

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to commercial driver’s license requirements and adoption of federal regulations and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 520, “Regulations Applicable to Carriers,” Chapter 529, “For-Hire Interstate Motor Carrier Authority,” Chapter 605, “License Issuance,” 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

This proposed rule making aligns Chapters 520, 529 and 607 with federal regulation changes that occurred during the 2021 federal fiscal year. This proposed rule making also amends Chapters 605 and 607 to clarify certain commercial driver’s license (CDL) requirements.

CDL updates. The proposed amendments to Chapters 605 and 607 will align the rules with existing legal authority and current Department practice. In particular, the proposed amendments specify the type of vehicle that a person with a Class C CDL may operate by relating the rule to the definition of such vehicle in Iowa Code section 321.1(11), and they also outline the process the Department will follow if an applicant for a CDL or commercial learner’s permit (CLP) fails to retake a required test upon a determination that the knowledge or skills test was improperly administered. In addition, these amendments clarify that an applicant seeking to add or remove a K (intrastate only) restriction is eligible to renew the applicant’s CDL online. The current rule language is not clear that a Class C commercial vehicle is either a vehicle designed to transport 16 or more passengers or a vehicle used to transport hazardous materials. The current rule language also does not outline the steps the Department will take to downgrade or cancel a CDL or CLP when a person fails to retake a required test upon a finding that the test was improperly administered. The current rule language also does not account for the fact that a person who is adding or removing a K (intrastate only) restriction from the person’s license is eligible to utilize the online CDL renewal process. Making these proposed rule amendments will help clarify these areas for affected parties.

Annual update. The remaining proposed amendments are part of the regular annual update in which the Department adopts the most recent updates to the federal regulations. Iowa Code section 321.188 requires the Department to adopt rules to administer CDLs 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 CFR dated October 1, 2021, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399. The proposed amendment to Chapter 529 adopts the CFR dated October 1, 2021, for 49 CFR Parts 365 to 368 and 370 to 379. The proposed amendment to Chapter 607 adopts the CFR dated October 1, 2021, 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 2021 edition of the CFR that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and HMR

Part 180 (FR Vol. 85, No. 211, Pages 68790-68798, 10-30-20)

This final rule amends the requirements in the HMR relating to the requalification periods for certain U.S. Department of Transportation 4-series specification cylinders in noncorrosive gas service in response to a petition for rule making submitted by the National Propane Gas Association. Effective date: November 30, 2020.

Part 395 (FR Vol. 85, No. 227, Pages 74909-74919, 11-24-20)

This final rule clarifies the definitions of the terms “any agricultural commodity,” “livestock,” and “non-processed food,” as the terms are used in the definition of “agricultural commodity” for the purposes of the “Hours of Service (HOS) of Drivers” regulations promulgated by the Federal Motor Carrier Safety Administration (FMCSA). Under the current regulations, drivers transporting agricultural commodities, including livestock, from the source of the commodities to a location within 150 air miles of the source, during harvest and planting seasons as defined by each state, are exempt from the HOS requirements. Furthermore, the HOS requirement for a 30-minute rest break does not apply to drivers transporting livestock in interstate commerce while the livestock are on the commercial motor vehicle. This interim final rule clarifies the meaning of these existing definitional terms to ensure that the HOS exemptions are utilized as Congress intended. Effective date: December 9, 2020.

Parts 107, 171-173, 178 and 180 (FR Vol. 85, No. 228, Pages 75680-75717, 11-25-20)

This final rule amends the HMR in response to 24 petitions for rule making submitted by the regulated community between February 2015 and March 2018. This final rule updates, clarifies, or provides relief from various regulatory requirements without adversely affecting safety. The Pipeline and Hazardous Materials Safety Administration (PHMSA) also, as of the effective date of this final rule, withdraws its September 28, 2017, enforcement discretion regarding the phase-out of mobile refrigeration systems. Effective date: December 28, 2020.

