

Commission Minutes
March 14, 2023



IOWA TRANSPORTATION COMMISSION

Meeting Agenda / Commission Orders

March 14, 2023
Materials Conference Room
Ames DOT Complex

ITEM NUMBER	TITLE	SUBMITTED BY	PAGE
D-2023-55 1:00 p.m.	* Approve Minutes of the February 14, 2023 Meeting Commission Comments DOT Comments	Cindy Dorhout	2
D-2023-56	* Commission Meeting Dates from July 2023 through June 2024	Cindy Dorhout	4
MV-2023-57	* Administrative Rules – 761 IAC 520, 529, and 607	Melissa Gillett	6
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TD-2023-60	* Revitalize Iowa’s Sound Economy (RISE) – Plymouth County	Deb Arp	29
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TD-2023-62	* 2023-2027 Iowa Transportation Improvement Program Amendment	Stuart Anderson	33
TD-2023-63	* Statewide Line Items (2024-2028 Highway Program)	Stuart Anderson	35
1:10 p.m.	Adjourn		

*Action Item

On Tuesday, March 14, the Commission and staff will meet informally at 9:30 a.m. in the Materials Conference Room at the DOT complex in Ames. Transportation-related matters will be discussed but no action will be taken.

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Director's Office Order No. D-2023-55
Submitted by Cindy Dorhout Phone No. 515-239-1067 Meeting Date March 14, 2023
Title Approve Minutes of the February 14, 2023 Commission Meeting

DISCUSSION/BACKGROUND:

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve the minutes of the February 14, 2023 Commission Meeting.

COMMISSION ACTION:

Moved by Kathy Fehrman Seconded by Tom Rielly

Division Director Legal State Director

	Aye	Vote Nay	Pass
Arnold	<u>x</u>	_____	_____
Fehrman	<u>x</u>	_____	_____
Gaesser	<u>x</u>	_____	_____
Juckette	<u>x</u>	_____	_____
Rielly	<u>x</u>	_____	_____
Stutsman	<u>x</u>	_____	_____
Yanney	<u>x</u>	_____	_____

D-2023-55

Commissioner Arnold called the meeting to order. He began by asking for approval of the minutes of the February 14, 2023 Commission meeting.

Commissioner Fehrman moved, and Commissioner Rielly seconded a motion to approve. The vote to approve was unanimous.

Commission Comments: There were none.
DOT Comments: There were none.

Commissioner's present - Richard Arnold, Charese Yanney, Kathy Fehrman, Tom Rielly, Sally Stutsman, Ray Gaesser, and Linda Juckette (by telephone).

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Director's Office Order No. D-2023-56
 Submitted by Cindy Dorhout Phone No. 515-239-1067 Meeting Date March 14, 2023
 Title Approve Commission Meeting Dates from July 2023 through June 2024

DISCUSSION/BACKGROUND:

The Commission is requested to approve the following proposed July 2023 through June 2024 meeting dates.

2023

July 11
 August 7/8*
 September 12
 October 9/10*
 November 14
 December 12

2024

January 10
 February 13
 March 12
 March 21**
 April 8/9*
 May 14
 June 10/11*

*Tour/Public input meeting
 **Workshop Only

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve the proposed July 2023 through June 2024 meeting dates.

COMMISSION ACTION:			Aye	Vote Nay	Pass
			x	_____	_____
			x	_____	_____
			x	_____	_____
Moved by	<u>Sally Stutsman</u>	Seconded by	<u>Ray Gaesser</u>	x	_____
			x	_____	_____
			x	_____	_____
			x	_____	_____
			x	_____	_____

 Division Director Legal State Director

D-2023-56

As discussed earlier this morning in the workshop regarding the Commission Meetings, Workshops and Tours for future dates for Fiscal 23/24.

It is recommended the Commission approve the proposed July 2023 through June 2024 meeting dates.

