



## Fiscal Services Division

### ADMINISTRATIVE RULES – FISCAL IMPACT SUMMARIES

**March 11, 2011**

*Section 17A.4(4) Iowa Code 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)*

#### Board of Educational Examiners

**ARC 9381B**

**Rule Summary**      Establishes rules for a new School Business Official authorization.

**Fiscal Impact**      No significant fiscal impact.

STAFF CONTACT: Robin Madison (Ext. 15270)

#### Department of Education

**ARC 9379B**

**Rule Summary**      Creates standards and procedures for the approval of training programs for individuals seeking authorization from the Board of Educational Examiners required to be employed as school business officials responsible for the financial operations of a school district.

**Fiscal Impact**      No significant fiscal impact.

**ARC 9374B**

**Rule Summary**      Strikes the exemption from the requirement for a physical examination prior to participation in interscholastic athletics for secondary students based on religious belief.

**Fiscal Impact**      No fiscal impact.

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**ARC 9376B**

**Rule Summary** Replaces “mental disability” terminology with “intellectual disability” in certain special education rules to parallel federal statute. Replaces “preappeal conference” with “mediation conference” for clarification.

**Fiscal Impact** No fiscal impact.

**ARC 9375B**

**Rule Summary** Conforms to U.S. Department of Education policies regarding the Iowa Department of Education special education enforcement actions with certain local education agencies (LEA) or area education agencies (AEA).

**Fiscal Impact** No fiscal impact.

**ARC 9372B**

**Rule Summary** Strikes a requirement that new school bus drivers take both the new driver course and the annual course for all drivers in their first year of employment. Permits the employer to impose additional training requirements for any driver.

**Fiscal Impact** No fiscal impact.

**ARC 9373B**

**Rule Summary** Conforms school district local option fund balance references to changed Generally Accepted Accounting Principles (GAAP) references.

**Fiscal Impact** No fiscal impact.

**ARC 9377B**

**Rule Summary** Conforms to statutory definitions and current practices, including avoidance of the use of the word “victim” regarding certain incident investigations by school employees.

**Fiscal Impact** No fiscal impact.

**ARC 9378B**

**Rule Summary** Amends the seclusion and restraint of student rules, including a suggestion from Iowa Protection and Advocacy (federal-related entity) relating to an employee evaluation when a violation may have occurred, and a suggestion by the federal Office for Special Education Programs indicating that compliance with related federal rules is required.  
NOTE: Iowa Protection and Advocacy has changed its name to Disability Rights Iowa.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Robin Madison (Ext. 15270) Shawn Snyder (Ext. 17799)

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**Environmental Protection Commission****ARC 9366B**

- Rule Summary** Proposes different budget options for air quality programs at the Department of Natural Resources (DNR) based on a request from the Environmental Protection Commission at the December 2010 meeting. Currently, the Title V Operating Permit fee is \$56 per ton for air pollutants emitted. At the noted meeting, the request was to increase the fee to \$65 per ton. This rulemaking provides status quo services for the air quality program. For more information refer to: <http://www.iowadnr.gov/air/prof/progdev/progdev.html>. The options include:
- Option #1 would establish the Title V fee cap at \$65/ton. This fee cap is based on a one year projection of expenditures and emissions levels.
  - Option #2 would establish a Title V fee cap of \$89/ton with a likely fee of \$65/ton. This fee cap is based on a five-year projection of expenditures and emissions levels.
  - Option #3 would establish an annual minimum fee of \$5,000 and raises the Title V fee cap to \$65/ton. Under this option, the \$65/ton fee cap is anticipated to be sufficient for two years.
  - Option #4 would remove the 4,000 ton ceiling on emissions, reduce the Title V fee to \$47/ton, and retain the existing Title V fee cap of \$56/ton.
  - Option #5 would establish pre-construction permit fees for Title V facilities.

**Fiscal Impact** The DNR is approved to issue federal Title V Operating Permits and collects annual emission fees. Iowa's Title V fee is based on the first 4,000 tons of each regulated air pollutant emitted each calendar year from each major stationary source. Currently the Iowa fee is \$56 per ton for the first 4,000 tons of each regulated pollutant. The fees are deposited in the Air Contaminant Source Fund and the funds are transferred to the DNR Air Quality Bureau to pay for the cost of issuing construction, prevention of significant deterioration (PSD), and operating permits. Funds are also used for stack test observation, emission inventory, monitoring, compliance assistance, and inspections.

