

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to commercial driver licensing
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend 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, 321.180, 321.187, 321.188 and 321.449.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.1(69) as amended by 2019 Iowa Acts, House File 499, section 1; 321.180; 321.187 as amended by 2019 Iowa Acts, House File 418, section 1; 321.188 as amended by 2019 Iowa Acts, House File 418, sections 2, 3, 6 and 7; and 321.449 as amended by 2019 Iowa Acts, House File 418, section 4.

Purpose and Summary

This proposed rule making conforms Chapter 607 with 2019 Iowa Acts, House File 418, sections 1 to 4 and 6 and 7, related to compliance with federal regulations regarding entry-level driver training (ELDT), the national drug and alcohol clearinghouse (DACH), third-party commercial driver’s license (CDL) skills test examiners, and federal driver age qualifications. Additionally, the proposed amendments align the Department’s rules with existing legal authority and Department practice, eliminate outdated or irrelevant requirements or options and accommodate modern procedures. The following paragraphs further explain the proposed amendments:

ELDT. The existing rules relating to adoption of federal regulations, CDL classes, CDL endorsements and commercial learner’s permits (CLPs) are proposed to be amended to add references to the Federal Motor Carrier Safety Administration (FMCSA) regulations addressing ELDT requirements. Iowa Code section 321.188 was amended by 2019 Iowa Acts, House File 418, sections 2 and 6, to provide that ELDT requirements apply to an applicant for a CDL if required by federal regulations. Federal regulations currently state that effective February 7, 2020, an applicant applying for a Class A or Class B CDL, an upgrade of the applicant’s CDL, or a hazardous material (H), passenger (P), or school bus (S) endorsement for the first time will be required to complete ELDT prior to taking the applicable CDL knowledge test or skills test. ELDT training consists of knowledge (theory) training and behind-the-wheel (BTW) skills training. However, since the legislation was enacted during the 2019 Legislative Session, the Department was notified by FMCSA that FMCSA is seeking a delayed effective date of February 7, 2022, for the requirement for a state driver’s licensing agency to verify completion of ELDT prior to administering the applicable CDL knowledge or skills test. This delay would not require a change to the underlying legislative language as the language is contingent on whether the provision is required by federal regulation.

DACH. The rule relating to application for a CDL already requires a CDL applicant to comply with the requirements of Iowa Code section 321.188, but that Iowa Code section was amended by 2019 Iowa Acts, House File 418, sections 3 and 7, to incorporate the federal requirement that state driver’s licensing agencies check the DACH for violations prior to issuing a CDL if required by federal regulations. The DACH is a database operated by FMCSA that will contain information about violations of FMCSA’s drug and alcohol testing program for CDL holders. The requirement for the Department to check the DACH prior to issuing a CDL was set to take effect January 6, 2020. However, since the legislation

was enacted during the 2019 Legislative Session, the Department was notified by FMCSA that FMCSA is seeking a delayed effective date of January 6, 2023, for the requirement for a state driver's licensing agency to query DACH. Again, the delay would not require a change to the underlying legislative language as the language is contingent on whether the provision is required by federal regulation.

CDL driver age qualifications. The rule establishing CDL requirements is proposed to be amended to align with Iowa Code section 321.449 as amended by 2019 Iowa Acts, House File 418, section 4, which gave the Department authority to adopt rules authorizing an 18-year-old to obtain an interstate CDL once federal law allows it. Currently, federal regulations do not permit a person less than 21 years old to operate a commercial motor vehicle (CMV) between states (interstate) unless an exception under the federal regulations applies. Iowa Code currently does allow an 18-year-old to operate a CMV within Iowa (intrastate) only. However, there has been movement at the federal level to broadly amend the driver age qualifications law to lower the current age for an interstate CDL driver from 21 years old to 18 years old. While the federal law has not changed yet, the proposed amendment to the rule cross-references the driver age qualifications in the federal regulations and Iowa Code, thereby allowing an adjustment to the age requirement for an interstate CMV driver if the federal law is changed in the future to allow 18-year-old CMV drivers in interstate commerce.

