

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.449 and 321.450, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, “Regulations Applicable to Carriers,” Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are published in the FR. Each year, a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The amendments to the FMCSR and the HMR that have become final and effective since the 2014 edition of the CFR are listed below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 385, 390-392, 395 and 397 (FR Vol. 79, No. 191, Pages 59450-59458, 10-02-14)

This final rule amends FMCSA’s regulations by making technical corrections throughout 49 CFR, Subtitle B, Chapter III. FMCSA is making minor changes to correct errors and omissions, ensure conformity with Office of the Federal Register style guidelines, update references, and improve clarity and consistency of certain regulatory provisions. This rule does not make any substantive changes to the affected regulations. Effective date: October 2, 2014.

Part 390 (FR Vol. 79, No. 204, Pages 63057-63059, 10-22-14)

This final rule adopts, as final, certain amendments to the FMCSRs required by the Reliable Home Heating Act. Currently, the FMCSRs include a provision which enables motor carriers providing direct assistance in responding to an emergency declared by a governor to do so without having to comply with certain federal safety regulations. However, the duration of the relief is limited to 30 days unless FMCSA extends the exemption. This final rule amends the emergency relief provision in the FMCSRs so that the safety requirements in 49 CFR Parts 390-399 will not apply if a governor declares a state of emergency caused by a shortage of residential heating fuel; determines at the end of the 30-day exemption period currently authorized by the regulations that the emergency shortage has not ended; and extends the declaration of emergency for up to two additional 30-day periods. Effective date: October 22, 2014.

Parts 392 and 396 (FR Vol. 79, No. 243, Pages 75437-75449, 12-18-14)

This final rule rescinds the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce, except drivers of passenger-carrying CMVs, submit, and motor carriers retain, driver-vehicle inspection reports when the driver has neither found nor been made aware of any vehicle defects or deficiencies. This rule also harmonizes the pre- and post-trip inspection lists. It responds in part to the President's January 2011 Regulatory Review and Reform initiative, removing a significant information collection burden without adversely impacting safety. FMCSA also makes a technical change to 49 CFR Section 396.11 to eliminate redundant language. Effective date: December 18, 2014.

Parts 171, 172, 173, 178, and 180 (FR Vol. 80, No. 5, Pages 1075-1169, 01-08-15)

This final rule amends the HMRs to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMRs with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, the United Nations Recommendations on the Transport of Dangerous Goods and subsequently address three petitions for rule making. Effective date: January 1, 2015.

Parts 171, 172 and 173 (FR Vol. 80, No. 34, Pages 9217-9218, 02-20-15)

This final rule extends for modes of transportation other than air the mandatory compliance date of a final rule published on August 6, 2014, under Docket No. HM-224F from February 6, 2015, until August 7, 2015. This extension is made in response to formal comments received from multiple stakeholders outlining challenges faced by the regulated community in fully implementing the provisions of the final rule by the February 6, 2015, mandatory compliance date. The compliance date for the final rule published August 6, 2014, at 79 FR 46012, is extended until August 7, 2015.

Part 385 (FR Vol. 80, No. 64, Pages 18146-18158, 04-03-15)

This final rule specifies inflation adjustments to civil penalty amounts assessed to those who violate the FMCSRs and HMRs. Some of these adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Most of the civil penalties were last adjusted for inflation in 2007, and some have not been changed since 2003. Other changes to the civil penalties were mandated by Congress in the Moving Ahead for Progress in the 21st Century Act. This final rule ensures that FMCSA's civil penalties are consistent with the applicable statutes. Effective date: June 2, 2015.