Owners or operators of approximately 275 air pollutant sources that are subject to the Title V operating permit program will be affected by these options. These are major sources that actually (or have the potential to) emit 100 or more tons/year of a regulated air pollutant or 10 tons per year (25 tons per year combined) of any hazardous air pollutant. The fiscal impact to an individual facility will depend on the outcome of the rulemaking, but could depend on actual air emissions reported for the facility each calendar year, the fee set by the Environmental Protection Commission in any given year, or the number of projects requiring pre-construction application reviews. Emissions will be reported by facility by March 31, 2011.

**ARC 9365B**

**Rule Summary** Allows the use of the new National Pollutant Discharge Elimination System (NPDES) General Permit No. 7 that authorizes the discharge of biological pesticides and chemical pesticide residues to waters of the United States.

**Fiscal Impact** The DNR estimates that the fees will increase revenue by less than \$9,000. The money will be deposited in the NPDES Fund. The fiscal impact to affected industries cannot be determined.

## ARC 9371B

**Rule Summary** Establishes criteria to determine if recreational uses, such as swimming, water skiing, and boating, should be allowed in Iowa lakes with a mean depth of three meters or deeper. For more information, refer to the following website:  
<http://www.iowadnr.gov/water/standards/nutrients.html>.

**Fiscal Impact** This change will require the DNR to calculate additional Total Maximum Daily Loads (TMDL) for each pollutant causing impairment in a lake. The TMDL quantifies the source(s) of the pollutant(s) and the local reduction necessary to meet the state's water quality standards. The federal Environmental Protection Agency (EPA) must approve TMDL calculations. The DNR estimates the cost to develop a TMDL varies greatly with the size of the water body and the number of parameters that must be sampled to determine the cause of the impairment. The estimated total cost for a large and complicated TMDL should not exceed \$100,000. The TMDL calculations are funded with federal 319 Grant money (federal Clean Water Act). If the DNR does not have adequate funding for the additional TMDLs, the federal EPA will complete them.

## ARC 9364B

**Rule Summary** Allows the reissuance of a five-year National Pollutant Discharge Elimination System (NDPES) General Permit No. 5 for mining and processing facilities. This Permit authorizes the discharge of wash water, materials transport water, scrubber water used for air pollution control, water used for dust suppression, mine or quarry dewatering, and non-contact cooling water used for ancillary mining equipment to surface water throughout Iowa. Other changes include:

- Requires facilities to submit a sulfate sample that will be used to determine if the facility will receive a General Permit No. 5 or must apply for an individual permit.
- Requires dischargers to use best management practices to reduce the discharge of pollutants.
- Requires facilities to notify the DNR when there is a change in the operator of mining and processing facilities permitted by General Permit No. 5.
- Establishes the effective date for the reissued General Permit No.5.
- Add the General Permit No. 5 annual fees to the fee schedule.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

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## Natural Resource Commission

## ARC 9363B

**Rule Summary** Changes the rules for concession operations at State parks:

- Updates the definition for a concession operation by removing any reference to sale of firewood.
- Changes the definition of State park "friends group".
- Revises the process for advertising concession operations and for renewing concession contracts.
- Revises the process for bidding procedures for new concession operations and includes placement of vending machines, firewood sales, and "friends group" concession operations.
- Revises the criteria for the evaluation of concession proposals.

- Allows the Department of Natural Resources (DNR) to hire vendors that provide services not provided by vendors already under contract.
- Clarifies when a temporary letter of authorization is necessary to be approved by the Natural Resource Commission.
- Updates language to reflect “park staff” instead of “park ranger” as there are several classifications that may be involved with State park concession operations.

**Fiscal Impact** Minimal fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

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## Insurance Division – Department of Commerce

### ARC 9398B

**Rule Summary** Prohibits unfair trade practices, including prohibiting unfair discrimination against individuals of the same class. Provides reasonable standardization and simplification of terms and coverages of individual accident and sickness insurance policies.

The proposed rules are intended to implement the Federal Patient Protection and Affordable Care Act (PPACA) by setting forth the requirements and procedures to be followed by insurance companies for individual health insurance coverage for children under the age of 19. Requires compliance by persons and entities beginning May 25, 2011, for policies offered for sale on or after May 25, 2011.

**Fiscal Impact** No fiscal impact to the Insurance Division that can absorb the cost with existing staff and budget levels. The change in policy premiums depends on the individual company.

STAFF CONTACT: Joseph Brandstatter (Ext. 18223)

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## Department of Public Health

### ARC 9355B

**Rule Summary** Reflects realignment of the Fatality Review Committee to be part of the Office of the State Medical Examiner. The Committee is responsible for determining whether the Department of Human Services and others involved with a case of child abuse responded appropriately.

