Impact** No fiscal impact.

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### ARC 5577B and ARC 5578B

**Rule Summary** Increases the limits on costs under the HCBS waivers by 3.0% to accommodate the 3.0% Medicaid provider rate increase provided for in HF 2734.

**Fiscal Impact** The estimated fiscal impact will be a cost to the General Fund of \$219,000 in FY 2007 and \$223,000 in FY 2008. Funding for FY 2007 was provided as part of the Medicaid appropriation in HF 2734.

### ARC 5580B and ARC 5581B

**Rule Summary** Changes the components of the graduated sanction service, “supervised community treatment,” due to the loss of federal Medicaid funds for Rehabilitative Treatment Services, and limits the funds for this service to the State funds previously used to match federal Medicaid expenditures. The goal is to allow chief juvenile court officers flexibility in order to continue providing services to this population and maximize the available funds.

**Fiscal Impact** No fiscal impact. The State funds for this service already exist in the Child and Family Services appropriation.

STAFF CONTACT: Kerri Johannsen (Ext. 14611) Lisa Burk (Ext. 17942)

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## DEPARTMENT OF INSPECTIONS AND APPEALS

### ARC 5585B

**Rule Summary** The proposed amendments keep pace with recently emerging federal Medicare policies that affect health care delivery systems in all states, including Iowa. The proposed changes will more closely reflect the current federal Medicare rules, which now provide a reimbursement system for long-term acute-care (LTAC) hospitals. The proposed amendments are expressly limited to the licensure of a long-term acute-care hospital within a currently licensed hospital. The proposed amendments also specifically exclude specialty hospitals currently recognized within the federal Medicare system.

**Fiscal Impact** The fiscal impact cannot be determined. The number of possible long-term acute-care hospitals that might be created as a result of the adopted rules is unknown. Also unknown to the Department is the cost of construction for a long-term acute-care hospital. Adoption of the rules does not automatically establish LTAC hospitals in Iowa since facilities seeking an LTAC license must first obtain a Certificate of Need from the Department of Public Health's Health Facilities Council.

### ARC 5587B

**Rule Summary** Eliminates regulatory barriers to the establishment of person-directed care environments by inserting resident choice in various provisions, including those dealing with resident clothing, bathing, living arrangements, care and treatment plans, medication administration, and meal planning. Additionally, the proposed amendments remove certain restrictions on employee duties permitting them to serve in dual capacities, such as resident care and meal preparation.

**Fiscal Impact** The fiscal impact cannot be determined. The number of possible nursing facilities that might want to undertake new construction or renovations to existing buildings to establish person-directed care environments is unknown. Also unknown is the cost of construction or renovation associated with implementation of the adopted rules. The adopted rules do not mandate the creation of person-directed care environments

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but, rather, permit nursing facilities to create an alternate living environment for their residents.

**ARC 5586B**

**Rule Summary** The proposed amendments strike the requirement that long-term care facilities receiving reimbursement through the Medicaid program submit the names of all new residents to the Iowa Department of Veterans Affairs for the purpose of identifying residents' eligibility or potential eligibility for benefits through the United States Department of Veterans Affairs. The proposed amendments stipulate that long-term care facilities need only submit the names of those residents identified as potential veterans, along with the names of their spouses and any dependent children.

**Fiscal Impact** No fiscal impact to the State. There will be a reduction in paperwork for long-term care facilities.

STAFF CONTACT: Douglas Wulf (Ext. 13250)

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### DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

**ARC 5623B**

**Rule Summary** Permits a licensed animal shelter or a licensed pound to apply with the Department of Agriculture and Land Stewardship to become a fostering oversight organization so it can utilize foster-care homes as part of a program for caring for abandoned or surrendered animals. Three humane organizations requested the Department to adopt limited rules for the regulation of foster-care homes.

**Fiscal Impact** Minimal fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

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### LABOR SERVICES DIVISION – DEPARTMENT OF WORKFORCE DEVELOPMENT

**ARC 5596B**

**Rule Summary** Adopts changes to the federal respiratory protection standards by reference and creates a very limited exception to the hexavalent chromium standard to cause Iowa's program to conform to the federal program.

**Fiscal Impact** There will be additional costs of compliance for the respiratory protection changes. The United States Department of Labor estimated the total costs for all employers in the United States to be \$4.4 million. No reliable method for calculating the impact in Iowa is known.

**ARC 5583B**

**Rule Summary** Details procedures and the method of calculating penalties for violations as established in Chapter 91A, Code of Iowa.

