



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.

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

ARC 5062B

Rule Summary Amends the rules governing the administration of the Farmers' Market Special Supplemental Food Program to comply with federal law by including provisions and rules governing the Senior Farmers' Market Nutrition Program. Additional farm stands may require inspections, but existing staff would perform the inspections. The rule does not impose additional costs on participating farmers' markets or farm stands.

Fiscal Impact No fiscal impact.

ARC 5045B

Rule Summary Emergency filing of rules related to animal exhibition requirements in Iowa at county fairs, 4-H fairs or exhibitions, or similar exhibitions. The Notice of Intended Action was published in the Iowa Administrative Bulletin on February 1, 2006, as ARC 4857B, and no comments have been received. Emergency filing will provide advance notice to exhibitors and exhibition officials about rule changes.

Fiscal Impact No fiscal impact to the State.

STAFF CONTACT: Debra Kozel (Ext. 16767)

DEPARTMENT OF CORRECTIONS

ARC 5026B

Rule Summary Amends the rules governing the Sex Offender Treatment Program by eliminating the polygraph examination from the psychosexual assessment conducted on Program participants. This change is required due to a recent Iowa Appeals Court ruling. Also, amends the rules to reflect the updated standards for Sex Offender Treatment Standards issued by the Iowa Board for the Treatment of Sexual Abusers.

Fiscal Impact No fiscal impact. Polygraph examinations will continue to be used in treatment, but will no longer be included as part of the psychosexual assessment.

STAFF CONTACT: Beth Lenstra (Ext. 16301)

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DENTAL EXAMINERS BOARD – DEPARTMENT OF PUBLIC HEALTH

ARC 5065B

Rule Summary Allows applicants for dental or dental hygiene licensure to complete the examination administered by the American Board of Dental Examiners, Inc. (ADEX) to qualify for dental or dental hygiene licensure by examination. Applicants for licensure by examination may also either take the Central Regional Dental Testing Service, Inc. (CRDTS) examination or the Western Regional Examining Board, Inc. (WREB) examination.

Fiscal Impact No fiscal impact.

ARC 5064B

Rule Summary Specifies that the cardiopulmonary resuscitation (CPR) course required for issuance, renewal, or reinstatement of a license, permit, or registration must include a clinical component.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Lisa Burk (Ext. 17942)

DEPARTMENT OF EDUCATION

ARC 5053B

Rule Summary Eliminates sections of the rules for Special Education that conflict with the December 2004 reauthorization of the federal law.

Fiscal Impact No fiscal impact to the State. There may be minimal fiscal impact to local school districts to adjust the Individual Education Plans (IEPs) of students.

ARC 5054B

Rule Summary Makes changes regarding school bus standards and safety: (1) establishes seating standards, (2) eliminates the reference to tuberculosis testing in a school bus driver's physical fitness examination, (3) requires that a school bus be inspected before each trip and that the interior of the bus be inspected after each trip, and (4) requires a two-way communication system or cellular telephone capable of emergency communication on each school bus.

Fiscal Impact The first three changes have no fiscal impact. There are 162 school buses, or 2.3% of the school buses, without two-way communication systems. The option of a two-way radio, antenna, and installation costs approximately \$700 per bus, for a total of approximately \$113,000 if installed on all affected buses. The costs of the cell phone alternative will vary according to usage agreement.

ARC 5055B

Rule Summary Implements statutory changes in the Department of Public Health rules that require sign language interpreters to be licensed by the State. Changes are related to staffing and service reductions due to budgetary restrictions.

Fiscal Impact No fiscal impact.

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

IOWA EMPOWERMENT BOARD

ARC 5051B

Rule Summary Incorporates legislative changes and requirements in HF 761 (Early Childhood Policy Act), enacted in 2005, including updating definitions, terminology, standards, and indicators. Also, reflects expanded responsibilities of the Office of Empowerment and Empowerment Team, and addresses the requirement in HF 761 that the Office of Empowerment coordinate an early childhood web site.

Fiscal Impact Minimal fiscal impact. The Fiscal Note for HF 761 estimated a cost for the web site of \$5,000 in FY 2006 and \$3,000 in FY 2007.