Parts 107, 171-173, 177, 178 and 180 (FR Vol. 85, No. 245, Pages 83366-83403, 12-21-20)

This final rule amends the HMR to correct editorial errors and improves the clarity of certain provisions in the regulations and PHMSA program and procedural regulations. The intended effect of this final rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this final rule are nonsubstantive changes and do not impose new requirements. Effective date: January 20, 2021.

Parts 107, 171, 173, 178 and 180 (FR Vol. 85, No. 248, Pages 85380-85437, 12-28-20)

This final rule amends the HMR to revise certain requirements applicable to the manufacture, use, and requalification of U.S. Department of Transportation specification cylinders. The PHMSA is taking this action in response to petitions for rule making submitted by stakeholders and agency review of compressed gas cylinder regulations. Specifically, the PHMSA is incorporating by reference or updating the references to several Compressed Gas Association publications, amending the filling requirements for compressed and liquefied gases, expanding the use of salvage cylinders, and revising and clarifying the manufacture and requalification requirements for cylinders. Effective date: January 27, 2021.

Parts 107 and 171 (FR Vol. 86, No. 83, Pages 23241-23260, 5-03-21)

This final rule amends the HMR and provides the 2021 inflation adjustment to civil penalty amounts that may be imposed for violations of certain U.S. Department of Transportation regulations. Effective date: May 3, 2021.

Part 107 (FR Vol. 86, No. 104, Pages 29528-29529, 6-02-21)

This final rule amends the HMR and makes a technical correction to the effective date listed in an appendix, which was originally amended by a final rule published on May 3, 2021, providing the 2021 inflation adjustment to civil penalty amounts that may be imposed for violations of certain U.S. Department of Transportation regulations. Effective date: June 2, 2021.

Parts 383 and 391 (FR Vol. 86, No. 117, Pages 32643-32651, 6-22-21)

This final rule amends the FMCSR to extend the compliance date from June 22, 2021, to June 23, 2025, for several provisions of the FMCSA's April 23, 2015, Medical Examiner's Certification Integration final rule. The FMCSA issued an interim final rule on June 21, 2018, extending the compliance date for these provisions until June 22, 2021. On April 22, 2021, the FMCSA published a supplemental notice of proposed rule making that proposed further extending the compliance date to June 23, 2025. This final rule will provide the FMCSA time to complete certain information technology (IT) system development tasks for its National Registry of Certified Medical Examiners (National Registry) and to provide the State Driver's Licensing Agencies (SDLAs) sufficient time to make the necessary IT programming changes when the new National Registry system is completed and available. Effective date: June 22, 2021.

Part 383 (FR Vol. 86, No. 123, Pages 34631-34636, 6-30-21)

This final rule amends the FMCSR to finalize the FMCSA's final interim final rule revising a December 8, 2016, final rule regarding "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (ELDT final rule). This final rule finalizes the extension of the compliance date for the ELDT final rule from February 7, 2020, to February 7, 2022. This action provides the FMCSA additional time to complete development of the Training Provider Registry (TPR) and provides SDLAs time to modify their IT systems and procedures, as necessary, to accommodate their receipts of driver-specific ELDT data from the TPR. Effective date: July 30, 2021.

Parts 383, 385, 390 and 391 (FR Vol. 86, No. 127, Pages 35633-35653, 7-07-21)

This final rule amends the FMCSR by making technical changes to correct inadvertent errors and omissions, to remove or update obsolete references, and to improve the clarity and consistency of certain regulatory provisions. The final rule also makes nondiscretionary, ministerial changes that are statutorily mandated and changes that merely align regulatory requirements with the underlying statutory authority. Finally, the final rule contains two minor changes to the FMCSA's rules of agency procedure or practice that relate to separation of functions and allow the FMCSA and state personnel to conduct off-site compliance reviews of motor carriers following the same safety fitness determination criteria used in on-site compliance reviews. Effective date: July 7, 2021.