**Fiscal Impact** No fiscal impact.

**ARC 5619B**

**Rule Summary** The rules begin the process of extending safety and health inspections to certain water heaters that fall within the scope of Chapter 89, Code of Iowa, and previously have not been inspected. The proposed amendments:

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- Require that all water heaters in places of public assembly, not currently registered, become registered with the Division of Labor Services by January 1, 2009.
- Require water heaters not currently being inspected to be inspected beginning January 1, 2009.
- Ease restrictions on the use of galvanized pipes, valves, and fittings for boilers and pressure vessels.
- Rewrite the safety requirements applicable to water heaters by removing unnecessary restrictions; adopting a requirement that all water heaters must be in accordance with a recognized standard; rewriting the rules to make them easier to read; requiring installation in accordance with the manufacturer's recommendations; exempting electric, point-of-use water heaters from the requirements for temperature and pressure valves and thermal expansion tanks; and adopting new rules for bulging or leaking tanks, exhaust flues, leaks, and carbonization.
- Eliminate the requirement that water heaters be provided expansion tanks built in accordance with the American Society of Mechanical Engineer's Code in certain cases.

### Fiscal Impact

The fiscal impact cannot be determined. There are no statistics available concerning the number of water heaters in places of public assembly that have not been previously inspected. There is no information available concerning the condition of the water heaters, thus prohibiting estimating the costs of repairs that may eventually be required. It is also unknown what the fees will be on January 1, 2009, when the inspections begin.

### Rule Summary

Adopts changes mandated by HF 2459 (FY 2007 Economic Development Appropriations Subcommittee Act) by expanding the number of contractors exempt from construction contractor registration and bonding, and expanding the number of contractors exempt from the registration fee that must register.

**ARC 5618B**

Also, updates rules, allows asbestos workers to begin work sooner after issuance of an asbestos license, and requires contractors to relinquish revoked licenses to the Division of Labor Services.

### Fiscal Impact

Minimal fiscal impact. A small decrease in the number of paid registrations is anticipated.

### Rule Summary

Adopts a new requirement that participants in shoot fighting and professional boxing events provide proof of negative antigen tests for the human immunodeficiency, hepatitis A, and hepatitis B viruses, within the past six months.

**ARC 5584B**

### Fiscal Impact

No State fiscal impact. Participants will incur the cost of a blood test every six months.

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### NATURAL RESOURCE COMMISSION – DEPARTMENT OF NATURAL RESOURCES

#### ARC 5601B

**Rule Summary** Clarifies the expectations of recreational trail users where designated trails exist, incorporates the Department's policy on trail closure, and updates terminology and definitions. No revisions made since the Notice of Intended Action was filed.

**Fiscal Impact** No fiscal impact.

#### ARC 5602B

**Rule Summary** Changes the fish length limit regulations for walleye at specific lakes, lowers the minimum fish length limit for largemouth bass at Green Valley Lake, and removes the daily bag limit and size restriction for hybrid striped bass at Big Creek Lake. No revisions made since the Notice of Intended Action was filed.

**Fiscal Impact** No fiscal impact.

#### ARC 5603B

**Rule Summary** Closes the commercial harvest of mussels in waters of the Mississippi River common with the state of Illinois. This action will bring closure to commercial harvest of mussels in all waters of the Mississippi River in Iowa beginning April 4, 2007.

**Fiscal Impact** No fiscal impact.

#### ARC 5604B

**Rule Summary** Sets quotas for nonresident licenses and requires successful hunters to report their kill. Also, improves the management of deer by county.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

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### ENVIRONMENTAL PROTECTION COMMISSION – DEPARTMENT OF NATURAL RESOURCES

#### ARC 5599B

**Rule Summary** Updates the State's air quality rules to be consistent with federal regulations:

- Clarifies the requirements for variance eligibility.
- Updates references to federal regulations with national attainment, nonattainment, and unclassified area designations.
- Updates a reference to federal hazardous air program rules.
- Corrects cross-references to the Title V permit rules, other operating permit rules, and the Acid Rain Program rules.
- Amends Chapter 23 to adopt New Source Performance Standards.
- Amends Chapter 23 to adopt National Emissions Standards for Hazardous Air Pollutants (NESHAPS).
- Amends Chapter 25 to update cross-references to New Source Performance Standards (NSPS).
- Amends Chapter 34 to adopt changes to the federal Clean Air Mercury Rule.

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**Fiscal Impact** No fiscal impact to the State. The rule changes will primarily affect regulated parties (industry) with applicable air emissions or emission equipment. The changes will provide a better description and updated references to existing federal regulations. The most evident impact of this rulemaking will be incorporation of the federal amendments to NSPS and NESHAP. In particular, the amendments to the NESHAP for dry cleaners will impose additional control requirements and a ban on the use of the perchloroethylene at new dry cleaning facilities that are located in the same building as apartment units ("co-residential" facilities). The Department of Natural Resources (DNR) is not aware of any such "co-residential" dry cleaners in Iowa at this time. Owners and operators of affected air emissions sources are subject to the federal requirements whether or not the State incorporates the federal requirements into the Iowa Administrative Code. Therefore, the incorporation by reference of the federal standards will not impose any additional costs to the effected sources.