STAFF CONTACT: Robin Madison (Ext. 15270)

ENVIRONMENTAL PROTECTION COMMISSION — DEPARTMENT OF NATURAL RESOURCES

ARC 5041B

Rule Summary The proposed rule:

- Updates the construction permit requirements for major sources of hazardous air pollutants with the most current amendment date for the cited federal regulation.
- Clarifies the construction permit exemption for laundry activities.
- Amends Chapter 22 to adopt the federal preferred air quality model – AERMOD.
- Adds the federal definition of “area source” to the Title V program definitions.
- Deletes the chemical “methyl ethyl ketone” from the list of hazardous air pollutants.
- Amends Chapter 22 to clarify which sources are required to obtain Title V permits.
- Amends Chapter 22 to add clarity to the requirements for nonmajor (area) sources to obtain a Title V permit.
- Removes requirements for Title V exempt sources that elect to apply for a Title V permit.
- Amends the Title V rules in Chapter 22 to list source categories exempt from the requirement to obtain a Title V permit.
- Updates a cross-reference in the Title V rules.
- Amends Chapter 23 to adopt by reference federal amendments to, and new standards for, 40 CFR Part 60, New Source Performance Standards (NSPS).
- Amends Chapter 23 to adopt by reference federal amendments to 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants (NESHAPS).

The proposed rule changes will primarily affect regulated parties (industry) with applicable air emissions or emission equipment. The rule changes will provide a better description and updated references to existing federal regulations. Adoption of these rules also will make the rules for Title V subject sources easier to read, understand, and implement for both the department, industry, and the general public. The most evident impact of this rulemaking will be incorporation of the federal amendments to new source performance standards (NSPS) and emission standards for hazardous air pollutants (NESHAP).

Fiscal Impact No fiscal impact. Owners and operators of affected air emissions sources are subject to the federal requirements, whether the State incorporates these federal requirements into the Iowa Administrative Code or not. Therefore, the incorporation

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by reference of the federal standards will not impose any additional costs to the affected sources.

ARC 5046B

Rule Summary The rule creates two divisions, one for confinement operations and one for open feedlots. Also, creates a separate division for open feedlot rules as specified in HF 805 (FY 2006 Open Feedlot Act). This includes minimum design standards for settled open feedlot effluent basins, nutrient management plans, alternative technology systems, and construction permits. Included are provisions necessary to implement the National Pollutant Discharge Elimination System (NPDES) Program.

Fiscal Impact Minimal fiscal impact to the State based on existing staff enforcing compliance and evaluating the NPDES Program and construction permit applications.

ARC 5070B

Rule Summary Adds omitted language from ARC 5046B that is listed above. The Iowa Administrative Code (567 IAC paragraph 65.101(8)"b") should read: Stockpiles shall not be located within 200 feet from a designated area or, in the case of a high quality water resource, within 800 feet, and areas of concentrated flow located downslope of **and within 200 feet of** the stockpile shall be planted to permanent vegetation cover, including filter strips and riparian forest buffers. Requires permanent vegetation cover for areas of concentrated flow located downslope and within 200 feet of the stockpile.

Fiscal Impact No fiscal impact.

ARC 5042B

Rule Summary Amends rules for cleaning commercial septic tanks and disposal of the waste. Changes include:

- Adds and modifies definitions.
- Requires submission of an annual waste management plan.
- Increases fees from \$25 per year to an average of \$500 per year that are based upon volume of waste pumped.
- Specifies inspection requirements for pump trucks and land disposal sites and provides the details for contracting with counties to do the inspections.
- Requires portable toilet waste to be taken only to a public wastewater treatment plant.
- Clarifies land spreading requirements.
- Increases the fines assessed for violation of the rules from \$25 to \$250.

Fiscal Impact Minimal fiscal impact.

ARC 5044B

Rule Summary Implements a certification process for third-party underground storage tank (UST) compliance inspectors and requires underground storage tank owners and operators to complete a biennial inspection. The owners or operators would pay an inspection fee that would cover the cost of the inspection. This process would be contracted out by the DNR. The Department would add training and testing for certification of private compliance inspectors and provide testing and oversight of certification.

Fiscal Impact The estimated cost of a compliance inspection of an underground storage tank is between \$250 and \$350. The different types of tanks are listed below:

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- State Owned – There are 57 underground storage tanks owned by the State, and the biennial inspection cost is estimated between \$14,000 and \$20,000.
- Private Industry – There are 2,583 privately owned underground storage tanks, and the biennial inspection cost is estimated between \$646,000 and \$904,000. Included in the total are 157 sites in temporary closure. A compliance inspection at a temporarily closed site is estimated to cost less. There is one insurance company that insures and inspects 1,889 of the private sites. The inspection cost is included in the insurance premium price, which reduces the number of sites requiring a compliance inspection to approximately 694 sites, for an estimated biennial cost of between \$174,000 and \$243,000.
- Local Governments – There are 237 sites owned by local governments in the State, of which 165 are insured. This reduces the number of sites requiring an inspection to 72 sites, for an estimated biennial cost of between \$18,000 and \$25,000.