Hazardous material endorsement. The hazardous material endorsement rule is proposed to be amended to add references to the federal regulations governing the requirements for obtaining and retaining the endorsement. The amendments also provide that the exception for retesting and paying the fee for the hazardous material endorsement applies if the applicant is intending to transfer the applicant's CDL and provides evidence of passing the knowledge test in another state within the preceding 24 months, as allowed by federal regulations.

Waiver of CDL knowledge test for military members. The CDL knowledge test rule is proposed to be amended to add a new subrule addressing waiver of the knowledge test for an applicant who is a current or former military service member. Iowa Code section 321.188 provides that the Department shall adopt rules to administer the CDL program in compliance with federal regulations, and 49 CFR Section 383.77 was recently amended to provide that the Department may waive the CDL knowledge test for an applicant who is regularly employed or was regularly employed within the past year in a military position as outlined in the regulation and operated a vehicle representative of the CMV the applicant expects to operate. The Department already has the authority to waive a CDL skills test for a current or former military service member and, under this proposed rule making, would also have the ability to offer a waiver of the knowledge test.

CDL skills test vehicles. The rule regarding representative vehicles used for the CDL skills test is proposed to be amended to provide that an applicant seeking a tank endorsement must take the CDL skills test in a representative vehicle, such as a Class A, Class B, or Class C CMV, but the representative vehicle does not necessarily need to include a tank as tank vehicles are harder to gain access to and any tank vehicle containing flammable or hazardous materials must be purged of any contents prior to the CDL skills test. The amendments also align the rule with the Department's current process for an applicant seeking to remove a manual transmission restriction to require the applicant to take only the on-road segment of the CDL skills test, rather than all three segments of the CDL skills test.

CDL retests. The rule relating to CDL skills retests are proposed to be amended to include the requirement to repeat a CDL skills or knowledge test if the Department determines the test was improperly administered, for example, as the result of an audit.

Third-party CDL skills test examiners. The rule addressing CDL skills tests administered by a third party is proposed to be amended to conform with Iowa Code section 321.187 as amended by 2019 Iowa Acts, House File 418, section 1, which added an "Iowa nonprofit corporation that serves as a trade association for Iowa-based motor carriers" to the list of entities authorized to perform third-party CDL skills tests. This change will provide additional opportunities for applicants to receive the skills test necessary to obtain a CDL. The amendments also align with 49 CFR Section 383.75, which provides an exception to a third-party skills test examiner's certificate revocation for failure to perform at least ten skills tests per year if the examiner provides proof of completion of the examiner refresher training or successfully completes one skills test under the observation of a Department examiner. Finally, the

amendments conform with existing Department policy that a third-party skills test examiner may only administer CDL skills tests for the examiner's primary employer unless the examiner is authorized by the Department to perform CDL skills tests for another county or third-party tester.

CDL knowledge and skills tests for nondomiciled military members. The Department proposes to add a new rule to allow for the ability to perform and transmit CDL knowledge and skills tests for nondomiciled military personnel, as well as the ability to accept the same from another state's driver's licensing agency. This rule would adopt 49 CFR Section 383.79, which was recently amended to provide that a state may accept an application for a CDL or CLP from a military service member stationed, but not domiciled, in Iowa if the Department has an agreement to accept such applications with the applicant's state of domicile. Typically, a person can only apply and be tested for a CDL or CLP in the person's state of domicile. This regulation attempts to address barriers experienced by military members stationed in a state other than the state of domicile. The rule also would provide that if a military service member is domiciled in Iowa, but stationed in another state, and applies for a CDL or CLP where the service member is stationed, the Department may accept the application and CDL test results from the other state if the Department has an agreement to do so, and the Department may also issue the CDL or CLP.

Reduction of a lifetime CDL disqualification. This rule is proposed to be amended to align with the current process for reinstatement of an applicant's CDL after a lifetime CDL disqualification. A lifetime CDL disqualification is required pursuant to federal regulations in 49 CFR Section 383.51 for certain offenses committed by a CDL holder, for example, when a CDL holder has two operating while intoxicated (OWI) convictions. However, the federal regulations further provide that a CDL holder subject to a lifetime disqualification for certain offenses may be eligible to apply for reinstatement of the person's CDL if it has been more than ten years since the lifetime disqualification became effective and the person meets certain criteria. A person reinstated under these provisions once is not eligible for reinstatement again if the person subsequently is convicted of any of the disqualifying offenses listed in 49 CFR Sections 383.51(b)(1) through 383.51(b)(8).

