

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

**Proposing rulemaking related to carrier regulations
and providing an opportunity for public comment**

The Public Safety Department hereby proposes to amend Chapter 22, “Regulations Applicable to Carriers,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 321.449 and 321.450.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.1, 321.449 and 321.450.

Purpose and Summary

This is an annual update in which the Department proposes to adopt the most recent updates to federal regulations. A summary of changes to the Code of Federal Regulations (CFR) is as follows:

Part 385 (FR Vol. 87, No. 245, Pages 78579-78582, 12-22-22)

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) amends its Hazardous Materials Safety Permits regulations to incorporate by reference the April 1, 2022, edition of the Commercial Vehicle Safety Alliance’s (CVSA’s) handbook (the handbook) containing inspection procedures and Out-of-Service Criteria (OOSC) for the inspection of commercial motor vehicles used in the transportation of transuranic waste and highway route-controlled quantities of radioactive material. The OOSC provide enforcement personnel nationwide, including FMCSA’s state partners, with uniform enforcement tolerances for these inspections. Through this rule, FMCSA incorporates by reference the April 1, 2022, edition of the handbook.

Effective Date: January 23, 2023.

Parts 107, 110, 171, 172, 173, 174, 176, 177, 178, and 180 (FR Vol. 87, No. 247, Pages 79752-79785, 12-27-22)

SUMMARY: This final rule corrects editorial errors and improves the clarity of certain provisions in the Pipeline and Hazardous Materials Safety Administration’s (PHMSA’s) program and procedural regulations and in the Hazardous Materials Regulations. The intended effect of this rulemaking is to enhance 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 26, 2023.

Parts 107, 171, 172, 173, 175, 177, and 178 (FR Vol. 88, No. 16, Pages 4756-4761, 01-25-23)

SUMMARY: PHMSA is correcting the final rule that appeared in the Federal Register on December 27, 2022. The final rule made editorial revisions and clarifications to the hazardous materials regulations, including the hazardous materials table. The corrections address several errors to the hazardous material entries in the hazardous materials table.

Effective Date: January 26, 2023.

Additionally, Iowa needs to adopt 49 CFR Part 386 to ensure safe commercial motor vehicle operations on its roadways. Doing so would ensure that FMCSA carrier review auditors have the proper documentation when performing carrier audits to remove unsafe or unfit carriers from Iowa’s roadways and would allow state troopers to cite the correct federal regulation and place unsafe or unfit carriers out of service roadside when those carriers are found operating on Iowa’s roadways.

Failure to cite the proper CFR section in Motor Carrier Safety Assistance Program (MCSAP) inspections affects Iowa’s data quality rating, which could have a negative impact on obtaining future grant funding.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on April 9, 2024. Comments should be directed to:

Josie Wagler
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: wagler@dps.state.ia.us

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 9, 2024
8 to 8:30 a.m.

First Floor Public Conference Room 125
Oran Pape State Office Building
Des Moines, 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 rulemaking.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Amend subrule 22.1(1) as follows:
22.1(1) Regulations.

a. Motor carrier safety regulations. The Iowa department of public safety adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385, 386 and 390-399 (October 1, ~~2022~~ 2023).

b. Hazardous materials regulations. The Iowa department of public safety adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2022~~ 2023).

c. Copies of regulations. Copies of the federal regulations may be reviewed at the state law library or through the Internet at www.fmcsa.dot.gov.