**Fiscal Impact** No fiscal impact.

### ARC 9356B

**Rule Summary** Changes the representatives to the Emergency Medical Services (EMS) Advisory Council as follows:

- Adds one member from the Iowa EMS Association that is from a private service program.
- Adds two at-large volunteer emergency medical care providers.
- Eliminates one member from the EMS regions.

**Fiscal Impact** Minimal fiscal impact with additional reimbursement expenses for the new members.

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### ARC 9357B

**Rule Summary** Removes basic care level references from the authorized EMS service standards.

**Fiscal Impact** No fiscal impact.

### ARC 9358B

**Rule Summary** Permits fire departments to respond to medical calls with an automated external defibrillator (AED) when trained personnel are available, without the department having an EMS service program authorization.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Deborah Thompson (Ext. 16764)

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### Department of Human Services

### ARC 9361B

**Rule Summary** Makes a debt based on the Medicaid Program unpaid premiums subject to the same collection procedures as assistance that a member received when ineligible.

**Fiscal Impact** Estimates for collections are difficult to predict, but it is expected to be less than \$100,000. The collected debt would be returned to the Medicaid Program account.

### ARC 9350B

**Rule Summary** Makes the following changes:

- Changes the name of the Promoting Healthy Marriage program to “Promoting Awareness of the Benefits of a Healthy Marriage.”
- Aligns the implementation of annual adjustments to the federal poverty guidelines for the program with the annual adjustments to income and allotment limits for the Food Assistance program.

**Fiscal Impact** No fiscal impact.

### ARC 9399B

**Rule Summary** Renames the Remedial Service Program the Behavioral Health Intervention and moves the administration of the service to the mental health managed care contractor.

**Fiscal Impact** The move to a managed care contractor is estimated to save the General Fund \$1.5 million per year in FY 2012 and FY 2013. The Governor’s FY 2012 General Fund Medicaid appropriation recommendation includes this estimated savings.

### ARC 9367B

**Rule Summary** Updates the Medicaid Program coverage and payment provisions for case management services.

**Fiscal Impact** No fiscal impact.

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	<b>ARC 9351B</b>
<b>Rule Summary</b>	Requires payors of income to begin submitting child support payments to the Collection Services Center electronically rather than by check no later than June 30, 2015, unless an exemption applies.
<b>Fiscal Impact</b>	This change has an implementation cost of \$7,000 in FY 2011 and \$2,500 in FY 2012. Once implemented this change will save the General Fund \$23,000 annually.
	<b>ARC 9352B</b>
<b>Rule Summary</b>	Makes technical changes to conform to statutory changes regarding the review, adjustment, and modification of court orders for child and medical support.
<b>Fiscal Impact</b>	No fiscal impact.
	<b>ARC 9368B</b>
<b>Rule Summary</b>	Prohibits the use of prone restraints in foster group care facilities, emergency juvenile shelters, and juvenile detention facilities. Prone restraint is a physical restraint technique in which a child is held face down on the floor. Permits attestations of employee health for those employees that have direct contact with clients or are involved in food preparation, to be provided by advanced registered nurse practitioners or physician assistants, as well as physicians. Requires 24-hour supervision by staff that are awake for their entire shift as opposed to being available by sleeping at the facility.
<b>Fiscal Impact</b>	No fiscal impact.
	<b>ARC 9348B</b>
<b>Rule Summary</b>	Updates the Child Abuse Prevention Program providing for: <ul style="list-style-type: none"><li>• Alignment with the current procurement of services requirements.</li><li>• New federal requirements for States relating to community-based prevention of child abuse.</li><li>• A more generalized description of the Program for flexibility when conducting the Request for Proposal (RFP) and contracting processes.</li></ul>
<b>Fiscal Impact</b>	No fiscal impact. The Department of Human Services is undergoing a new Request for Proposal (RFP) issuance for the Program for FY 2012.
	<b>ARC 9353B</b>
<b>Rule Summary</b>	Updates rules on family-centered child welfare services to align with the language in the RFP and the new contracts that will begin in FY 2012. The rules: <ul style="list-style-type: none"><li>• Update terminology to reflect the State contracting terminology.</li><li>• Clarify the entities that may be included in the provision of services.</li><li>• Conform the expectations for contractors to the language that is in the current RFP.</li></ul>
<b>Fiscal Impact</b>	No fiscal impact.