CDL disqualification due to fraud. The rule related to CDL disqualifications is proposed to be amended to add a new subrule that aligns with 49 CFR Section 383.73(k), Iowa Code section 321.201(2)"b," and the Department's current process for disqualifying a person's CDL or CLP if the person is convicted or suspected of fraud related to the testing or issuance of a commercial driving privilege. Upon the Department's receipt of a person's conviction for fraud, the person's CDL shall be disqualified for one year. Upon the Department's receipt of credible evidence that the person is suspected of committing fraud, the person shall be required to retake the applicable knowledge or skills test and will face a disqualification if the person either fails or does not retake the applicable test.

Restricted CDL. The restricted CDL rule is proposed to be amended to align with 49 CFR Section 383.3(f)(3)(vi), which states that a person may not hold a restricted CDL and an unrestricted CDL at the same time. However, the regulations do not prohibit a person from holding a restricted CDL and a commercial learner's permit (CLP) at the same time. The rule relating to self-certification for CDL holders is also proposed to be amended to provide that a restricted CDL holder is required to self-certify to the type of driving the holder intends to undertake while operating a CMV.

Fiscal Impact

The fiscal impact to the State of Iowa cannot be determined. The federal regulations proposed to be adopted by this rule making were subject to fiscal impact review by the FMCSA when the regulations were enacted and were determined not to be cost-prohibitive.

Jobs Impact

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

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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 January 21, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
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:

January 23, 2020
10 a.m.

Department of Transportation
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 rule 761—607.2(17A) as follows:

761—607.2(17A) Information.

607.2(1) Information and location. Applications, forms and information about the commercial driver's license (CDL) are available at any driver's license ~~examination station~~ service center. Assistance is also available by mail from the Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at www.iowadot.gov.

607.2(2) Manual. A copy of a study manual for the commercial driver's license tests is available upon request at any driver's license ~~examination station~~ service center and on the department's website.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 2. Amend rule **761—607.3(321)**, definition of "School bus," as follows:

"School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored

events unless otherwise provided in Iowa Code section 321.1(69). “School bus” does not include a bus used as a common carrier.

ITEM 3. Amend subrule 607.10(1) as follows:

607.10(1) Code of Federal Regulations. The department’s administration of commercial driver’s licenses shall be in compliance with the state procedures set forth in 49 CFR Section 383.73, and this chapter shall be construed to that effect. The department adopts the following portions of the Code of Federal Regulations which are referenced throughout this chapter of rules:

a. and *b.* No change.

c. 49 CFR Part 380, Subpart F.

~~*e.*~~ *d.* The following portions of 49 CFR Part 383 (October 1, 2018):
(1) to (4) No change.

ITEM 4. Amend rule 761—607.16(321) as follows:

761—607.16(321) Commercial driver’s license (CDL).

607.16(1) No change.

607.16(2) Validity.

a. A Class A commercial driver’s license allows a person to operate a combination of commercial motor vehicles as specified in Iowa Code ~~paragraph~~ section 321.189(1)“a.” With the required endorsements and subject to the applicable restrictions, a Class A commercial driver’s license is valid to operate any vehicle. Before the department administers the skills test for a Class A commercial driver’s license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

b. A Class B commercial driver’s license allows a person to operate a commercial motor vehicle as specified in Iowa Code ~~paragraph~~ section 321.189(1)“b.” With the required endorsements and subject to the applicable restrictions, a Class B commercial driver’s license is valid to operate any vehicle except a truck-tractor semitrailer combination as a chauffeur (Class D) or a vehicle requiring a Class A commercial driver’s license. Before the department administers the skills test for a Class B commercial driver’s license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

c. to *h.* No change.

607.16(3) Requirements.

a. The minimum age to obtain a commercial driver’s license is ~~18 years~~ set out in 49 CFR, Part 391, Subpart B, except that, for a person operating solely intrastate, the driver age qualifications are set out in Iowa Code section 321.449(3).

b. No change.