**ARC 5598B**

**Rule Summary** This is a federal mandate to update rules related to the re-issuance of federal Army Corps of Engineers (Corps) Nationwide Permits (NWP) every five years and the issuance of two new Regional Permits (RPs). The NWP will expedite the federal review of projects and the RPs will reduce sediment and contaminants to the Mississippi and Missouri Rivers.

The Regional Permits will benefit the general public who has been working with the Natural Resources Conservation Service or Farm Service Agency to construct small ponds, dams, grade stabilization structures, and other related Conservation Reserve Enhancement Program (CREP) projects.

**Fiscal Impact** No fiscal impact to the State. Expenditures to the Corps and to the DNR will decrease, as both agencies won't have to issue public notices for each project covered by a NWP or RP. The regulated public's costs will also decrease because no fee is charged by the Corps to the permittee for NWP and RPs. Individual permits cost \$10 for private development and \$100 for commercial development. The fees are paid to the Corps.

**ARC 5597B**

**Rule Summary** Implements the minimum federal standards promulgated by the Environmental Protection Agency (EPA) for municipal solid waste landfills (MSWLFs). In order to obtain full approval from the EPA, Iowa must implement and enforce standards technically comparable to the Code of Federal Regulations (CFR), commonly referred to as RCRA Subtitle D standards.

Iowa has been approved to administer the RCRA Subtitle D standards since 1997, and there has been a lack of clarity and consistency in regard to the approval of vertical and horizontal expansions of MSWLFs. The uncertainty with regard to the applicability of liner requirements and other federal requirements for vertical expansions has caused confusion to the regulated community. In Iowa, 32 of the 59 operating landfills do not have a Subtitle D compliant liner.

**Fiscal Impact** **Department Expenditures:** Additional expenditures to the DNR are estimated to be less than \$100,000 per year. Because the proposed rules are adopting current federal requirements, the implementation of most of these regulations is taking place now. Department engineering staff are reviewing landfill design modifications submitted by landfill agencies in preparation for the implementation of these new rules. This has resulted in an increase in the number of projects outside of the routine renewals that occur every three years.

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A compilation of data from 10 other states that the Department obtained from the Association of State and Territorial Solid Waste Management Officials shows that RCRA Subtitle D “permit maintenance” activities, which covers the tasks related to groundwater monitoring report reviews, may increase the current engineering staff workload by 20.0%. The solid waste permit engineer’s current job descriptions indicate that 25.0% of their time should be spent on these responsibilities. It is estimated that only about 5.0% of the permit engineer’s effort is dedicated to groundwater monitoring report reviews due to lack of time and other permit activity priorities.

The actual number of additional staff needed is difficult to determine until current staff have had the opportunity to review the groundwater reports with the additional sampling parameters and review a permit application submittal that follows the newly-implemented rules. Other factors to consider include a known decrease of 10 landfills in the State after October 1, 2007, and a change in the permit renewal cycle from three to five years, resulting in less frequent reviews. The FY 2007 staffing plan prepared for the Solid Waste Permitting Section described re-designing an existing environmental specialist senior position within the section into an environmental engineer with groundwater hydrology expertise in order to meet the anticipated increase to the landfill engineering workload due to the implementation of these new rules. That position was approved and a professional engineer was hired in September 2006.

**Landfill Expenditures:** The following is a cost estimate for Iowa landfills based on information provided by Shaw Environmental, Inc.

There are 59 landfills operating in Iowa and 11 sites plan to close prior to the proposed rules going into effect. There are 13 landfills that will be required to construct a new disposal area with a liner that complies with the federal requirements in order to continue accepting waste after October 1, 2007. Of the remaining landfills, several have already installed a bottom liner in a new disposal area but may be required to construct an additional side slope liner that is comparable to the liner on the bottom of the new disposal area. A landfill may also be required to perform an engineering model that verifies that the existing side slope liner in place is compliant with the rule requirements.

The following are estimated additional one-time costs associated with this proposed rulemaking:

- One-time permitting costs that includes site investigations, permit application fees, and plan preparation, that is estimated between no additional cost and \$168,000 per site for a total estimated cost of \$2.2 million (for 13 sites).
- One-time costs for cell construction that are estimated to be no additional cost to \$250,000 per site for a total estimated cost of up to \$12.0 million (for 48 sites).
- One-time costs for installing a leachate storage system that are estimated to be no additional cost to \$250,000 per site for a total estimated cost of \$3.3 million (for 13 sites).
- One-time costs for adding two additional groundwater monitoring wells at an average of \$6,000 per site for a total estimated cost of \$378,000 (for 63 sites).

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- One-time costs for establishing background water quality are estimated to range between \$24,000 to \$131,000 per site.

