

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to federal motor carrier safety and hazardous materials regulations and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 520, “Regulations Applicable to Carriers,” Chapter 529, “For-Hire Interstate Motor Carrier Authority,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 307.27, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.188, 321.449, 321.450 and 327B.1.

Purpose and Summary

The proposed amendments are part of the regular, annual update by the Department to adopt the most recent updates to the federal regulations published by the Federal Motor Carrier Safety Administration and the Pipeline and Hazardous Materials Safety Administration.

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver’s licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

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 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.

The proposed amendments to Chapter 520 adopt the current CFR dated October 1, 2017, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399.

The proposed amendments to Chapter 529 adopt the current CFR dated October 1, 2017, for 49 CFR Parts 365 to 368 and 370 to 379 and update the responsible office name from the office of vehicle services to the office of vehicle and motor carrier services.

The proposed amendment to Chapter 607 adopts the current CFR dated October 1, 2017, for certain portions of 49 CFR Part 383.

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.

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

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2017 edition of the CFR and that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Parts 365, 370, 373, 374, 376, 377, 378, 383, 385, 390-392, 395, 397 and 398 (FR Vol. 81, No. 192, Pages 68336-68359, 10-04-16)

This final rule amends the Federal Motor Carrier Safety Administration's (FMCSA) regulations by making technical corrections throughout. The FMCSA is making minor changes to correct errors and omissions, ensure conformity with Office of the Federal Register style guidelines, update cross references, and improve clarity and consistency of certain regulatory provisions. Further, this set of amendments removes all remaining instances of the term "common carrier" and "contract carrier" as required by the Interstate Commerce Commission Termination Act and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This rule does not make any substantive changes to the affected regulations, except to remove obsolete provisions. Effective date: September 30, 2016.

Part 383 (FR Vol. 81, No. 198, Pages 70634-70646, 10-13-16)

This final rule amends FMCSA regulations to ease the transition of military personnel into civilian careers driving commercial motor vehicles (CMV) by simplifying the process of obtaining a commercial learner's permit (CLP) or commercial driver's license (CDL). This final rule extends the period of time for applying for a skills test waiver from 90 days to one year after leaving a military position requiring the operation of a commercial motor vehicle (CMV). This final rule also allows a state to accept applications from active duty military personnel who are stationed in that state as well as administer the written and skills tests for a CLP or CDL. States that choose to accept such applications are required to transmit the test results electronically to the state of domicile of the military personnel. The state of domicile may issue the CLP or CDL on the basis of those results. Effective date: December 12, 2016.

Parts 383 and 391 (FR Vol. 81, No. 233, Pages 87686-87731, 12-05-16)

This final rule amends the FMCSRs to establish requirements for the Commercial Driver's License Drug and Alcohol Clearinghouse, a database under the FMCSA that will contain information about violations of FMCSA's drug and alcohol testing program for the holders of CDLs. This rule is mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and will improve roadway safety by identifying CMV drivers who have committed drug and alcohol violations that render them ineligible to operate a CMV. Effective date: January 4, 2017. Compliance date: January 6, 2020.

Part 383 (FR Vol. 81, No. 236, Pages 88732-88803, 12-08-16)

This final rule amends FMCSA regulations to establish new minimum training standards for certain individuals applying for their CDL for the first time, an upgrade of their CDL (e.g., a Class B CDL holder seeking a Class A CDL), or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time. These individuals are subject to the entry-level driver training requirements and must complete a prescribed program of instruction provided by an entity that is listed on FMCSA's Training Provider Registry. FMCSA will submit training certification information to the state driver licensing agency, which may only administer CDL skills tests to applicants for the Class A and B CDL, or the P or S endorsements, or knowledge test for the H endorsement, after verifying the certification information

is present in the driver's record. Effective date: February 6, 2017. Revised effective date: June 5, 2017. Compliance date: February 7, 2020.

Parts 365, 366, 368, 385 and 390 (FR Vol. 82, No. 10, Pages 5292-5318, 01-17-17)

This final rule suspends FMCSRs requiring existing interstate motor carriers, freight forwarders, brokers, intermodal equipment providers, hazardous materials safety permit applicants, and cargo tank facilities under FMCSA jurisdiction to submit required registration and biennial update information to the FMCSA via a new electronic online Unified Registration System. During this suspension, entities needing to file will follow the same procedures and forms used to submit information to FMCSA as they do today. Effective date: January 14, 2017.

Parts 107, 171-173, 178 and 180 (FR Vol. 82, No. 60, Pages 15796-15897, 03-30-17)

This Pipeline and Hazardous Materials Safety Administration (PHMSA) final rule amends the HMR to maintain consistency with international regulations and 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 HMR with 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, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Additionally, PHMSA is adopting several amendments to the HMR that result from coordination with Canada under the U.S.-Canada Regulatory Cooperation Council. Effective date: March 30, 2017, except for instruction 22 on page 15876, which is effective January 2, 2019. Voluntary compliance date: January 1, 2017. Delayed compliance date: Unless otherwise specified, January 1, 2018.

Part 390 (FR Vol. 82, No. 115, Pages 27765-27767, 06-16-17)

This final rule extends by one year the compliance date of FMCSA regulations established in the final rule on lease and interchange of passenger-carrying CMVs published on May 27, 2015, and effective on July 27, 2015. The new compliance date is January 1, 2019. The FMCSA received numerous petitions for reconsideration of the final rule and extended the original January 1, 2017, compliance date to January 1, 2018, to provide time to address the issues raised by the petitioners. As a result of a public meeting with representatives of the passenger carrier industry in October 2016 and further analysis of the petitions for reconsideration, the FMCSA is extending the compliance date by an additional 12 months to allow time to revise the regulations, while ensuring that carriers have ample time to adjust to the requirements of the revisions. Effective date: June 16, 2017, until January 1, 2019. Compliance date: The compliance date for the requirements in Subpart F to 49 CFR Part 390 (Sections 390.301, 390.303, and 390.305) is extended until January 1, 2019.

Fiscal Impact

The fiscal impact cannot be determined. The federal regulations to be adopted by this action were subject to fiscal impact review by either the FMCSA or the PHMSA when enacted and were determined not to be cost-prohibitive.

Jobs Impact

The proposed amendments may have a slight impact on motor carrier operations; however, the amendments should not negatively impact jobs or employment opportunities because the regulations adopted align the rules to federal regulations and bring uniformity and consistency to the industry, which should have a positive impact on employment.

Waivers

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

April 19, 2018	Department of Transportation
10 a.m.	Motor Vehicle Division
	6310 SE Convenience Boulevard
	Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

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, 2016 2017).

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, 2016 2017).

ITEM 3. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, 2016 2017, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

ITEM 4. Amend rule 761—529.2(327B) as follows:

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be either mailed to the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.

ITEM 5. Amend paragraph **607.10(1)“c”** as follows:

- c.* The following portions of 49 CFR Part 383 (October 1, 2016 2017):
- (1) Section 383.51, Disqualification of drivers.
 - (2) Subpart E—Testing and Licensing Procedures.
 - (3) Subpart G—Required Knowledge and Skills.
 - (4) Subpart H—Tests.