Part 391 (FR Vol. 80, No. 78, Pages 22789-22825, 04-23-15)

This final rule amends the FMCSRs to require certified medical examiners performing physical examinations of CMV drivers to use a newly developed Medical Examination Report Form, MCSA-5875, in place of the current form and to use Form MCSA-5876 for the Medical Examiner's Certificate; and report results of all CMV drivers' physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. The reporting of results includes all CMV drivers who are required to be medically certified to operate in interstate commerce, not only those who hold or apply for commercial learner's permits (CLP) or commercial driver's licenses (CDL), and results of any examinations performed in accordance with the FMCSRs with any applicable state variances (which will be valid for intrastate operations only). For holders of CLP/CDLs (interstate and intrastate), FMCSA will electronically transmit driver identification, examination results, and restriction information from examinations performed from the national registry to the state driver's licensing agencies. FMCSA will also transmit medical variance information for all CMV drivers electronically to the state driver's licensing agencies. Effective date: June 22, 2015.

Part 390 (FR Vol. 80, No. 101, Pages 30164-30180, 05-27-15)

This final rule adopts regulations governing the lease and interchange of passenger-carrying CMVs to identify the motor carrier operating a passenger-carrying CMV that is responsible for compliance with the FMCSRs and ensure that a lessor surrenders control of the CMV for the full term of the lease or temporary exchange of CMVs and drivers. This action is necessary to ensure that unsafe passenger carriers cannot evade FMCSA oversight and enforcement by entering into a questionable lease arrangement to operate under the authority of another carrier that exercises no actual control over those operations. This rule will enable the FMCSA, the National Transportation Safety Board, and federal and state partners to identify motor carriers transporting passengers in interstate commerce and correctly assign responsibility to these entities for regulatory violations during inspections, compliance investigations, and crash investigations. It also provides the general public with the means to identify the responsible motor carrier at the time transportation services are provided. Effective date: July 27, 2015. Compliance date: Motor carriers of passengers operating CMVs under a lease or interchange agreement are subject to this rule on or after January 1, 2017.

Part 385 (FR Vol. 80, No. 117, Pages 34839-34841, 06-18-15)

This final rule amends hazardous materials safety permit rules to update the current incorporation by reference of the “North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403.” Currently the rules reference the April 1, 2014, edition of the out-of-service criteria and, through this final rule, FMCSA incorporates the April 1, 2015, edition. Effective date: June 18, 2015.

Part 391 (FR Vol. 80, No. 119, Pages 35577-35596, 06-22-15)

This final rule makes corrections to a rule that appeared in the Federal Register on April 23, 2015 (80 FR 22790). In that rule, FMCSA amended the FMCSRs to require certified medical examiners performing physical examinations of CMV drivers to use a newly developed Medical Examination Report Form, MCSA-5875, in place of the current form and to use Form MCSA-5876 for the Medical Examiner’s Certificate; and report results of all CMV drivers’ physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. That final rule was a follow-on rule to the medical certification requirements as part of the CDL final rule, published on December 1, 2008, and the National Registry of Certified Medical Examiners final rule, published on April 20, 2012. Effective date: June 22, 2015.

Parts 107 and 171 (FR Vol. 80, No. 175, Pages 54418-54440, 09-10-15)

This final rule adopts regulations to include the standard operating procedures and criteria used to evaluate applications for special permits and approvals. This rule making addresses issues identified in the Hazardous Materials Transportation Safety Improvement Act of 2012 related to the Office of Hazardous Materials Safety’s Approvals and Permits Division. In addition, this rule making also provides clarity regarding what conditions need to be satisfied to promote special permit application completeness. An application that contains the required information reduces processing delays by reducing the number of applications rejected due to incompleteness. Through public notice and comment, this final rule is required to establish standard operating procedures to support the administration of the special permit and approval programs, and objective criteria to support the evaluation of special permit and approval applications. These amendments do not change previously established policies, to include but not be limited to any inspection activities subsequent to issuance, modification or renewal of a special permit and approval. Effective date: November 9, 2015.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation’s highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than March 8, 2016.

A meeting to hear requested oral presentations is scheduled for Thursday, March 10, 2016, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by March 21, 2016.

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

These amendments are intended to implement Iowa Code sections 321.449 and 321.450.

Proposed rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2014~~ 2015).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2014~~ 2015).