607.16(4) No change.

This rule is intended to implement Iowa Code sections 321.177, 321.182, 321.188, 321.189, ~~and~~ 321.196, and 321.449 and 2013 Iowa Acts, chapter 104, section 2.

ITEM 5. Amend rule 761—607.17(321) as follows:

761—607.17(321) Endorsements. All endorsements except the hazardous material endorsement continue to be valid without retesting or additional fees when renewing or upgrading a license. The endorsements that authorize additional commercial motor vehicle operations with a commercial driver’s license are:

607.17(1) Hazardous material. A hazardous material endorsement (H) is required to transport hazardous materials. ~~Upon license renewal, retesting and fee payment are required.~~ The hazardous material endorsement is only valid when the applicant or holder of the endorsement complies with the Transportation Security Administration’s security threat assessment standards specified in 49 CFR Sections 383.71(b)(8) and 383.141. Before the department administers the knowledge test for a hazardous material endorsement to an applicant for the first time, the applicant shall comply with the entry-level driver training requirements as provided in Iowa Code section 321.188. To obtain or retain

the hazardous material endorsement, the applicant or holder must pass a knowledge test as required under 49 CFR Section 383.121 and pay the endorsement fee. Retesting and fee payment are also required when an applicant upgrades an Iowa license or transfers a commercial driver's license from another state unless, as provided in 49 CFR Section 383.73, the transfer applicant provides evidence of passing the endorsement knowledge test as required under 49 CFR Section 383.121 within the preceding 24 months. A farmer or a person working for a farmer is not subject to the hazardous material endorsement while operating either a pickup or a special truck within 150 air miles of the farmer's farm to transport supplies to or from the farm.

607.17(2) Passenger vehicle. A passenger vehicle endorsement (P) is required to operate a passenger vehicle as defined in rule 761—607.3(321). Before the department administers the skills test for a passenger vehicle endorsement to an applicant for the first time, the applicant shall comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

607.17(3) to 607.17(5) No change.

607.17(6) School bus. ~~After September 30, 2005, a~~ A school bus endorsement (S) is required to operate a school bus as defined in rule 761—607.3(321). An applicant for a school bus endorsement must also qualify for a passenger vehicle endorsement. Before the department administers the skills test for a school bus endorsement to an applicant for the first time, the applicant shall comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

607.17(7) No change.

This rule is intended to implement Iowa Code sections 321.1, 321.176A, 321.188 and 321.189.

ITEM 6. Amend paragraph **607.20(1)“d”** as follows:

d. The issuance of a commercial learner's permit is a precondition to the initial issuance of a commercial driver's license. The issuance of a commercial learner's permit is also a precondition to the upgrade of a commercial driver's license if the upgrade requires a skills test. If the permit holder is subject to the requirement to complete entry-level driver training as provided in Iowa Code section 321.188, the permit holder shall complete the training after the permit holder obtains the commercial learner's permit, but before the permit holder takes the required skills test. The holder of a commercial learner's permit is not eligible to take a required driving skills test for the first 14 days after the permit holder is issued the permit. The 14-day period includes the day the commercial learner's permit was issued.

EXAMPLE: The commercial learner's permit is issued on September 1. The earliest date the permit holder would be eligible to take the skills test is September 15.

ITEM 7. Amend rule 761—607.27(321) as follows:

761—607.27(321) Knowledge tests.

607.27(1) and 607.27(2) No change.

607.27(3) Test methods. All knowledge tests shall be administered in compliance with 49 CFR Section 383.133(b). All tests other than the hazardous material endorsement test may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test. A verbal test shall be offered only at specified locations. Information about the locations is available at any driver's license ~~examination station~~ service center.

607.27(4) Waiver. A waiver of any knowledge test is permitted only as provided in Iowa Code ~~subsection~~ section 321.188(5) and this chapter. The burden of proof of having passed the hazardous material endorsement test within the preceding 24 months rests with the applicant.