Commissioner Stutsman moved, and
Commissioner Gaesser seconded a motion to approve.
The vote to approve was unanimous.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Motor Vehicle Division Order No. MV-2023-57
 Submitted by Melissa Gillett Phone No. 515-237-3010 Meeting Date March 14, 2023
 Title Administrative Rules – 761 IAC Chapter 520, Regulations Applicable to Carriers; Chapter 529, For-Hire Interstate Motor Carrier Authority, and Chapter 607, Commercial Driver Licensing

DISCUSSION/BACKGROUND:

This proposed rule making aligns Chapters 520, 529 and 607 with federal regulation changes that occurred during the 2022 federal fiscal year. This proposed rule making also amends Chapter 607 to increase the length of the validity period for a restricted commercial driver’s license (CDL) for certain agricultural purposes as allowed under newly adopted federal standards.

The proposed amendments to Chapter 607 align the rules with recent changes to 49 Code of Federal Regulations (CFR) 383.3(f)(3)(ii) in accordance with existing legal authority in Iowa Code section 321.176B. Specifically, the federal Infrastructure Investment and Jobs Act (IIJA) directed the Federal Motor Carrier Safety Administration (FMCSA) to amend their regulations so that a restricted CDL issued to an employee in a farm-related service industry could be valid for up to 210 days (previously 180 days). These proposed amendments will benefit existing individuals who utilize the restricted CDL and will ensure that Iowa remains compliant with the applicable federal CDL regulations.

The remaining proposed amendments are part of the regular annual update in which the department adopts the most recent updates to the federal regulations.

The public comment period ended on January 31, 2022. The department did not receive any public comments or requests for oral presentations.

A complete summary explaining the proposed amendments is included in the attached Notice of Intended Action.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended that the Commission approve the rule amendments included in the attached Notice of Intended Action.

COMMISSION ACTION:			Aye	Vote Nay	Pass
			x	_____	_____
			x	_____	_____
Moved by <u>Tom Rielly</u>	Seconded by <u>Kathy Fehrman</u>		x	_____	_____
			x	_____	_____
			x	_____	_____
			x	_____	_____
			x	_____	_____
_____ Division Director	_____ Legal	_____ State Director			

MV-2023-57

Melissa Gillett - Director - Motor Vehicle Division

The proposed rule making for chapter 520, 529 and 607 represent the department's annual adoption of federal regulations as required by Iowa Code. These updates incorporate updates established by the Federal Motor Carrier Safety Administration, as well as the Pipeline and Hazardous Material Safety Administration. They impact commercial drivers and motor carriers. The rule also updates the maximum time a restricted CDL may be issued from 180 days to 210 days to align with the Federal Motor Carrier Safety Administration.

It is recommended that the Commission approve the proposed changes to these chapters.

Commissioner Rielly moved, and
Commissioner Fehrman seconded a motion to approve.
The vote to approve was unanimous.

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to commercial driver’s license requirements and adoption of federal regulations and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 520, “Regulations Applicable to Carriers,” Chapter 529, “For-Hire Interstate Motor Carrier Authority,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.176B, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 307.27, 321.176B, 321.188, 321.449 and 321.450.

Purpose and Summary

This proposed rule making aligns Chapters 520, 529 and 607 with federal regulation changes that occurred during the 2022 federal fiscal year. This proposed rule making also amends Chapter 607 to increase the length of the validity period for a restricted commercial driver’s license (CDL) for certain agricultural purposes as allowed under newly adopted federal standards.

Restricted CDL expansion. The proposed amendments to Chapter 607 align the rules with recent changes to 49 Code of Federal Regulations (CFR) 383.3(f)(3)(ii) in accordance with existing legal authority in Iowa Code section 321.176B. Specifically, Section 23019 of the federal Infrastructure Investment and Jobs Act (IIJA) directs the Federal Motor Carrier Safety Administration (FMCSA) to amend CFR 383.3(f)(3)(ii) to provide that a restricted CDL issued to an employee in a farm-related service industry be valid for up to 210 days (previously 180 days). The FMCSA made the necessary changes to that CFR section on September 29, 2022, by publishing an immediately effective final rule (FR Vol. 87, No. 188, pages 59030-59037). These proposed amendments will benefit existing individuals who utilize the restricted CDL and will ensure that Iowa remains compliant with the applicable federal CDL regulations.