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## Accountancy Examining Board

**ARC 9370B**

**Rule Summary** Makes technical changes to definitions and deletes rules that are no longer effective. Updates references to the Accountancy Licensing Database (ALD). Requires an application for reinstatement to include a listing of Iowa clients during the license lapse period.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Joseph Brandstatter (Ext. 18223)

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## Department on Aging

**ARC 9349B**

**Rule Summary** Provides procedures for volunteer access to facility records. Clarifies that a civil penalty of not more than \$1,500 may be imposed for interference with the duties of the State or a local long-term care resident's advocate/ombudsman.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Jess Benson (Ext. 14611)

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## Department of Agriculture and Land Stewardship

**ARC 9390B**

**Rule Summary** Adds the Department of Revenue Centralized Collection Unit notification to the list of reasons for a licensure revocation or lack of license issuance by the Department of Agriculture and Land Stewardship.

**Fiscal Impact** Minimal fiscal impact.

**ARC 9388B**

**Rule Summary** Updates grain warehouse rules as follows:

- Replaces the annual fee paid by grain dealers and warehouse operators with a participation fee.
- Changes the annual warehouse participation fees from \$2.75 per 5,000 bushels of capacity to fourteen thousandths of a cent per bushel of licensed storage capacity with a limit of \$500.
- Changes the dealer participation fees from \$500 to fourteen thousandths of a cent per bushel of grain purchased.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

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## Architectural Examining Board

**ARC 9359B**

**Rule Summary** Requires Intern Development Program supervisors to respond to a request to verify experience hours for interns.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Joseph Brandstatter (Ext. 18223)

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## College Student Aid Commission

**ARC 9391B**

**Rule Summary** Changes the address for the Iowa College Student Aid Commission (CSAC) to reflect the move to the former Mercy Capitol Hospital. Changes the membership of the CSAC by eliminating the Iowa Student Loan Liquidity Corporation member, adding an individual that is repaying or has repaid a student loan guaranteed by the CSAC, and specifying ex-officio members from each of the majority and minority parties of the Senate and House of Representatives.

**Fiscal Impact** No fiscal impact.

**ARC 9392B**

**Rule Summary** Eliminates an eligibility restriction for the Registered Nurse Recruitment Forgivable Loan Program that was replaced by the Registered Nurse Recruitment Loan Forgiveness Program. The language is no longer necessary. Funding for the forgivable loan program ended in FY 2007.

**Fiscal Impact** No fiscal impact.

**ARC 9393B**

**Rule Summary** Eliminates an eligibility restriction for the Teacher Shortage Forgivable Loan Program that was replaced by the Teacher Shortage Loan Forgiveness Program. The language is no longer necessary. Funding for the forgivable loan program ended in FY 2007.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Dwayne Ferguson (Ext. 16561)

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## Board of Educational Examiners

**ARC 9386B**

**Rule Summary** Requires a 45-day timeline for completion of incomplete applications. If appropriate documents are not filed within the 45-day window, the application for licensure or an endorsement will be closed. Requires an applicant to restart the process if necessary after the 45 days.

**Fiscal Impact** No fiscal impact to the State. An applicant may incur additional application fees under the timeline.

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**ARC 9382B**  
**Rule Summary** Defines “valid license” for purposes of obtaining a two-year nonrenewable Class B license while completing an endorsement.

**Fiscal Impact** No fiscal impact.

**ARC 9383B**  
**Rule Summary** Eliminates outdated language regarding administrative licensure and endorsements of individuals prepared outside of Iowa.

**Fiscal Impact** No fiscal impact.

**ARC 9384B**  
**Rule Summary** Eliminates outdated and unnecessary language regarding administrator licensure.

**Fiscal Impact** No fiscal impact.

**ARC 9385B**  
**Rule Summary** Eliminates an unnecessary provision that is addressed through the waiver process for an administrator licensure or endorsement.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Robin Madison (Ext. 15270)

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### Engineering and Land Surveying Examining Board

**ARC 9369B**  
**Rule Summary** Clarifies and updates requirements of academic transcripts for license and exam applicants.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Joseph Brandstatter (Ext. 18223)

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### Interior Design Examining Board

**ARC 9347B**  
**Rule Summary** Eliminates obsolete language pertaining to biennial registration renewals.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Joseph Brandstatter (Ext. 18223)

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**Iowa Public Employees’ Retirement System**

**ARC 9397B**

**Rule Summary** Implements the new contribution rates for Iowa Public Employees’ Retirement System (IPERS) special service employers and members; and clarifies provisions for the administration of marital property orders. Clarifies that IPERS determines covered wage limits under both sections (A) and (B) of IRC section 401(a)(17). The express references to sections (A) and (B) were lost when the rules were revised and republished in 2008.

**Fiscal Impact** The majority of the rule has no fiscal impact. The fiscal impact related to the contribution rate increase cannot be precisely determined because the amount of wages paid through the end of each fiscal year is not known until the end of the year. The estimate below assumes a 4.0% payroll growth for covered payrolls.