DNR Workload – There would be an increased workload to review the inspection reports. Currently, the Department averages three to five years between inspections. The biennial compliance inspections may increase the number of follow-up activities and inspections for compliance problems. The estimated number of personnel and the associated costs to successfully operate the program is unknown at this time.

STAFF CONTACT: Debra Kozel (Ext. 16767)

ETHICS AND CAMPAIGN DISCLOSURE BOARD

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| | ARC 5058B |
| Rule Summary | Requires a candidate who has filed a statement of organization for one office and then exceeds the financial activity threshold for a new office, to file, within ten days of exceeding the threshold, either an amended statement of organization disclosing information for the new office sought or organize and register a new committee. |
| Fiscal Impact | No fiscal impact. |
| | ARC 5057B |
| Rule Summary | Clarifies that a committee that has exceeded \$750 in campaign activity prior to a campaign report cutoff date is required to file the report, even though the committee has not yet filed a statement of organization. |
| Fiscal Impact | No fiscal impact. |
| | ARC 5060B |
| Rule Summary | Rescinds 351 IAC rule 4.48 that provides an additional exception for “occasional, isolated, and incidental” use of corporate resources. The Board does not believe the rule is supported by the statute and does not cite the rule in administrative decisions. The proposed amendment rescinds the rule. |
| Fiscal Impact | No fiscal impact. |
| | ARC 5059B |
| Rule Summary | Rescinds portions of 351 IAC subrule 4.52(2) that require a corporation that jointly sponsors a fundraising letter with the political action committee (PAC) to submit a copy of the solicitation letter, and to also submit a copy each January with the PAC report. The Board has not been enforcing these requirements. |

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Fiscal Impact No fiscal impact.

STAFF CONTACT: Sam Leto (Ext. 16764)

DEPARTMENT OF HUMAN SERVICES

ARC 5047B

Rule Summary Under current Medicaid requirements, immigrants who do not qualify for citizen or alien status may still receive three days of Medicaid coverage for an emergency medical condition. These rules change the procedure for approving this coverage from the verification of an eligible diagnosis code by the Department of Human Services (DHS) to a statement from a physician that the care is needed. The amendments also change an incorrect reference to a form used by women that are eligible only for the family planning waiver.

Fiscal Impact No fiscal impact.

ARC 5063B

Rule Summary These rule changes require all Medicaid providers to keep tax-reporting data current. They also specify that any tax-reporting fine incurred by the DHS that is the result of faulty tax data reporting by the provider will be passed on to the provider. If the provider is informed that the data provided is incorrect and fails to make the needed corrections, the rule changes permit termination of the provider identification number.

Fiscal Impact Minimal fiscal impact. The Iowa Medicaid Enterprise is in the process of resolving the faulty tax data issue. It is estimated that the total tax-filing penalty for tax year 2005 will be less than \$15,000.

STAFF CONTACT: Kerri Johannsen (Ext. 14611)

IOWA LOTTERY AUTHORITY

ARC 5069B

Rule Summary The amendment to Chapter 1 reflects the current address of Lottery headquarters; the amendment to Chapter 12 clarifies who is eligible to apply for a Lottery retailer license; and the amendment to Chapter 14 establishes time limits for redeeming winning tickets sold through Monitor Vending Machines (MVMs).

Fiscal Impact No fiscal impact.

STAFF CONTACT: Douglas Wulf (Ext. 13250)

NATURAL RESOURCE COMMISSION – DEPARTMENT OF NATURAL RESOURCES

ARC 5043B

Rule Summary Amends rules without notice regarding State Preserves. Changes include:

- Clarifies how a State Preserve is dedicated.
- Adds three new State Preserves to the list.
- Makes minor changes to State Preserves names.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Debra Kozel (Ext. 16767)

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NURSING BOARD – DEPARTMENT OF PUBLIC HEALTH

ARC 5039B

Rule Summary The rules to increase licensure renewal fees were not implemented; therefore, fees are returned to the level set in 2003.

Fiscal Impact No fiscal impact.