Annual update. The remaining proposed amendments are part of the regular annual update in which the Department adopts the most recent updates to the federal regulations. Iowa Code section 321.188 requires the Department to adopt rules to administer CDLs in compliance with certain portions of 49 CFR Part 383. Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The proposed amendments to Chapter 520 adopt the CFR dated October 1, 2022, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399. The proposed amendment to Chapter 529 adopts

the current CFR dated October 1, 2022, for 49 CFR Parts 365 to 368 and 370 to 379. The proposed amendment to Chapter 607 adopts the CFR dated October 1, 2022, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the 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.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2022 edition of the CFR that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and HMR

Parts 383, 390, and 392 (FR Vol. 86, No. 192, pages 55718-55743, 10-7-2021)

This final rule amends the FMCSR to establish requirements for State Driver's Licensing Agencies (SDLAs) to use information obtained through the Drug and Alcohol Clearinghouse (DACH), an FMCSA-administered database containing driver-specific controlled substance (drug) and alcohol records. SDLAs must not issue, renew, upgrade, or transfer a CDL or commercial learner's permit (CLP) to any individual prohibited under FMCSA regulations from performing safety-sensitive functions, including driving a commercial motor vehicle (CMV), because of one or more drug and alcohol program violations. Further, SDLAs must remove the CLP or CDL privilege from the driver's license of an individual subject to the CMV driving prohibition, which would result in a downgrade of the license until the driver complies with return-to-duty (RTD) requirements. This final rule also requires states receiving Motor Carrier Safety Assistance Program (MCSAP) grant funds to adopt a compatible CMV driving prohibition applicable to CLP and CDL holders who violate the FMCSA's drug and alcohol program requirements, and it also makes clarifying and conforming changes to current regulations. Compliance with the final rule is required by November 18, 2024. Effective date: November 8, 2021.

Parts 365, 368, 383, 385, 390, 391, 393, 395, 396, and 398 (FR Vol. 86, No. 196, pages 57060-57077, 10-14-21)

This final rule makes technical corrections throughout the FMCSR to correct inadvertent errors and omissions, remove or update obsolete references, improve the clarity and consistency of certain regulatory provisions, and make nondiscretionary ministerial changes that align regulatory requirements with the underlying statutory authority. The FMCSA adds two new provisions for transparency relating to agency management and to the FMCSA's rules of organization, procedures, or practice, and makes corresponding changes to definitions, addresses, and employee titles throughout the FMCSR. Effective date: October 14, 2021.

Part 383 (FR Vol. 86, No. 207, pages 59871-59872, 10-29-21)

This final rule corrects two regulatory references in the FMCSR that were amended by the October 7, 2021, DACH final rule. The amendment was necessary because of a subsequent unrelated rule-making action affecting the same section of the FMCSR. Effective date: November 8, 2021.

Parts 393 and 396 (FR Vol. 86, No. 214, pages 62105-62112, 11-9-21)

This final rule amends the FMCSR to add rear impact guards to the list of items that must be examined as part of the required annual inspection for each CMV, amends the labeling requirements for rear impact guards, and excludes road construction controlled horizontal discharge trailers from the rear impact guard requirements, consistent with changes made by National Highway Traffic Safety Administration to the corresponding Federal Motor Vehicle Safety Standards. Effective date: December 9, 2021.

Part 385 (FR Vol. 86, No. 244, pages 72851-72854, 12-23-21)

This final rule amends the FMCSR to incorporate the updated Commercial Vehicle Safety Alliance handbook containing inspection procedures and Out-of-Service Criteria (OOSC) for inspections of shipments of transuranic waste and highway route-controlled quantities of radioactive material. The OOSC provide enforcement personnel nationwide, including the FMCSA's state partners, with uniform enforcement tolerances for inspections. Through this rule, the FMCSA incorporates by reference the April 1, 2021, edition of the handbook. Effective date: February 22, 2022.