The following shows the estimated projected rate increase:

**Sheriff and Deputy Sheriff Group**

*Projected Fiscal Year Expenditure (FYE) 2011 Based on Current Rate*

Expected Covered Payroll:	\$ 93,398,089
<b>Current</b> Contribution Rate:	17.88%
Total Contributions:	\$ 16,699,578

*Projected FYE 2012 Based on Amended Rate*

Expected Covered Payroll:	\$ 97,134,013
<b>Amended</b> Contribution Rate:	19.66%
Total Contributions:	\$ 19,096,547

The difference in the total contribution rate between FY 2011 and projected FY 2012 is \$2,396,969. The contribution rate is split 50.0% employer (\$1,198,485) and 50.0% employee (\$1,198,485).

**Protection Occupation Group**

*Projected FYE 2011 Based on Current Rate*

Expected Covered Payroll:	\$ 336,911,824
<b>Current</b> Contribution Rate:	16.59%
Total Contributions:	\$ 55,893,672

*Projected FYE 2012 Based on Amended Rate*

Expected Covered Payroll:	\$ 350,388,297
<b>Amended</b> Contribution Rate:	16.62%
Total Contributions:	\$ 58,234,535

The difference in the total contribution rate between FY 2011 and projected FY 2012 is \$2,340,863. The contribution rate is split 60.0% employer (\$1,404,518) and 40.0% employee (\$936,345).

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### Regular Membership

#### *Projected FYE 2011 Based on Current Rate*

Expected Covered Payroll:	\$ 6,618,473,993
<b>Current</b> Contribution Rate:	11.45%
Total Contributions:	\$ 757,815,272

#### *Projected FYE 2012 Based on Amended Rate*

Expected Covered Payroll:	\$ 6,883,212,953
<b>Amended</b> Contribution Rate:	13.45%
Total Contributions:	\$ 925,792,142

The difference in the total contribution rate between FY 2011 and projected FY 2012 is \$167,976,870. The contribution rate is split 60.0% employer (\$100,786,122) and 40.0% employee (\$67,190,748).

STAFF CONTACT: Jennifer Acton (Ext. 17846)

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### Professional Licensure Division – Department of Public Health

#### **ARC 9354B**

**Rule Summary** Iowa Chiropractic Board: Removes the requirement for the Board to send a renewal notice to licensees.

**Fiscal Impact** Minimal fiscal impact. Some administrative savings may occur. The Board retains fees charged to licensees to fund its operations.

#### **ARC 9360B**

**Rule Summary** Physicians Assistant Board: Clarifies renewal application requirements regarding Category II continuing education for the purposes of an audit of activity by the Board.

**Fiscal Impact** No fiscal impact. The Board retains fees charged to licensees to fund its operations.

STAFF CONTACT: Deborah Thompson (Ext. 16764)

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### Real Estate Commission

#### **ARC 9389B**

**Rule Summary** Requires a broker seeking to enforce a protective clause to furnish to an owner with a copy of the list of names of persons seeking protection. The copy must be provided by regular and certified mail with return receipt requested.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Joseph Brandstatter (Ext. 18223)

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**Board of Regents**

**ARC 9395B**

**Rule Summary** Requires employees of Board of Regents institutions, the Board Office, and Board members to comply with the Ethics and Campaign Disclosure Board conflict of interest rules regarding sale or lease of goods or services to State agencies by public officials, State and legislative employees, and members of the General Assembly. Requires Regents institutions to develop an internal review and approval process for all sales by a Regent employee.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Dwayne Ferguson (Ext. 16561)

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**Department of Transportation**

**ARC 9362B**

**Rule Summary** Adopts the revised federal Manual on Uniform Traffic Control Devices (MUTCD) issued by the Federal Highway Administration. States must adopt the 2009 National MUTCD as their legal standard for traffic control devices within two years of December 2009. The MUTCD is the federal law governing all traffic control devices and non-compliance can result in loss of federal funds. Iowa Code Section 321.252 requires the Department of Transportation to adopt a manual and specifications for a uniform system of traffic control devices for use on highways within the State.

**Fiscal Impact** Minimal fiscal impact.

STAFF CONTACT: Marcia Tannian (Ext. 17942)

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**Utilities Division – Department of Commerce**

**ARC 9394B**

**Rule Summary** Updates gas and electric technical standards. Provides references to the Iowa Utilities Board's electronic filing system. Redefines "utility" to include all electrical facility owners.

**Fiscal Impact** No fiscal impact.

STAFF CONTACT: Joseph Brandstatter (Ext. 18223)

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