The following are estimated additional annual costs associated with this proposed rulemaking:

- Annual estimated costs for routine groundwater monitoring conducted twice a year are estimated to range between \$10,000 to \$67,000 per year per site.
- If additional sampling is required, the estimated costs range from \$13,000 to \$85,000 per site per year. It is unlikely that all sites would require additional sampling.
- Annual incremental operating costs are estimated to range from no additional cost to \$17,000 per site per year.

**ARC 5600B**

**Rule Summary** This rulemaking is in response to House File 2362 (FY 2007 Mercury Free Recycling Act). The Act requires a vehicle manufacturer to implement a system to remove, collect, and recover mercury switches from end-of-life vehicles.

**Fiscal Impact** Minimal fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

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### HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION – DEPARTMENT OF PUBLIC DEFENSE

**ARC 5624B**

**Rule Summary** Implements provisions of HF 2797 (FY 2007 Standing Appropriations Act) related to Homeland Security and Emergency Response Teams.

**Fiscal Impact** The fiscal impact cannot be determined. Costs will be incurred when the Teams are deployed. Teams can only be deployed by the Homeland Security Administrator or by a Governor's disaster proclamation. It is likely federal funds will be available to cover the majority of the costs if the Teams are deployed.

STAFF CONTACT: Beth Lenstra (Ext. 16301) Jennifer Acton (Ext. 17846)

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### DEPARTMENT OF REVENUE

**ARC 5593B**

**Rule Summary** Implements the statutory provisions of HF 2351 (FY 2007 Eminent Domain Act), HF 2465 (FY 2007 Holding Period for Capital Assets Act), and HF 2782 (FY 2007 Capitals Appropriation Act):

- Provides that the federal holding period provisions in Section 1223 of the Internal Revenue Code will be used in determining the 10-year holding period for the Iowa capital gains exclusion for Iowa individual income tax.
- Provides for an exclusion for individual income tax for capital or ordinary gain income from an involuntary conversion relating to eminent domain.



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- Provides for an exemption for Iowa corporation income tax if the only activity conducted by a foreign corporation in Iowa is using a distribution facility in Iowa and if certain other conditions are met.
- Provides for an exclusion for corporation income tax for capital or ordinary gain income from an involuntary conversion relating to eminent domain.
- Makes numerous technical changes.

### Fiscal Impact

The change to the capital gain exclusion in HF 2465, as reflected in the fiscal note, will decrease General Fund revenues by \$100,000 for FY 2007 and \$50,000 for FY 2008.

### Rule Summary

Implements statutory provisions of SF 2286 (FY 2007 Miscellaneous Court Procedures Act), SF 2373 (FY 2007 Real Estate Appraiser Certification Act), and SF 2399 (FY 2007 Small Wind Tax Credit Extension Act):

**ARC 5595B**

- Updates the listing regarding the sequence of tax credits to be deducted for individual income tax.
- Provides for changes in the application and review process for the Wind Energy Production Tax Credit for individual income tax.
- Provides for changes in how the Wind Energy Production Tax Credit for individual income tax may be allocated for partnerships, limited liability companies, S corporations, and estates or trusts in situations where federal Renewable Electricity Production Tax Credits are utilized.
- Provides for changes in the application and review process for the Renewable Energy Tax Credit for individual income tax.
- Provides for the Agricultural Assets Transfer Tax Credit for individual income tax.
- Updates the listing regarding the sequence of tax credits to be deducted for corporation income tax.
- Makes numerous technical changes.

### Fiscal Impact

The Agricultural Assets Transfer Tax Credit in SF 2268, as reflected in the fiscal note, will result in a decrease to the General Fund of an estimated \$70,000 for FY 2007 and \$180,000 for FY 2008. The changes to the Wind Energy Production Tax Credit and the Renewable Energy Tax Credit in SF 2399, as reflected in the fiscal note, will result in a decrease to the General Fund of an estimated \$2.9 million for FY 2008.

STAFF CONTACT: Jess Benson (Ext. 14613)

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## DEPARTMENT OF ECONOMIC DEVELOPMENT

### Rule Summary

Cancels the existing chapter related to the Housing Fund and creates a new chapter. Adds new definitions, eliminates subrecipient agreements, separates contracts for administration, and adds new limits on per-unit subsidies. After consideration of comments, the Department did not adopt the proposed rule which would have

**ARC 5609B**

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eliminated the use of subrecipient agreements. The current rules no longer prohibit all subrecipient agreements. The Department will provide technical assistance to recipients about subrecipient contracts and include any contract requirements in the recipient-IDED grant agreement to ensure the appropriate accountability measures are maintained.

**Fiscal Impact** No fiscal impact.

**ARC 5608B**

**Rule Summary** Describes the structure of the Renewable Fuel Infrastructure Board and establishes application procedures for the Renewable Fuel Infrastructure Programs for retail motor fuel sites and biodiesel terminal facilities. There were extensive comments received during the comment period, and changes were made to the final rules as a result of these comments.