607.27(5) Military waiver. The department may waive the requirement that an applicant pass a required knowledge test for an applicant who is a current or former military service member as defined in 49 CFR Section 383.5. An applicant for a waiver of the knowledge test under this subrule shall certify and provide evidence, as required by the department, that the following apply:

a. The applicant is regularly employed or was regularly employed within the past year in a military position specifically designated in 49 CFR Section 383.77.

b. The applicant is or was operating a vehicle representative of the commercial motor vehicle the applicant operates or expects to operate immediately preceding honorable separation from military service as evidenced by the applicant's certificate of release or discharge from active duty, commonly referred to as a DD form 214.

c. The applicant has not had more than one driver's license, other than a military license.

d. The applicant has not had any driver's license suspended, revoked, or canceled.

e. The applicant has not been convicted of an offense committed while operating any type of motor vehicle that is listed as a disqualifying offense in 49 CFR Section 383.51(b).

f. The applicant has not had more than one conviction for an offense committed while operating any type of motor vehicle that is listed as a serious traffic violation in 49 CFR Section 383.51(c).

g. The applicant has not had a conviction for violation of a military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident, and has no record of an accident in which the applicant was at fault.

~~607.27(5)~~ **607.27(6)** *Requirement.* An applicant must pass the applicable knowledge test(s) before taking the skills test. Passing scores for a knowledge test shall meet the standards contained in 49 CFR Section 383.135(a).

This rule is intended to implement Iowa Code sections 321.186 and 321.188.

ITEM 8. Amend rule 761—607.28(321) as follows:

761—607.28(321) Skills test.

607.28(1) to 607.28(3) No change.

607.28(4) Vehicle. The applicant shall provide a representative vehicle for the skills test. "Representative vehicle" means a commercial motor vehicle that meets the statutory description for the class of license applied for.

a. No change.

b. To obtain a school bus endorsement, the applicant must qualify for a passenger vehicle endorsement and take the skills test in a school bus, as defined in rule 761—607.3(321), in the same vehicle class as the applicant will drive, as required in 49 CFR Section 383.123. ~~Up to and including September 30, 2005, the skills test for a school bus endorsement is waived for an applicant meeting the requirements of 49 CFR Section 383.123(b).~~

c. To obtain a tank endorsement, the applicant must take the skills test in a representative vehicle for the class of license applied for, but the representative vehicle is not required to be a tank vehicle.

~~e. d.~~ To remove an air brake or full air brake restriction, the applicant must take the skills test in a vehicle equipped with an air brake system, as defined in rule 761—607.3(321) and as required in 49 CFR Section 383.113.

~~e.~~ To remove a manual transmission restriction, the applicant must take the on-road segment of the skills test in a vehicle equipped with a manual transmission, as defined in rule 761—607.3(321).

607.28(5) and 607.28(6) No change.

607.28(7) Locations. The skills test for a commercial driver's license shall be given only at specified locations where adequate testing facilities are available. An applicant may contact any driver's license ~~examination station~~ service center for the location of the nearest skills testing ~~station~~ center. A skills test by appointment shall be offered only at specified regional test sites.

This rule is intended to implement Iowa Code sections 321.186 and 321.188.

ITEM 9. Amend rule 761—607.30(321) as follows:

761—607.30(321) Third-party testing.

607.30(1) Purpose and definitions. The skills test required by rule 761—607.28(321) may be administered by third-party testers and third-party skills test examiners approved and certified by the department. For the purpose of administering third-party skills testing and this rule, the following definitions shall apply:

“*Community college*” means an Iowa community college established under Iowa Code chapter 260C.

“*Iowa-based motor carrier*” means a motor carrier or its subsidiary that has its principal place of business in the state of Iowa and operates a permanent commercial driver training facility in the state of Iowa.

“*Iowa nonprofit corporation*” means a nonprofit corporation that serves as a trade association for Iowa-based motor carriers.

“*Motor carrier*” means the same as defined in 49 CFR Section 390.5.

“*Permanent commercial driver training facility*” means a facility dedicated to a program of commercial driving instruction that is offered to employees or potential employees of the motor carrier as incident to the motor carrier’s commercial operations, that requires at least 40 hours of instruction, and that includes fixed and permanent structures and facilities for the off-road portions of commercial driving instruction, including classroom, pretrip inspection, and basic vehicle control skills. A permanent commercial driver training facility must include a fixed and paved or otherwise hard-surfaced area for basic vehicle control skills testing that is permanently marked and capable of inspection and measurement by the department.

