

Red Tape Review Rule Report (Due: September 1, 2024)

Department Name:	Public Safety	Date:	8/5/2024	Total Rule Count:	10
IAC #:	661	Chapter/ SubChapter/ Rule(s):	22 (formerly 761-520)	Iowa Code Section Authorizing Rule:	321.449, 321.450, 325A.10
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 22 outlines the regulations applicable to commercial motor vehicles (CMVs). These rules largely impose safety requirements to ensure CMV operators and those traveling on Iowa’s roadways are safe. Additionally, these rules help to maintain and preserve our state’s infrastructure.

Is the benefit being achieved? Please provide evidence.

The Iowa State Patrol (ISP) uses data to determine high CMV crash counties and then focuses enforcement efforts in those areas. Using the Heavy Truck Crash Tool Quarterly Summary Developed by Iowa State University, there was a 56.1% decrease from 2022 to 2023 in the counties identified as high crash counties and then had focused enforcement efforts. During that same time period in comparison, all counties had a 12.8% decrease in crashes.

What are the costs incurred by the public to comply with the rule?

Outside of normal business-related expenses, there is no additional cost to remain in compliance with these regulations.

What are the costs to the agency or any other agency to implement/enforce the rule?

There is no cost to the Department to enforce these rules.

Do the costs justify the benefits achieved? Please explain.

Yes, not enforcing the laws set forth by the Federal Motor Carrier Safety Association (FMCSA) and the Code of Federal Regulations (CFR) would put Iowa out of compliance with federal regulations thus jeopardizing significant grant opportunities the ISP’s Commercial Motor Vehicle Unit (CMVU) is eligible for.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

No, these rules are meant to comply with FMCSA and CFR. Deviating from these rules would risk federal funding opportunities for ISP.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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No. Most of Chapter 22 adopt rules by reference to the CFR.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

661—22.1(321) Safety and hazardous materials regulations.

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, 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, 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.

22.1(2) Carriers subject to regulations.

a. Operators of commercial vehicles, as defined in Iowa Code section 321.1, are subject to the Federal Motor Carrier Safety Regulations adopted in this rule unless exempted under Iowa Code section 321.449.

b. Operators of vehicles transporting hazardous materials in commerce are subject to the Federal Hazardous Materials Regulations adopted in this rule unless exempted under Iowa Code section 321.450.

c. Operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. In addition, operators of vehicles for hire designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the 150-air-mile radius driver under 49 CFR 395.1(e). However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

22.1(3) Declaration of knowledge of regulations. Operators of commercial vehicles who are subject to the regulations adopted in this rule shall at the time of application for authority to operate in Iowa or upon receipt of their Iowa registration declare knowledge of the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations adopted in this rule.

This rule is intended to implement Iowa Code sections 321.1, 321.449 and 321.450.

661—22.2(321) Definitions. The following definitions apply to the regulations adopted in rule 761—520.1(321):

“Any requirements which impose any restrictions upon a person” as used in Iowa Code section 321.449(6) means the requirements in 49 CFR Parts 391 and 395.

“Driver age qualifications” as used in Iowa Code section 321.449(3) means the age qualifications in 49 CFR 391.11(b)(1).

“*Driver qualifications*” as used in Iowa Code section 321.449(2) means the driver qualifications in 49 CFR Part 391.

“*Farm customer*” as used in Iowa Code section 321.450(3) means a retail consumer residing on a farm or in a rural area or city with a population of 3000 or less.

“*Hours of service*” as used in Iowa Code section 321.449(2) means the hours of service requirements in 49 CFR Part 395.

“*Record-keeping requirements*” as used in Iowa Code section 321.449(2) means the record-keeping requirements in 49 CFR Part 395.

“*Rules adopted under this section concerning physical and medical qualifications*” as used in Iowa Code sections 321.449(5) and 321.450(2) means the regulations in 49 CFR 391.11(b)(4) and 49 CFR Part 391, Subpart E.

“*Rules adopted under this section for a driver of a commercial vehicle*” as used in Iowa Code section 321.449(4) means the regulations in 49 CFR Parts 391 and 395.

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

661—22.3(321) Motor carrier safety regulations exemptions.

22.3(1) The following intrastate vehicle operations are exempt from the motor carrier safety regulations concerning inspection in 49 CFR Part 396.17 as adopted in rule 761—520.1(321):

- a. Implements of husbandry including nurse tanks as defined in Iowa Code section 321.1.
- b. Special mobile equipment (SME) as defined in Iowa Code section 321.1.
- c. Unregistered farm trailers as defined in rule 761—400.1(321), pursuant to Iowa Code section 321.123.
- d. Motor vehicles registered for a gross weight of five tons or less when used by retail dealers or their employees to deliver hazardous materials, fertilizers, petroleum products and pesticides to farm customers.

