

PUBLIC SAFETY DEPARTMENT[661]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code rule 661—22.1(321)
“Safety and Hazardous Materials Regulations”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.449 and 321.450

State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.1, 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:

February 13, 2024
8 to 8:30 a.m.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Public Safety 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
Phone: 515.725.6185
Email: wagler@dps.state.ia.us

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 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 (CMVs) used in the transportation of transuranic waste and highway route-controlled quantities of radioactive material. The OOSC provides 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 107 110 171 172 173 174 176 177 178 180 (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 107 171 172 173 175 177 178 (FR Vol. 88, No. 16, pages 4756-4761, 01-25-23)

Summary: The 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 CFR 49 Part 386 to ensure safe commercial motor vehicle operations on its roadways. Doing so would ensure FMCSA carrier review auditors have the proper documentation when performing carrier audits

to remove unsafe/unfit carriers from Iowa roadways and allow troopers to cite the correct federal code and place these unsafe/unfit carriers out of service roadside when they are found operating on Iowa roadways.

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

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

CMV operators transporting loads in Iowa will bear the costs.

- Classes of persons that will benefit from the proposed rulemaking:

CMV operators transporting loads in Iowa 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:

The federal regulations subject to be adopted by this proposed rulemaking 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.

- 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:

None.

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

Failure to adhere to federal regulation could have a negative impact on obtaining future grant funding.

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

None.

6. Alternative methods considered by the agency:

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

None; the Iowa Code requires adherence to federal safety and Hazardous Materials Regulations.

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

See above.

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 rulemaking will not have a substantial impact on small business.

Text of Proposed Rulemaking

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.