**Fiscal Impact** House File 2759 (Renewable Fuel Infrastructure Act) allocates \$2.0 million from the Grow Iowa Values Fund appropriation to the Iowa Department of Economic Development (DED) to the Renewable Fuel Infrastructure Fund annually in FY 2007, FY 2008, and FY 2009. Of the \$2.0 million, \$50,000 is allocated annually to the DED for costs associated with administering the Renewable Fuel Infrastructure Programs. In addition, the Act appropriates \$3.5 million to the Renewable Fuel Infrastructure Fund from the Iowa Comprehensive Petroleum Underground Storage Tank Fund each year in FY 2007 and FY 2008.

The Act also appropriates \$300,000 from the Renewable Fuel Infrastructure Fund, or the amount necessary, to the DALS each year in FY 2007 and FY 2008 for the inspection of motor fuel, including salaries and support of 3.0 FTE positions. The remaining funds will be used for grants to increase the availability of E-85.

The changes to the rules do not change the fiscal impact.

STAFF CONTACT: Ron Robinson (Ext. 16256)

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## ARCHITECTURAL EXAMINING BOARD – DEPARTMENT OF COMMERCE

**ARC 5610B**

**Rule Summary** Provides a registrant the opportunity to reinstate to “inactive” status if the registrant is no longer providing architectural services in the State and rescinds the requirement that an architectural firm renew an Authorization to Practice Architecture as a Business Entity once the initial application is approved. The Board, however, will continue to require that firms provide notification of any change in business name, address, or ownership.

**Fiscal Impact** Minimal fiscal impact is expected. There will be a new biennial fee of \$100 to allow current licensees to register as inactive. Currently, all active and inactive licensees pay a biennial fee of \$200, regardless their status. If fees are not paid on time, the license lapses and an architectural firm must re-apply to be licensed to practice architecture in Iowa. The Board determined that 92 individuals did not renew their license for the 2006-2008 biennial period.

STAFF CONTACT: Sam Leto (Ext. 16764)

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### BOARD OF EDUCATIONAL EXAMINERS

**ARC 5589B**  
**Rule Summary** Permits teachers participating in teacher exchange programs to apply for a limited license. The fee for the license, paid by the applicant, is \$85.  
**Fiscal Impact** No fiscal impact.

**ARC 5588B**  
**Rule Summary** Updates terminology regarding exceptional learners.  
**Fiscal Impact** No fiscal impact.

**ARC 5591B**  
**Rule Summary** Clarification regarding the authority of a licensee to teach two grades above or below the licensee's endorsement area.  
**Fiscal Impact** No fiscal impact.

**ARC 5590B**  
**Rule Summary** Eliminates exceptions in the requirement for an evaluator endorsement, now that the training is widely available.  
**Fiscal Impact** No fiscal impact.

**ARC 5592B**  
**Rule Summary** Corrects language, including a fee, and eliminates a superfluous date. The correct fee is already being charged. The rule change will eliminate confusion.  
**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Robin Madison (Ext. 15270)

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### DEPARTMENT OF EDUCATION

**ARC 5605B**  
**Rule Summary** Provides detail for the handling of an administrative appeal by a resident district protesting a decision of a late-filed open enrollment request by a receiving district. In response to public comment to the initial filing, the time limit for the board of the resident district to appeal was changed from within 15 days of the receipt of the notice to 30 days. The rule change also clarifies that the exception of "continuous enrollment" is not available to the parent or guardian of a child entering kindergarten for the first time. Other changes are "clean-up" language.  
**Fiscal Impact** No fiscal impact.

**ARC 5606B**  
**Rule Summary** Rescinds rules regarding Educational Improvement Projects, originally established in Chapter 260A, Code of Iowa, which was repealed in 1989. No funding was ever appropriated, and no projects were undertaken. This chapter is no longer needed.  
**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Dwayne Ferguson (Ext. 16561) Robin Madison (Ext. 15270)

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### DEPARTMENT OF ELDER AFFAIRS

#### ARC 5607B

**Rule Summary** Establishes the nomination and objection procedure to be used in replacing members of Area Agency on Aging Board of Directors.

**Fiscal Impact** Minimal fiscal impact.

STAFF CONTACT: Lisa Burk (Ext. 17942)

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### ENGINEERING AND LAND SURVEYING EXAMINING BOARD – DEPARTMENT OF COMMERCE

#### ARC 5613B

**Rule Summary** Clarifies the rule regarding the work experience prior to graduation from college that may be accepted toward satisfaction of professional experience requirements for eligibility for the professional engineering examination. The only internships that will be accepted are those administered by engineering colleges.

