

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to adoption of federal regulations

The Transportation Department hereby amends Chapter 529, “For-Hire Interstate Motor Carrier Authority,” Chapter 607, “Commercial Driver Licensing,” Chapter 800, “Items of General Application for Railroads,” Chapter 810, “Railroad Safety Standards,” and Chapter 911, “School Transportation Services Provided by Regional Transit Systems,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.27(8), 321.188, 321.377, 324A.4(2) and 327G.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 324A and 327B and sections 307.26, 307.27, 321.187, 321.188, 321.207 to 321.208A, 321.377, 327C.4, 327C.38, 327C.41, 327F.31 and 327G.24.

Purpose and Summary

This rulemaking aligns Chapters 529 and 607 with federal regulation changes that occurred during the 2023 federal fiscal year and aligns Chapters 800, 810 and 911 with federal regulation changes that occurred during the 2022 and 2023 federal fiscal years.

The amendments are part of the regular process by which the Department adopts the most recent updates to the federal regulations. Iowa Code section 307.27(8) requires the Department to administer the registration of interstate authority of motor carriers pursuant to federal regulations, which are contained in 49 Code of Federal Regulation (CFR) Parts 365 to 368 and 370 to 379. Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver’s licenses (CDLs) in compliance with certain portions of 49 CFR Part 383. Iowa Code section 327G.24 allows the Department or roadway jurisdiction that has authority over the roadway to remove tracks from a roadway crossing pursuant to federal regulations adopted by the Department.

This rulemaking adopts the current CFR dated October 1, 2023, for 49 CFR Parts 365 to 368 and 370 to 379 within Chapter 529. This rulemaking also adopts the current CFR dated October 1, 2023, for 49 CFR Part 380, Subpart F, and certain portions of 49 CFR Part 383.

The amendments to Chapter 607 include the adoption of 49 CFR Part 383, Subpart F. Subpart F concerns vehicle groups and endorsements. The Department is already in substantial compliance with this subpart. The Department determined that to comply with date certain requirements in Iowa Code section 17A.6 as amended by 2023 Iowa Acts, House File 688, section 8, it is preferable to adopt Subpart F rather than add a date certain to the numerous references to Subpart F in Chapter 607. In summary, 49 CFR Part 383, Subpart F, does the following:

- Adopts vehicle group descriptions for combination vehicles (group A), heavy straight vehicles (group B), and small vehicles (group C) and provides illustrations and examples of such vehicles.
- Sets standards for taking commercial driving skills tests in representative vehicles, according to the type of vehicle the applicant wishes to drive and the tests the applicant has already taken for prior licensing.
- Establishes descriptions and testing requirements for vehicle endorsements and restrictions on a commercial learner’s permit (CLP) or CDL.

The amendments to Chapter 800 add a date certain to references to 49 U.S.C. 20106 and adopt the current CFR dated October 1, 2023, for 49 CFR Part 1152 and 49 CFR Part 1241. The amendment to Chapter 810 adopts the current CFR dated October 1, 2023, for 49 CFR Part 213.

The amendment to Chapter 911 adopts the current CFR dated October 1, 2023, for 49 CFR Parts 38, 571, and 655.

Proposed federal regulations are published in the Federal Register (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 (U.S. DOT).

No amendments to the Federal Motor Carrier Safety Regulations (FMCSR) impacting Chapter 607 have been made since the 2022 edition was adopted by the Department. There have also been no amendments to the Surface Transportation Board's regulations impacting Chapter 800 since the 2021 edition was adopted by the Department.

The following paragraphs provide a specific description of the affected amendments that have become final and effective since the latest edition of the CFR adopted that affect Chapters 529, 810 and 911.

Part 213 (FR Vol. 88, No. 4, Pages 1114-1132, 1-6-23)

This final rule provides the statutorily prescribed 2023 adjustment to civil penalty amounts that may be imposed for violations of certain U.S. DOT regulations. Effective date: January 6, 2023.

Part 213 (FR Vol. 87, No. 54, Pages 15839-15873, 3-21-22)

This final rule provides the statutorily prescribed 2022 adjustment to civil penalty amounts that may be imposed for violations of certain U.S. DOT regulations. In addition, this rule notes new U.S. DOT authority related to civil penalties. Effective date: March 21, 2022.

Part 365 (FR Vol. 87, No. 219, Pages 68367-68381, 11-15-22)

This interpretive rule added appendices to the FMCSR to explain existing statutes and regulations Federal Motor Carrier Safety Administration (FMCSA) administers related to the applicability of the FMCSR, including the financial responsibility regulations, to motor carriers of passengers operating in interstate commerce, including limitations on such applicability based on characteristics of the vehicle operated or the scope of operations conducted; and the applicability of commercial operating authority registration based on the FMCSA's jurisdiction over motor carriers of passengers, regardless of vehicle characteristics, when operating for-hire in interstate commerce. Under certain conditions, motor carriers performing intrastate movements of passengers may still be operating in interstate commerce and, unless otherwise exempt, are subject to applicable FMCSA statutory and regulatory requirements. Effective date: November 15, 2022.