ARC 5038B

Rule Summary Updates rules to reflect electronic processes and to provide for a flat fee for production of rosters, allowing clients to pre-pay.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Lisa Burk (Ext. 17942)

PHARMACY EXAMINERS BOARD – DEPARTMENT OF PUBLIC HEALTH

ARC 5030B

Rule Summary Amendments propose increasing fees related to the issuance of new and renewed pharmacist licenses processed between July 1, 2006, and June 30, 2007, including examination, reexamination, and license transfer processing fees. Also, proposes increasing fees related to the issuance of new and renewed pharmacy and wholesale drug licenses, new and renewed pharmacy technician and controlled substances registrations, and new and renewed precursor substances permits processed between July 1, 2006, and June 30, 2007.

Fiscal Impact The fee increase will generate additional revenues of approximately \$814,000. Of this, the Board will retain approximately \$733,000 (90.0%) and \$81,000 (10.0%) will be deposited into the General Fund.

ARC 5031B

Rule Summary Changes the requirements for a foreign pharmacy graduate to demonstrate proficiency in the English language to accept the new internet-based test of English as a Foreign Language. The rule also updates the name of the foreign pharmacy graduate certification body.

Fiscal Impact No fiscal impact.

ARC 5032B

Rule Summary Reduces the time an individual who assumes the duties of a pharmacy technician has to register from within 90 days to within 30 days of accepting employment in Iowa.

Fiscal Impact No fiscal impact.

ARC 5034B

Rule Summary Clarifies the responsibilities of the pharmacist in terms of ensuring that the pharmacy has adequate space within the prescription department or a secure storage room for the storage of all prescription drugs, devices, and controlled substances, and to support pharmacy operations.

Fiscal Impact No fiscal impact.

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ARC 5033B
Rule Summary Clarifies the provisions regarding patient counseling for new prescriptions, specifically stating that an offer to counsel does not fulfill the counseling requirement.

Fiscal Impact No fiscal impact.

ARC 5035B
Rule Summary Clarifies the definition of “kickbacks” and amends the license fee imposed for pharmacy license changes to comply with current fees imposed for a pharmacy license.

Fiscal Impact Minimal fiscal impact. The change is an increased fee of \$50 for approximately 150 licensees each year for a total of \$7,500. The change should have occurred earlier this fiscal year when license fees were increased; however, this subrule was overlooked.

ARC 5037B
Rule Summary Establishes a procedure for documentation of controlled substances wasted as a result of drug compounding operations or administration to a patient from a registrant’s stock or emergency supply of controlled substances. The rule also changes an invalid reference to a renumbered subrule.

Fiscal Impact No fiscal impact.

ARC 5036B
Rule Summary Makes changes that require the record of pseudoephedrine products by dispensing pharmacists be legible and include the total milligrams of pseudoephedrine contained in the product dispensed.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Lisa Burk (Ext. 17942)

PROFESSIONAL LICENSURE DIVISION – DEPARTMENT OF PUBLIC HEALTH

ARC 5029B
Rule Summary Mortuary Science Examiners – Amendment provides the Board with the ability to retain licensure overpayments of less than \$10, which will be used to reduce program administrative costs.

Fiscal Impact No fiscal impact.

ARC 5023B
Rule Summary Mortuary Science Examiners – Amendments require taking either a one credit hour course in Iowa law and rules or continuing education rather than an examination for an initial license, license renewal, license by endorsement, and license reactivation beginning July 1, 2007.

Fiscal Impact No fiscal impact.

ARC 5067B
Rule Summary Nursing Home Administrator Examiners – Provides the Board with the ability to order an evaluation for mental, physical, or clinical competency or alcohol or drug screening and retain licensure overpayments of \$10 or less.

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Fiscal Impact No fiscal impact. **ARC 5068B**

Rule Summary Podiatry Examiners – Provides the Board with the ability to order an evaluation for mental, physical, or clinical competency, or alcohol or drug screening, and retain licensure overpayments.

Fiscal Impact No fiscal impact.

ARC 5025B

Rule Summary Speech Pathology and Audiology Examiners – Amendment provides the Board with the ability to retain licensure overpayments of less than \$10, which will be used to reduce program administrative costs.

Fiscal Impact No fiscal impact.

ARC 5024B

Rule Summary Speech Pathology and Audiology Examiners – Provides the Board with the ability to order an evaluation for mental, physical, or clinical competency, or alcohol or drug screening.

Fiscal Impact No fiscal impact.