**Fiscal Impact** No fiscal impact.

#### ARC 5614B

**Rule Summary** Updates the method by which complaints can be submitted to the Board to include mail, e-mail, facsimile or personal delivery; clarifies the meaning of complainant and respondent; adds an explanation of initial complaint screening by the Board's Administrator; adds immunity from civil liability and employment protection for the complainant; and describes the role of the complainant and the role of the Board in the investigation process.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Sam Leto (Ext. 16764)

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### INSURANCE DIVISION – DEPARTMENT OF COMMERCE

#### ARC 5594B

**Rule Summary** Updates rules regarding the Division's structure, and implements the authority to charge a \$50.00 fee for service of process as authorized in SF 2364 (FY 2007 Insurance Law Changes Act).

**Fiscal Impact** Minimal fiscal impact.

#### ARC 5620B

**Rule Summary** Requires certain specific training for insurance producers that want to sell indexed annuities or indexed life insurance in Iowa. The additional training is necessary due to the complex nature of the indexed products, to ensure that insurance producers will be able to determine whether an indexed product is suitable for a potential purchaser and to be able to adequately explain to a consumer how the indexed product works. A producer must complete at least one four-credit indexed products training course prior to providing advice or making sales presentations concerning an indexed product on or after July 1, 2007.

**Fiscal Impact** No fiscal impact to the State. Systems and personnel for tracking and auditing this new requirement are already in place in the Division.

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### ARC 5572B

**Rule Summary** Rescinds Chapter 55 relating to registration requirements, to implement statutory changes. Effective July 1, 2004, the administration of the only remaining filing requirement was transferred to the Secretary of State. Business opportunity sellers are no longer required to file disclosure documents and register with the Insurance Division.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Sam Leto (Ext. 16764)

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## PHARMACY EXAMINERS BOARD – DEPARTMENT OF PUBLIC HEALTH

### ARC 5622B

**Rule Summary** Requires a pharmacy that intends to close permanently to notify all current patients with active prescriptions of the intended closure. Also, requires a pharmacy to inform patients of their right to transfer active prescriptions to a pharmacy of the patient's choice. Patient notification is required to be made at least two weeks prior to the pharmacy's closing, except in the case of an emergency or unforeseeable closure.

**Fiscal Impact** No fiscal impact.

### ARC 5621B

**Rule Summary** Establishes, as a ground for disciplinary action, the failure of a licensee or registrant to provide the Board or the Board's agent with prescription fill data or any other required pharmacy or controlled substances record in a timely manner.

**Fiscal Impact** The fiscal impact cannot be determined. Costs incurred by the Board may increase if administrative disciplinary actions against pharmacies increase as a result of this rule change. The Board is supported by licensure fees.

STAFF CONTACT: Lisa Burk (Ext. 17942)

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## PROFESSIONAL LICENSURE DIVISION – DEPARTMENT OF PUBLIC HEALTH

### ARC 5571B

**Rule Summary** Behavioral Science Examiners – Removes supervisor language that is no longer applicable and adds language to endorsement provisions to accept National Credentials Registry verification of credentials.

**Fiscal Impact** No fiscal impact.

### ARC 5615B

**Rule Summary** Interpreters for the Hearing Impaired Examiners – Changes define supervisory requirements for temporary license holders beginning July 1, 2007, to make licensure requirements consistent with the Code of Iowa.

**Fiscal Impact** No fiscal impact to the State. Temporary license holders may have increased costs if they are required to pay supervisor or continuing education costs.

STAFF CONTACT: Lisa Burk (Ext. 17942)

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### DEPARTMENT OF PUBLIC HEALTH

#### ARC 5574B and ARC 5573B

**Rule Summary** Changes the fee emergency service providers pay to become certified. Currently, provider candidates pay \$20 each time they take the certification test. This change will require provider candidates to pay a one-time \$30 fee.

**Fiscal Impact** No fiscal impact. The one-time fee for certification is higher; however, providers will no longer pay a fee if a re-test for certification is necessary and will not have to wait for clearance from the Department to schedule a re-test. The change is designed to be revenue neutral to the Department's Bureau of Emergency Services.

#### ARC 5576B and ARC 5575B

**Rule Summary** Changes to simplify the process for accessing existing funds for local injury prevention programs by combining two separate funding categories for the Love Our Kids Grant into one category.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Lisa Burk (Ext. 17942)

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### DEPARTMENT OF PUBLIC SAFETY

#### ARC 5616B and 5617B

**Rule Summary** Senate File 2394 (FY 2007 Manufactured Home Regulation Act) transferred responsibility for licensing manufactured housing retailers, manufacturers, and distributors from the Department of Transportation to the Department of Public Safety (DPS). The DPS recently completed the rule-making process for the implementation of SF 2394; however, certain requirements were omitted during that process. These rules include the omitted items, which are: licensee discipline related to delinquent child support, provisions for appeals of disciplinary action against licenses, and waiver provisions. ARC 5617B is the same as ARC 5616B, except that it provides for an effective date of January 1, 2007.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Beth Lenstra (Ext. 16301) Jennifer Acton (Ext. 17846)

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### RECORDS COMMISSION

#### ARC 5625B

**Rule Summary** Adds definitions to clarify rules regarding management of government records.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Robin Madison (Ext. 15270)

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### UTILITIES DIVISION – DEPARTMENT OF COMMERCE

#### ARC 5611B

**Rule Summary** Amends filing requirements and procedures for determining eligibility for Wind Energy Production or Renewable Energy Tax Credits and forwarding applications to the Department of Revenue.