Part 385 (FR Vol. 86, No. 164, Pages 48038-48044, 8-27-21)

This final rule amends the FMCSR to incorporate by reference the Commercial Vehicle Safety Alliance's (CVSA) "Operational Policy 4: Inspector Training and Certification," as required by the Fixing America's Surface Transportation Act (FAST Act). The CVSA policy provides the current policy and practices for FMCSA employees, state or local government employees, and contractors to obtain and maintain certification for conducting driver or vehicle inspections. Consistent with the requirements of the FAST Act, this final rule substitutes the most recent version of the CVSA policy, reflecting revisions to the version referenced in the July 8, 2019, notice of proposed rule making. The revisions include availability of inspector certification extensions under declared emergency situations adopted in response to the COVID-19 national emergency. This final rule also replaces an interim final rule in place since 2002. Effective date: August 27, 2021.

Fiscal Impact

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

Jobs Impact

The proposed amendments may have a slight impact on CDL holders and motor carrier operations. However, the amendments should not negatively impact jobs or employment opportunities because the regulations align the rules to federal regulations and clarify that an applicant seeking to add or remove a K (intrastate only) restriction is eligible to renew the applicant's CDL online. These amendments will 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 15, 2022. Comments should be directed to:

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

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 17, 2022, via conference call at 1 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 15, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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 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, ~~2020~~ 2021).

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, ~~2020~~ 2021).

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, ~~2020~~ 2021, for regulating interstate for-hire carriers.

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

ITEM 4. Amend paragraph **605.25(8)“a,”** introductory paragraph, as follows:

a. An applicant who is otherwise eligible to renew a commercial driver’s license must meet the same eligibility requirements for renewing a noncommercial driver’s license listed in paragraph 605.25(7)“a” to renew the license electronically ~~and~~, except that numbered paragraph 605.25(7)“a”(9)“3” shall not apply if the applicant is adding or removing the K restriction from the license at the time of renewal. The applicant must also meet the following criteria:

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

d. The following portions of 49 CFR Part 383 (October 1, ~~2020~~ 2021):

- (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.

ITEM 6. Amend subrule 607.16(2) as follows:

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 ~~section 321.189(1)“a.”~~ sections 321.1(11) and 321.189(1)“a”(1). 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 ~~section 321.189(1)“b.”~~ sections 321.1(11) and 321.189(1)“a”(2). 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. A Class C commercial driver’s license allows a person to operate a commercial motor vehicle as specified in Iowa Code ~~section 321.189(1)“c.”~~ sections 321.1(11) and 321.189(1)“a”(3) if the vehicle is designed to transport 16 or more passengers, including the driver, or is used in the transportation of hazardous materials as defined in 49 CFR Section 383.5. With the required endorsements and subject to the applicable restrictions, a Class C commercial driver’s license is valid to operate any vehicle except a vehicle requiring a Class A or Class B commercial driver’s license.

d. to h. No change.

ITEM 7. Amend rule 761—607.31(321) as follows:

761—607.31(321) Test results.

607.31(1) to 607.31(4) No change.

607.31(5) *Downgrade or cancellation when retesting is required.*

a. When retesting is required under subrule 607.31(2) or 607.31(4), the department shall notify the person of the requirement to retake the applicable knowledge or skills test.

b. If the person fails to contact the department within 30 days after receipt of the notice, fails to appear for a scheduled retest, or fails the knowledge or skills test, the department shall, in accordance with the authority in 49 CFR Section 383.5 and Iowa Code section 321.201, take one of the following actions:

(1) Downgrade the person's commercial driver's license or commercial learner's permit if the person held valid noncommercial driving privileges prior to obtaining the license or permit.

(2) Cancel the person's commercial driver's license or commercial learner's permit pursuant to 761—subrule 615.7(3) if the applicant did not hold valid noncommercial driving privileges prior to obtaining the license or permit.

c. When a person's commercial driver's license or commercial learner's permit has been downgraded or canceled under this subrule, the person must comply with all applicable retesting requirements in order to regain the license or permit, in addition to any other applicable requirements for licensure.

This rule is intended to implement Iowa Code sections 321.180, 321.186, 321.187, and 321.188 and 321.201.