ARC 5027B

Rule Summary Athletic Training Examiners – Amendment provides the Board with the ability to retain licensure overpayments of less than \$10, which will be used to reduce program administrative costs.

Fiscal Impact No fiscal impact.

ARC 5028B

Rule Summary Athletic Training Examiners – Provides the Board with the ability to order an evaluation for mental, physical, or clinical competency, or alcohol or drug screening.

Fiscal Impact No fiscal impact.

ARC 4973B and ARC 5052B

Rule Summary Interpreters for the Hearing Impaired Examiners – Terminated.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Lisa Burk (Ext. 17942)

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

ARC 5066B

Rule Summary The amendments establish the actuarially determined contribution rates for sheriffs and deputy sheriffs, and for members in a protection occupation to comply with the Code of Iowa.

Fiscal Impact The fiscal impact cannot be determined. Any material costs will be borne by IPERS.

STAFF CONTACT: Sam Leto (Ext. 16764)

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REAL ESTATE APPRAISER EXAMINING BOARD – DEPARTMENT OF COMMERCE

ARC 5061B

Rule Summary Permits a person who has taken the required appraiser pre-licensing courses to register as an associate. Also, eliminates the examination requirement to obtain an associate's status.

Fiscal Impact No fiscal impact to the State.

STAFF CONTACT: Sam Leto (Ext. 16764)

DEPARTMENT OF REVENUE

ARC 5048B

Rule Summary The rule change allows the Director to approve a claim for property tax credit or rent reimbursement if the facts indicate that to not do so would present a hardship for the elderly or disabled claimant.

Fiscal Impact Minimal fiscal impact. Prior history of protests based on hardship cases indicates there will not be a significant cost to the State. There may be an increase in the number of protests once the county treasurers inform claimants that a hardship rule now exists. This would be to the benefit of the claimant.

STAFF CONTACT: Jess Benson (Ext. 14613)

SECRETARY OF STATE

ARC 5056B

Rule Summary The rules are designed to implement the provisions of Section 47.7(2), Code of Iowa, for the establishment of a single, uniform, official, centralized, interactive computerized statewide voter registration file. The rules prescribe the procedures for access to the file, security requirements, and access protocols for adding, changing, or deleting file information. The rules also prescribe the process for obtaining voter registration data and lists pursuant to Chapter 48A, Code of Iowa.

Fiscal Impact Minimal fiscal impact.

STAFF CONTACT: Doug Wulf (Ext. 13250)

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

ARC 5049B

Rule Summary The proposed rule updates the Commission's Administrative Rules to implement changes made to Chapter 8D, Code of Iowa, during the 2005 Legislative Session.

Fiscal Impact No fiscal impact.

STAFF CONTACT: Jennifer Acton (Ext. 17846)

DEPARTMENT OF TRANSPORTATION

ARC 5050B

Rule Summary House File 674 (FY 2006 Road Use Tax Fund, Secondary Roads Act) designated a Secondary Road Fund Distribution Committee to develop a new methodology for distributing Secondary Road Fund and Farm-to-Market Road Fund moneys of

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counties. The Act allowed the Committee to adopt rules specifying the calculation of the distribution of Funds. The proposed rule adopts this calculation, provides for a five-year phase-in period, defines the process by which the calculation can be changed, and describes the organization and operation of the Secondary Road Fund Distribution Committee. The calculation was recommended in a report submitted by the Committee to the General Assembly in 2005.

Fiscal Impact

No fiscal impact to the State. The amounts distributed from the Secondary Road Fund and Farm-to-Market Road Fund to the counties will change, as the distribution of moneys for each county will vary based on the new methodology. An estimated 53.0% of counties will experience an increase in the distribution of Secondary Road Fund and Farm-to-Market Road Fund dollars for FY 2007 and beyond, while an estimated 47.0% will experience a decrease from both funds.

Rule Summary

The Iowa Administrative Code (761 IAC subrule 605.25(2)) currently allows a driver's license to be renewed earlier than 30 days before the license expiration date when good cause exists, but limits early renewal to no more than one year prior to the expiration date for everyone except active military personnel being deployed. This amendment removes the one-year restriction and the exception for military personnel, thereby allowing the Department the discretion to renew the driver's license of any individual earlier than one year prior to the expiration date. The rule change is being made to accommodate early renewal for customers who will be traveling out of State during the time currently allowed for driver's license renewal.

ARC 5040B

Fiscal Impact

No fiscal impact.

STAFF CONTACT: Mary Beth Mellick (Ext. 18223)