“*Skills test*” means the skills test required by rule 761—607.28(321).

“*Subsidiary*” means a company that is partly or wholly owned by a motor carrier that holds a controlling interest in the subsidiary company.

“*Third-party skills test examiner*” means the same as defined in 49 CFR Section 383.5.

“*Third-party tester*” means the same as defined in 49 CFR Section 383.5.

607.30(2) Certification of third-party testers.

a. The department may certify as a third-party tester a community college, ~~or~~ Iowa-based motor carrier or Iowa nonprofit corporation to administer skills tests. A community college, ~~or~~ Iowa-based motor carrier or Iowa nonprofit corporation that seeks certification as a third-party tester shall contact the ~~department’s office of driver and identification services bureau~~ and schedule a review of the proposed testing program, which shall include the proposed testing courses and facilities, information sufficient to identify all proposed third-party skills test examiners, and any other information necessary to demonstrate compliance with 49 CFR Section 383.75.

b. No community college, ~~or~~ Iowa-based motor carrier or Iowa nonprofit corporation shall be certified to conduct third-party testing unless and until the community college, ~~or~~ Iowa-based motor carrier or Iowa nonprofit corporation enters an agreement with the department that meets the requirements of 49 CFR Section 383.75 and demonstrates sufficient ability to conduct skills tests in a manner that consistently meets the requirements of 49 CFR Section 383.75.

c. No change.

607.30(3) Certification of third-party skills test examiners.

a. A certified third-party tester shall not employ or otherwise use as a third-party skills test examiner a person who has not been approved and certified by the department to administer skills tests. Each certified third-party tester shall submit for approval the names of all proposed third-party skills test examiners ~~on a form provided by~~ to the department. The department shall not approve as a third-party skills test examiner a person who does not meet the requirements, qualifications and standards of 49 CFR Sections 383.75 and 384.228, including but not limited to all required training and examination and a nationwide criminal background check. The criteria for passing the nationwide criminal background check shall include no felony convictions within the last ten years and no convictions involving fraudulent activities.

b. No change.

c. The department shall revoke the certificate if the person holding the certificate does not administer skills tests to at least ten different applicants per calendar year; does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years; is involved in fraudulent activities related to conducting skills tests; or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR Sections 383.75 and 384.228. Notwithstanding anything in this paragraph to the contrary, as provided in 49 CFR Section 383.75,

if the person does not administer skills tests to at least ten different applicants per calendar year, the certificate will not be revoked for that reason if the person provides proof of completion of the examiner refresher training in 49 CFR Section 384.228 to the department or successfully completes one skills test under the observation of a department examiner.

d. No change.

e. A third-party skills test examiner may only administer CDL skills tests for the examiner's primary employer, unless authorized by the department to administer CDL skills tests for another county or third-party tester.

607.30(4) Bond. As a condition of certification, an Iowa-based motor carrier or Iowa nonprofit corporation must maintain a bond in the amount of \$50,000 to pay for the retesting of drivers in the event that the third-party tester or one or more of its third-party skills test examiners are involved in fraudulent activities related to conducting skills tests of applicants for a commercial driver's license.

607.30(5) and 607.30(6) No change.

This rule is intended to implement Iowa Code section 321.187.

ITEM 10. Amend subrule 607.31(2) as follows:

607.31(2) Retesting. Subject to rule 761—607.28(321), an applicant shall be required to repeat only the knowledge test(s) or part(s) of the skills test that the applicant failed. An applicant who fails a test shall not be permitted to repeat that test the same day. An applicant may be required to repeat a test if the department determines the test was improperly administered.

ITEM 11. Adopt the following **new** rule 761—607.32(321):

761—607.32(321) Knowledge and skills testing of nondomiciled military personnel.

607.32(1) Role of state of duty station. The department may accept an application for a CLP or CDL, including an application for waiver of the knowledge test as provided in subrule 607.27(5), if the applicant is an active duty military service member stationed, but not domiciled in Iowa, and the department has an agreement to accept such applications with the applicant's state of domicile as provided in 49 CFR Section 383.79.

a. The applicant shall certify and provide evidence that the following apply:

(1) The applicant is regularly employed or was regularly employed within the past year in a military position requiring operation of a commercial motor vehicle.