**Fiscal Impact** No fiscal impact.

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**ARC 5612B**

**Rule Summary** Amends rules regarding the reporting of line and pole maintenance. The proposed amendments to Subrule 20.18(7) will require rate-regulated utilities with over 50,000 retail electric customers in Iowa to include in the annual reliability reports information on maintenance of electric lines and poles. The proposed amendments to Subrule 25.3(3) will require all utilities to include in their maintenance and inspection plans a schedule for pole inspections that include more than just visual inspections and a record of pole maintenance or replacement.

**Fiscal Impact** No fiscal impact to the State.

STAFF CONTACT: Sam Leto (Ext. 16764)

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# **Fiscal Impact Statement**

**Associated with the**

**Notice of Intended Action to**

**Rescind Iowa Administrative Code 567-Chapter 113, “Sanitary Landfills:**

**Municipal Solid Waste,” and adopt new Iowa Administrative Code 567**

**Chapter-113, “Sanitary Landfills for Municipal Solid Waste:**

**Groundwater Protection Systems for the Disposal of Nonhazardous**

**Wastes”**

**Prepared by the**

**Department of Natural Resources**

**December 2006**



## Introduction

The following is intended to serve as a fiscal impact statement related to the Notice of Intended Action to rescind Chapter 113, “Sanitary Landfills: Municipal Solid Waste,” and adopt new Chapter 113, “Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Nonhazardous Wastes,” Iowa Administrative Code.

While the information following this paragraph relates to potential economic impacts of the proposed rule to the affected parties, municipal solid waste (MSW) landfills, it is also important to consider the benefits of this proposed rule. The state of Iowa must have and enforce standards technically comparable to the requirements found in 40 Code of Federal Regulations (CFR) Part 258 (commonly referred to as RCRA Subtitle D standards). Subtitle D equivalent landfills offer significant benefits to all Iowans as they provide the maximum practical protection for Iowa’s groundwater and citizens. 40 CFR Part 258 was developed by the U.S. Environmental Protection Agency (EPA) with the intent of providing the national criteria to ensure the protection of human health and the environment. The department is undertaking this rule making effort to comply with these federal standards. In addition, Iowa’s Groundwater Protection Act sets the policy of the state as “... to prevent further contamination of groundwater from any source to the maximum extent practical.” 92 percent of Iowans depend on groundwater as a drinking water source and 50% of Iowa’s industrial and commercial facilities utilize groundwater. It is essential to the health, welfare, and economic prosperity of all citizens in Iowa that groundwater is protected and that the prevention of groundwater contamination is of paramount importance.

## Economic Impacts and Increased Costs Related to Subtitle D Compliance

The existing chapter of rules in Iowa for MSW landfill liner design and installation requirements do not apply to landfills with approved design plans in place prior to November 13, 1996. This exemption has allowed many landfills to continue to accept waste over an unlined area by expanding vertically over the existing waste footprint approved prior to November 13, 1996. This exemption is also in direct conflict with the federal rules which require all landfills accepting waste after October 9, 1994 to have a Subtitle D equivalent liner installed. The proposed new chapter of rules for MSW landfills in Iowa will not allow waste to be placed over an unlined area after October 1, 2007.

There are 59 landfills currently accepting waste in Iowa. 24 of the 59 landfills are not operating over a constructed liner. 11 of the 24 have notified the department that they will close permanently by October 1, 2007. Ultimately, 13 landfills will have to construct a liner to continue accepting waste after October 1, 2007.

Of the remaining 35 landfills (59 open – 11 closing – 13 constructing a liner) that already have some type of liner system in place, construction of a side slope liner or modeling of the existing liner may be necessary in order to meet the proposed rules. This is dependent upon whether the existing lined area of the landfill abuts up against an older unlined area of the landfill where waste was previously disposed of.

Many landfills decided in the recent past to construct a new lined disposal area adjacent to an older unlined disposal area. Waste was then placed on the liner and along the side slope of the older unlined area. This conserves airspace which results in more landfilling capacity. To ensure that water which passed through the waste would drain onto the new lined area, a two foot layer of soil overlain with a foot of drainage material was placed on the side slope of the old unlined

disposal area. During this rulemaking process, the EPA has clarified that the abutting side slope must be designed with a liner comparable to the new Subtitle D liner on the bottom of the expansion area. This essentially creates a lined “bowl” in which all waste must be placed into. The effect of this clarification is that landfills which built a new lined disposal area abutting up against an old unlined area will need to do one of the following:

- a) Perform a detailed modeling analysis to certify that the existing two foot earthen layer constructed on the side slope of the abutting area is equivalent to a Subtitle D liner. Modeling is estimated to cost \$20,000 per landfill. 48 landfills could potentially incur these costs for a total of \$960,000.
- b) Construct a liner over the existing side slope of the abutment that ties into the bottom portion of the new lined disposal area. The costs for modeling and construction will vary depending on many factors. There is also a limited amount of capacity when constructing a new disposal area so certain assumptions are made when determining the costs for construction.

