

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 661—Chapter 22  
“Regulations Applicable to Carriers”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.208A, 321.449, 321.450, and 325A.10

State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.1, 321.123, 321.208A, 321.449, and 321.450

### *Public Hearing*

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

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

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

### *Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler  
215 East 7th Street  
Des Moines, Iowa 50319  
Email: [wagler@dps.state.ia.us](mailto:wagler@dps.state.ia.us)

### *Purpose and Summary*

The purpose of proposed Chapter 22 is to outline the regulations applicable to commercial motor vehicles (CMVs). These rules largely impose safety requirements and adoption of federal regulations by reference.

### *Analysis of Impact*

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
CMV owners and operators transporting loads in Iowa will bear the costs.
  - Classes of persons that will benefit from the proposed rulemaking:  
CMV operators and the motoring public traveling on Iowa’s roadways will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
  - Quantitative description of impact:  
Outside of normal business-related expenses, there is no additional cost to remain in compliance with this proposed rulemaking.
  - Qualitative description of impact:  
See above.
3. Costs to the State:
  - Implementation and enforcement costs borne by the agency or any other agency:

None.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Failure to adhere to federal regulations could have a negative impact on obtaining future grant funding for which the Iowa State Patrol is eligible.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has determined this is the least costly and least intrusive method for achieving the purpose of the proposed rulemaking.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

None were identified.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Not applicable.

#### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking will not have a substantial impact on small business.

#### *Text of Proposed Rulemaking*

ITEM 1. Rescind 661—Chapter 22 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 22 REGULATIONS APPLICABLE TO CARRIERS

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

##### **22.1(1) Regulations.**

*a. Motor carrier safety regulations.* The 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 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](http://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.

*“Recordkeeping requirements,”* as used in Iowa Code section 321.449(2), means the recordkeeping 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 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.

**22.4(2)** Reserved.

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 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 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 the:

- 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 390.21.

This rule is intended to implement Iowa Code section 325A.8.

**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.

This rule is intended to implement Iowa Code section 325A.10.