22.3(2) Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.123, 321.449 and 321.450.

661—22.4(321) Hazardous materials exemptions. These exemptions apply to the regulations adopted in rule 761—520.1(321):

22.4(1) Pursuant to Iowa Code section 321.450(3), “retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products, and pesticides to farm customers within a one-hundred-mile radius of their retail place of business” are exempt from 49 CFR 177.804; and, pursuant to Iowa Code section 321.449(4), they are exempt from 49 CFR Parts 391 and 395. However, pursuant to Iowa Code section 321.449, the retail dealers and their employees under the specified conditions are subject to the regulations in 49 CFR Parts 390, 392, 393, 396 and 397.

This rule is intended to implement Iowa Code section 321.450.

661—22.5(321) Safety fitness.

22.5(1) *New motor carrier safety audits.* Peace officers in the commercial motor vehicle unit of the Iowa department of public safety will perform safety audits of new motor carriers and have the authority to enter a motor carrier’s place of business for the purpose of performing these audits. These audits are performed in compliance with 49 CFR Part 385 and are completed within 18 months from the day the motor carrier commences business.

22.5(2) *Motor carrier compliance reviews.* Peace officers in the commercial motor vehicle unit of the Iowa department of public safety will 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 are performed in compliance with 49 CFR Part 385.

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

661—22.6(321) Out-of-service order. A person will not operate a commercial vehicle or transport hazardous material in violation of an out-of-service order issued by an Iowa peace officer. An out-of-service order for noncompliance is issued when either the vehicle operator is not qualified to operate the vehicle or the vehicle is unsafe to be operated until required repairs are made. The out-of-service order is consistent with the North American Uniform Out-of-Service Criteria.

This rule is intended to implement Iowa Code sections 321.3, 321.208A, 321.449, and 321.450.

661—22.7(321) Driver’s statement. A “driver” as used in Iowa Code sections 321.449(5) and 321.450(2) will carry at all times a notarized statement of employment. The statement includes the following:

1. The driver’s name, address and social security number;
2. The name, address and telephone number of the driver’s pre-July 29, 1996, employer;
3. A statement, signed by the pre-July 29, 1996, employer or the employer’s authorized representative, that the driver was employed to operate a commercial vehicle only in Iowa; and
4. A statement showing the driver’s physical or medical condition existed prior to July 29, 1996.

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

661—22.8(321) Planting and harvesting period. In accordance with the provisions of 49 CFR 395.1(k), the planting and harvesting period pertaining to agricultural operations is January 1 through December 31.

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

661—22.9(325A) Marking of motor vehicles. “Motor vehicle” is defined in Iowa Code chapter 325A. Before placing any motor vehicle in service, the motor vehicle will be clearly marked with letters and figures large enough to be easily read at a distance of 50 feet and in a color in contrast to the background. These markings will be painted on each side of the motor vehicle or may consist of a removable device that meets identification and legibility requirements and is securely placed on each side of the motor vehicle.

22.9(1) Motor carriers operating intrastate only will display:

a. Name of motor carrier under whose authority the motor vehicle is being operated.

b. U.S. DOT number followed by the letters “IA” if the motor carrier has been issued a number by the Federal Motor Carrier Safety Administration.

22.9(2) Motor carriers operating both interstate and intrastate will display markings in accordance with 49 CFR Part 390.21.

661—22.10(325A) Bills of lading or freight receipts.

22.10(1) Requirements. Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, will issue a bill of lading or receipt on the date freight is received for shipment. The bill of lading or receipt shows the following:

a. Name of motor carrier.

b. Date and place received.

c. Name of consignor.

d. Name of consignee.

e. Destination.

f. Description of shipment.

g. Signature of motor carrier or agent issuing the bill of lading or receipt.

h. Freight described in apparent good order unless an exception is noted.

22.10(2) Retention. There will be one copy of the bill of lading or receipt for the consignor, one for the consignee and one to be kept by the motor carrier. The copy may be either paper or electronic except that a bill of lading or receipt of freight consisting of hazardous materials must be a paper copy as required in accordance with 49 CFR Part 172. The motor carrier will carry a copy of the bill of lading or receipt with the cargo and shall show the total of all charges made for the movement of freight. The motor carrier will keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department’s representatives and any peace officer.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	19
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	20

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.