The primary source of information for construction costs is a recent cost model prepared by Shaw Environmental, Inc., a nationally recognized consultant for the solid waste management industry. Shaw Environmental was retained by the department in May of 2005 to conduct workshops for MSW landfill owners, operators, board members and engineering consultants to provide information on the expected cost of permitting, operating and constructing a Subtitle D compliant landfill. Shaw Environmental created a cost model designed to represent the average landfill that will seek compliance with the new rules. It is important to note that construction and/or liner modeling costs are one-time construction costs and are not considered to be an ongoing annual expense. Using the assumptions from the Shaw Environmental cost model, the costs to permit and construct a new disposal area are estimated to be as much as \$667,875 for a 0.65 acre cell.

Other economic impacts of the proposed rulemaking include increased groundwater sampling and monitoring requirements. Costs related to groundwater monitoring are anticipated to impact every landfill in operation and will directly impact annual operating costs. The proposed requirements for sampling and monitoring of groundwater will mirror the federal rule. The number of parameters to sample for in groundwater monitoring wells will consist of 62 sampling parameters, referred to as Appendix I, compared to the 8 routine sampling parameters in the current chapter of rules for Iowa. The proposed rules will also require groundwater monitoring wells to be spaced 300 feet apart as opposed to the 600 foot spacing in the current chapter. This will result in the installation of additional wells. Because of the potential increase in the number of groundwater monitoring wells required and the known increase to the number of sampling parameters, routine semi-annual groundwater monitoring is anticipated to have the greatest impact on annual operating costs for MSW landfills. Based on an analysis of existing sites’ hydrogeologic investigation reports, it is anticipated that an average of two additional groundwater monitoring wells at an estimated cost of \$3,000 per well will need to be installed at each landfill. Semi-annual groundwater sampling for the 62 Appendix I parameters is anticipated to cost \$744 per monitoring well. With an average of 13 wells per site, routine groundwater monitoring is estimated to cost \$19,344 per year. The total impact statewide for routine groundwater monitoring annually is estimated to be \$1,886,547. Depending on the results of routine monitoring, additional sampling may be required for the longer list of Appendix II parameters. This is called assessment monitoring and those costs are estimated at \$1,430 per monitoring well. Depending on the outcome of the groundwater assessment monitoring, the MSW landfill owner may be required to select a remedy for corrective action. According to information provided by the EPA, Superfund actions in Iowa and surrounding states have cost as much as \$12,304,000 or an average of \$724,000 per landfill site. It is important to note that not

every landfill will undergo assessment monitoring or be required to perform site remediation and corrective action remedies.

Other costs to consider are those associated with ongoing general operation, permit issuance and permit renewals. The additional incremental operating costs statewide are estimated to be as much as \$1,095,444 annually. Also, in order for the state of Iowa to have federal approval of our MSW landfill permitting program, the department must have the authority to collect all information necessary to issue a permit to ensure compliance with the rules. This requires the submittal of a permit application that includes engineering documents such as a site exploration study, hydrologic monitoring systems plan, design plans, operations plan, emergency response plan, and final closure plan. Three copies of the permitting documents are required to be submitted with the permit application. One is to be kept in office for public records, another is sent to the department field office assigned to inspect the landfill and another certified copy is provided to the landfill to be kept on site at all times. All of the plans referenced above are already required to be submitted under the existing rules and typically require some updating with each permit renewal because of changes that have occurred at the landfill during the three year permit cycle. However, because new rules are being proposed, several or all of these planning documents may not meet the new requirements and will be required to be revised. Department staff obtained permit application and planning document preparation costs from three different engineering consulting firms that represent more than half of the landfills in the state. Costs to prepare a new permit application for a landfill were in the range of \$5,000 to \$8,000 when all of the planning documents required revision and updating. If all of the 48 landfills planning to accept waste after October 1, 2007 were required to submit new permit applications, the total cost statewide would be \$312,000. All three firms indicated that a permit renewal application with typical modifications would cost the landfill approximately \$800-\$1,500 to prepare. This amount reflects the costs of subsequent permit application submittals. One benefit to consider with the proposed rules is that the permit cycle will increase from three years to five years. Also, instead of requiring three copies to be submitted initially, only one copy needs to be submitted for department review. Any changes that are required can be made to that copy. Once the department is certain that a permit application is complete and can be approved, the additional two copies can be sent to the landfill and the department field office.