(2) The applicant has a valid driver's license from the applicant's state of domicile.

(3) The applicant has a valid active duty military identification card.

(4) The applicant has a current copy of either the applicant's military leave and earnings statement or the applicant's orders.

b. If the applicant meets the requirements of paragraph 607.32(1) "a" and the department has an agreement with the applicant's state of domicile as provided in this subrule, the department may do either of the following:

(1) Administer the knowledge and skills tests to the applicant as appropriate in accordance with 49 CFR Part 383, Subparts F, G, and H, if the state of domicile requires those tests; or

(2) Waive the knowledge and skills tests in accordance with 49 CFR Section 383.77 and this chapter if the state of domicile also permits waiver of the knowledge and skills test.

c. The department may destroy the applicant's driver's license on behalf of the state of domicile unless the state of domicile requires the driver's license to be surrendered to the state of domicile's driver's licensing agency.

607.32(2) Electronic transmission of application and test results. The department shall transmit to the state of domicile the applicant's application, any supporting documents and the results of any skills or knowledge tests administered as provided under this rule.

607.32(3) Role of state of domicile. If the department has an agreement with the applicant's state of duty station, upon completion of the applicant's application pursuant to 49 CFR Section 383.71 and any testing administered by the applicant's state of duty station pursuant to 49 CFR Sections 383.71 and 383.73, the department may do all of the following:

a. Accept the completed application, any supporting documents, and the results of the knowledge and skills tests administered by the applicant's state of duty station.

b. Issue the applicant a CLP or CDL.

This rule is intended to implement Iowa Code sections 321.180, 321.186, 321.187, and 321.188 and 49 CFR Part 383.

ITEM 12. Amend subrule 607.37(1), introductory paragraph, as follows:

607.37(1) Licensee requirements. To renew a commercial driver's license, the licensee shall apply at a driver's license ~~examination station~~ service center and complete the following requirements:

ITEM 13. Amend rule 761—607.39(321) as follows:

761—607.39(321) Disqualification.

607.39(1) to 607.39(3) No change.

607.39(4) Reduction of lifetime disqualification. ~~Reserved.~~

a. As permitted by 49 CFR Section 383.51, a person subject to lifetime disqualification of the person's commercial driving privileges may apply to the department for reinstatement. The approval is subject to the discretion of the department and subject to the following requirements:

(1) The request may not be made prior to ten years from the effective date of the lifetime disqualification.

(2) The person must submit the request in a manner prescribed by the department.

(3) If the driving record contains alcohol-related or drug-related offenses that resulted in the lifetime disqualification, the person must have completed an alcohol or drug evaluation and have completed any recommended treatment which meets or exceeds the minimum standards approved by the Iowa department of public health. Evidence of a completed evaluation and treatment must be on file with the department or submitted with the application for reinstatement.

(4) Within the ten years preceding the request, the person must not have any of the following moving violation convictions:

1. A drug or alcohol offense.

2. Leaving the scene of an accident.

3. A felony involving the use of any motor vehicle.

4. Any moving violation while operating a commercial motor vehicle.

(5) The department may request, and the person shall provide, any additional information or documentation necessary to determine the person's eligibility for reinstatement or general fitness for licensure.

b. If the department finds the person is eligible for reinstatement under this subrule, the person shall do all of the following prior to reinstatement:

(1) Pay all outstanding reinstatement fees.

(2) Meet all outstanding reinstatement requirements.

(3) Pass the required knowledge, vision, and skills tests as specified in Iowa Code section 321.188.

(4) Complete any other courses or requirements as required by the director.

c. As provided in 49 CFR Section 383.51(a)(6), a person who has previously had the person's commercial driving privileges reinstated pursuant to this subrule shall not be eligible to apply for reinstatement following conviction of a subsequent disqualifying offense.

d. If the department determines the person is not eligible for reinstatement as provided in this subrule, the department shall send notice by first-class mail to the person's mailing address as shown on departmental records that the lifetime disqualification remains in effect.