Part 365 (FR Vol. 87, No. 227, Page 72898, 11-28-22)

This notice corrected errors in the docket number, address section, and supplementary information section contained in the interpretive rule issued on November 15, 2022. Effective date: November 28, 2022.

Part 367 (FR Vol. 88, No. 119, Pages 40719-40724, 6-22-23)

FMCSA amended the regulations for the annual registration fees states collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration Plan and Agreement for the 2024 registration year and subsequent registration years. The fees for the 2024 registration year are approximately 9 percent less than the fees for the 2023 registration year, with varying reductions between \$4 and \$3,453 per entity, depending on the applicable fee bracket. Effective date: July 24, 2023.

Part 371 (FR Vol. 88, No. 116, Pages 39368-39373, 6-16-23)

This notice contained FMCSA's final guidance, in response to a mandate in the Infrastructure Investment and Jobs Act, to inform the public and regulated entities about FMCSA's interpretation of the definitions of "broker" and "bona fide agents" as they relate to all brokers of transportation by motor vehicle. Effective date: June 16, 2023.

Part 655 (FR Vol. 88, No. 84, Pages 27596-27653, 5-2-23)

This final rule amends the U.S. DOT's regulated industry drug testing program to include oral fluid testing. This additional methodology for drug testing will give employers a choice that will help combat

employee cheating on urine drug tests and provide a less intrusive means of achieving the safety goals of the program. Effective date: June 1, 2023.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on April 3, 2024, as **ARC 7745C**. A public hearing was held on April 26, 2024. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 14, 2024.

Fiscal Impact

The federal regulations to be adopted by reference in this rulemaking were subject to a fiscal impact review by the Federal Motor Carrier Safety Administration, Federal Railroad Administration, and Federal Transit Administration when enacted and were determined not to be cost-prohibitive. Each FR notice cited contains a fiscal analysis.

Jobs Impact

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

Waivers

Various portions of the federal regulations and Iowa statutes that affect Chapters 529 and 607 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. Any person who believes that the application of the discretionary provisions affecting Chapter 800, 810 or 911 would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

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).

Effective Date

This rulemaking will become effective on July 17, 2024.

The following rulemaking action is adopted:

ITEM 1. 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, 2023 for regulating interstate for-hire carriers.

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

ITEM 2. Amend **761—Chapter 529**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 307.27 and chapter 327B.

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. 49 CFR Section 391.11 as adopted in 661—Chapter 22.
- b. 49 CFR Section 392.5 as adopted in 661—Chapter 22.
- c. 49 CFR Part 380, Subpart F (October 1, 2023).
- d. The following portions of 49 CFR Part 383 (October 1, ~~2022~~ 2023):
 - (1) Section 383.51, Disqualification of drivers.
 - (2) Subpart E—Testing and Licensing Procedures.
 - (3) Subpart F—Vehicle Groups and Endorsements.
 - ~~(3)~~ (4) Subpart G—Required Knowledge and Skills.
 - (4) (5) Subpart H—Tests.

ITEM 4. Amend subrule 800.4(1) as follows:

800.4(1) A railroad company submitting an annual report to the Surface Transportation Board under 49 CFR Part 1241 shall submit a copy of this report to the department on or before April 1 following the close of the calendar year. Included with this report shall be a “State Statistics” report, which shall include the following: annual data on additions and deletions of mileage within the state; mileage operated within the state at the end of the year; railway operating revenues earned within the state; statistics on rail line operations within the state, including locomotive unit-miles, car-miles and ton-miles; revenue freight carried within the state by commodity class; and a freight density map showing gross ton-miles for the railroad company’s system within the state.

For the purpose of this rule, 49 CFR Part 1241 is adopted as of October 1, 2023.

ITEM 5. Amend paragraph **800.15(4)“a”** as follows:

a. The department may approve the proposed ordinance/resolution only if the proposal satisfies the requirements of 49 U.S.C. 20106 as amended to August 3, 2007: (1) it is necessary to eliminate or reduce a an essentially local safety or security hazard; (2) it is not incompatible with a federal law, regulation or order of the United States government; and (3) it does not unreasonably burden interstate commerce.

ITEM 6. Amend subrule 800.20(1) as follows:

800.20(1) 49 CFR Part 1152 contains the regulations governing the abandonment and discontinuance of railroad lines and rail transportation under 49 U.S.C. 10903 et seq. This part also contains the regulations and procedures for the acquisition or use of railroad rights-of-way proposed for abandonment for interim trail use and rail banking pursuant to 16 U.S.C. 1247(d).

For the purpose of this rule, 49 CFR Part 1152 is adopted as of October 1, ~~2021~~ 2023.

ITEM 7. Amend subrule 810.1(1) as follows:

810.1(1) *Standards*. The department adopts the railroad track safety standards contained in 49 CFR Part 213 (October 1, ~~2021~~ 2023).

ITEM 8. Amend subrule 911.5(1) as follows:

911.5(1) *Code of Federal Regulations*. The department of transportation adopts the following portions of the October 1, ~~2021~~ 2023, Code of Federal Regulations, which are referenced throughout this chapter:

- a. 49 CFR Part 38, Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- b. 49 CFR Part 571, Federal Motor Vehicle Safety Standards.

c. 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/12/24.