

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to updates to federal 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, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 307.27, 321.188, 321.449 and 321.450.

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 (FMCSA) and the Pipeline and Hazardous Materials Safety Administration (PHMSA).

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, 2019, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399.

The proposed amendment to Chapter 529 adopts the current CFR dated October 1, 2019, for 49 CFR Parts 365 to 368 and 370 to 379.

The proposed amendment to Chapter 607 adopts the current CFR dated October 1, 2019, 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 2018 edition of the CFR and that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Parts 171-173, 178 and 180 (FR Vol. 83, No. 216, Pages 55792-55811, 11-7-18)

This final rule amends the HMR in response to 19 petitions for rule making submitted by the regulated community to update, clarify, streamline, or provide relief from various HMR. By adopting these deregulatory amendments, the PHMSA is allowing more efficient and effective ways of transporting hazardous materials in commerce while maintaining an equivalent level of safety. Effective date: December 7, 2018.

Parts 107 and 171 (FR Vol. 83, No. 228, Pages 60733-60754, 11-27-18)

This final rule amends the HMR in accordance with the Federal Civil Penalties Inflation Adjustment Act to apply the 2018 inflation adjustment to civil penalty amounts. A civil penalty may be imposed under federal law on persons violating federal Department of Transportation regulations, including persons who knowingly violate the HMR. Effective date: November 27, 2018.

Part 390 (FR Vol. 83, No. 233, Pages 62505-62508, 12-4-18)

This final rule extends the compliance date of the May 27, 2015, final rule titled “Lease and Interchange of Vehicles; Motor Carriers of Passengers,” from January 1, 2019, to January 1, 2021. This extension of the compliance date was necessary to provide the FMCSA time to consider all comments raised regarding this rule making. Effective date: January 1, 2021.

Part 383 (FR Vol. 83, No. 245, Pages 65564-65571, 12-21-18)

This final rule amends FMCSA regulations to allow states the option of issuing a commercial learner’s permit (CLP) with an expiration date of up to one year from the date of initial issuance. This rule making simply codifies an exemption previously granted by FMCSA to state driver’s licensing agencies allowing them to issue a CLP with an expiration date of one year. Effective date: February 19, 2019.

Part 367 (FR Vol. 83, No. 248, Pages 67124-67131, 12-28-18)

This final rule amends FMCSA regulations to reduce the annual registration fees collected from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration Plan and Agreement for the registration years 2019, 2020 and thereafter as set forth in the regulation. Effective date: December 28, 2018.

Part 107 (FR Vol. 84, No. 31, Pages 3993-4001, 02-14-19)

This final rule amends the HMR to align with the federal Office of Management and Budget’s uniform administrative requirements, cost principles and audit requirements for federal grants, including the hazardous materials grants program and the hazardous materials emergency preparedness grant. Effective date: March 18, 2019.

Part 385 (FR Vol. 84, No. 130, Pages 32323-32326, 07-08-19)

This final rule revises FMCSA regulations relating to hazardous material safety permits to incorporate by reference the April 1, 2018, edition of the Commercial Vehicle Safety Alliance’s guidance related to out-of-service criteria for commercial highway vehicles transporting transuranic (uranium) materials and highway route-controlled quantities of radioactive materials. The out-of-service criteria provide uniform enforcement tolerances for roadside inspections to enforcement personnel nationwide. Effective date: July 8, 2019.

Part 383 (FR Vol. 84, No. 141, Pages 35335-35339, 07-23-19)

This final rule amends FMCSA regulations to revise the list of offenses permanently disqualifying a person from operating a commercial motor vehicle to include a felony conviction for using a commercial motor vehicle while committing an offense involving a severe form of human trafficking. This regulation change will also require a change to the list of disqualifying offenses in Iowa Code section 321.208 to implement the requirement, and the Department is proposing to amend that Code section during the 2020 Iowa Legislative Session. Effective date: September 23, 2019. Compliance date: September 23, 2022.

Parts 107 and 171 (FR Vol. 84, No. 147, Pages 37059-37079, 07-31-19)

This final rule amends the HMR in accordance with the Federal Civil Penalties Inflation Adjustment Act to apply the 2019 inflation adjustment to civil penalty amounts. A civil penalty may be imposed under federal law on persons violating federal Department of Transportation regulations, including persons who knowingly violate the HMR. Effective date: July 31, 2019.

Part 390 (FR Vol. 84, No. 157, Pages 40272-40296, 08-14-19)

This final rule narrows the applicability of the May 27, 2015, final rule titled “Lease and Interchange of Vehicles; Motor Carriers of Passengers,” by excluding certain contracts and other agreements between motor carriers of passengers that have active passenger carrier operating authority registrations with FMCSA from the definition of “lease” and the associated regulatory requirements. For passenger carriers that remain subject to the leasing and interchange requirements, FMCSA returns the bus marking requirement to its July 1, 2015, requirement, but with the slight modification to add references to leased vehicles. FMCSA also revises the exception for the delayed writing of a lease during certain emergencies and removes the 24-hour lease notification requirement from the regulations. Effective date: October 15, 2019.

Part 395 (FR Vol. 84, No. 177, Pages 48077-48081, 09-12-19)

This final rule amends FMCSA regulations applicable to restart provisions for hours of service of drivers of property-carrying commercial motor vehicles. The amendments removed provisions requiring that a 34-hour restart include two periods between 1 a.m. and 5 a.m. and limiting use of restart to once every 168 hours. In a series of federal appropriations acts, Congress suspended these provisions, pending completion of a study comparing the effects of the restart provisions both prior to and after the regulation change. The study found that there were no statistically significant benefits from the restart rule, and thus, the rules were voided by Congress. This amendment merely removes the voided requirement from the regulations. Effective date: September 12, 2019.

Parts 365, 380, 382, 383, 385, 387, 389, 391, 392, 395 and 396 (FR Vol. 84, No. 189, Pages 51427-51435, 09-30-19)

This final rule amends FMCSA regulations by making technical changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. Effective date: September 30, 2019.

Fiscal Impact

The fiscal impact statement cannot be determined. The federal regulations proposed to be adopted by this rule making were subject to fiscal impact review by either the Federal Motor Carrier Safety Administration or the Pipeline and Hazardous Materials Safety Administration when the regulations were 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 amendments 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 March 3, 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

If requested, a public hearing to hear requested oral presentations will be held as follows:

March 5, 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 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, ~~2018~~ 2019).

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, ~~2018~~ 2019).

ITEM 3. Amend rule 761—520.5(321) as follows:

761—520.5(321) Safety fitness.

520.5(1) *New motor carrier safety audits.* Peace officers in ~~the office of~~ motor vehicle enforcement of the Iowa department of transportation shall perform safety audits of new motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these audits. These audits shall be performed in compliance with 49 CFR Part 385 and shall be completed within 18 months from the day the motor carrier commences business.

520.5(2) *Motor carrier compliance reviews.* Peace officers in ~~the office of~~ motor vehicle enforcement of the Iowa department of transportation shall perform compliance reviews of motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these compliance reviews. These compliance reviews shall be performed in compliance with 49 CFR Part 385.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

ITEM 4. 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, ~~2018~~ 2019, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or ~~through the Internet~~ at www.fmcsa.dot.gov.

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

c. The following portions of 49 CFR Part 383 (October 1, ~~2018~~ 2019):

- (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.