607.39(5) Fraud related to testing and issuance.

a. As required by 49 CFR Section 383.73(k) and Iowa Code section 321.201(2)“b,” the department shall disqualify the commercial driver's license or commercial learner's permit of a person convicted or suspected of fraud related to the testing for or issuance of a commercial driver's license or commercial learner's permit.

b. Upon receipt of a person's conviction of fraud related to the issuance of the commercial driver's license or commercial learner's permit, the department shall disqualify the person's commercial driver's license or commercial learner's permit for one year.

c. Upon receipt of credible evidence that a person is suspected of committing fraud relating to the issuance of a commercial driver's license or a commercial learner's permit, the department shall notify the person of the requirement to retake the applicable knowledge or skills test. Within 30 days of receiving notice from the department, the person is required to contact the department to retake the knowledge or skills test. If the person fails to contact the department within 30 days after the notice, or the person fails the knowledge or skills test, or does not take the test, the department shall disqualify the person's commercial driver's license or commercial learner's permit.

d. Once a person's commercial driver's license or commercial learner's permit has been disqualified, the person must reapply following the usual procedures as provided in Iowa Code section 321.188 and this chapter.

This rule is intended to implement Iowa Code chapter 17A and section 321.208.

ITEM 14. Amend rule 761—607.45(321), introductory paragraph, as follows:

761—607.45(321) Reinstatement. To reinstate a commercial driver's license after completion of a period of disqualification, a person shall appear at a driver's license ~~examination station~~ service center. The person must also meet the vision standards for licensing, pass the applicable knowledge test(s) and the skills test, and pay the required reinstatement fee and the fees for a new license.

ITEM 15. Amend rule 761—607.49(321) as follows:

761—607.49(321) Restricted commercial driver's license.

607.49(1) to 607.49(3) No change.

607.49(4) Requirements.

a. and b. No change.

c. An applicant who currently holds a an unrestricted commercial driver's license or a commercial learner's permit is not eligible for issuance of a restricted commercial driver's license.

607.49(5) No change.

607.49(6) Issuance.

a. to e. No change.

~~*f.* On or before December 31, 2016, there are two periods of validity for commercial motor vehicle operation: March 15 through June 30, and October 4 through December 14. Validity shall not exceed 180 days in any 12-month period. Any period of validity authorized previously by another state's license shall be considered a part of the 180-day maximum period of validity.~~

f. On or after January 1, 2017, a licensee may have up to three individual periods of validity for a restricted commercial driver's license, provided the cumulative period of validity for all individual periods does not exceed 180 days in any calendar year. An individual period of validity may be 60, 90, or 180 consecutive days, at the election of the licensee. A licensee may add 30 days to an individual period of validity by applying for an extension, subject to the 180-day cumulative maximum period of validity. A request for extension must be made no later than the date of expiration of the individual period of validity for which an extension is requested; a request for extension made after that date shall be treated as a request for a new individual period of validity. An extension shall be calculated from the date of expiration of the individual period of validity for which an extension is requested. Any period of validity authorized previously by another state's license shall be considered a part of the 180-day cumulative maximum period of validity.

~~*g.*~~ *g.* A restricted commercial driver's license must be validated for commercial motor vehicle operation for each individual period of validity. This means that the applicant/licensee must have the person's good driving record confirmed at each application for an individual period of validity. Upon confirmation, the department shall issue a replacement license with a restriction validating the license

for that individual period of validity, provided the person is otherwise eligible for the license. The fee for a replacement license shall be as specified in Iowa Code section 321.195.

~~i.~~ h. The same process must be repeated for each individual period of validity within a calendar year.

This rule is intended to implement Iowa Code section 321.176B.

ITEM 16. Amend subrule 607.50(1) as follows:

607.50(1) *Applicants for commercial learner's permit, restricted CDL, or new, transferred, renewed or upgraded CDL.*

a. A person shall provide to the department a self-certification of type of driving if the person is applying for:

(1) to (3) No change.

(4) Renewal of a commercial driver's license, ~~or~~

(5) A license upgrade for a commercial driver's license or an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license, ~~or~~

(6) A restricted commercial driver's license.

b. No change.