Part 391 (FR Vol. 87, No. 14, pages 3390-3419, 1-21-22)

This final rule amends the FMCSR to allow individuals who do not satisfy, with the worse eye, either the existing distant visual acuity standard with corrective lenses or the field of vision standard, or both, to be physically qualified to operate a CMV in interstate commerce under specified conditions. Currently, such individuals are prohibited from driving CMVs in interstate commerce unless they obtain an exemption from the FMCSA. The new alternative vision standard replaces the current vision exemption program as the basis for determining the physical qualification of these individuals. Effective date: March 22, 2022.

Part 383 (FR Vol. 87, No. 23, pages 6045-6046, 2-3-22)

This guidance amended the FMCSA's official regulatory interpretation of 49 CFR Part 383 to allow third-party testers to administer the commercial driver's license knowledge tests for all classes and endorsements. Under the guidance, SDLAs may accept the results of knowledge tests administered by third-party testers in accordance with existing knowledge test standards and requirements set forth in 49 CFR Part 383, subparts G and H. Effective date: February 3, 2022.

Part 391 (FR Vol. 87, No. 28, page 7756, 2-10-22)

This final rule corrects a typographical error in the FMCSR that were amended by the January 21, 2022, final rule amending vision standards for interstate CMV operation in Part 391. This rule corrects a previously incorrect date for grandfathered drivers who participated in a vision waiver study program to come into compliance with the provisions in the final rule. Effective date: March 22, 2022.

Part 393 (FR Vol. 87, No. 44, pages 12596-12604, 3-7-22)

This final rule amends the FMCSR to increase the area on the interior of CMV windshields where certain vehicle safety technology devices may be mounted. In addition, the FMCSA adds items to the definition of vehicle safety technology. This final rule responds to a rule-making petition from Daimler Trucks North America. Effective date: May 6, 2022.

Parts 385, 390, and 391 (FR Vol. 87, No. 46, pages 13192-13209, 3-9-22)

This final rule amended the FMCSR to eliminate the requirement that drivers operating CMVs in interstate commerce prepare and submit a list of their convictions for traffic violations to their employers annually. This requirement is largely duplicative of a separate rule that requires each motor carrier to make an annual inquiry to obtain the motor vehicle record for each driver it employs from every state in which the driver holds or has held a CMV operator's license or permit in the past year. To ensure motor carriers are aware of traffic convictions for a driver who is licensed by a foreign authority rather than by a state, the agency amends the rule to provide that motor carriers must make an annual inquiry to each driver's licensing authority where a driver holds or has held a CMV operator's license or permit. Effective date: May 9, 2022.

Part 380 (FR Vol. 87, No. 53, pages 15344-15345, 3-18-22)

This final rule makes a technical correction to a previously published FMCSA final rule. The correction removes obsolete regulatory text from its June 30, 2021, entry-level driver training final rule. The changes are not substantive and simply ensure that a subpart eliminated by the final rule will be accurately removed and reserved in the FMCSR for future use. This correction is effective March 18, 2022, but is applicable beginning February 7, 2022.

Parts 107 and 171 (FR Vol. 87, No. 54, pages 15839-15873, 3-21-22)

This final rule updates the HMR with the statutorily prescribed 2022 adjustments to civil penalty amounts that may be imposed for violations of certain U.S. Department of Transportation regulations. In addition, this rule notes the new U.S. Department of Transportation civil penalties authority provided in the Infrastructure Investment and Jobs Act. Effective date: March 21, 2022.

Parts 371 and 375 (FR Vol. 87, No. 80, pages 24431-24454, 4-26-22)

This final rule amends the Transportation of Household Goods regulations to incorporate recommendations from the Household Goods Consumer Protection Working Group (Working Group) contained in the Recommendations to the U.S. Department of Transportation to Improve Household Goods Consumer Education, Simplify and Reduce Paperwork, and Condense FMCSA Publication ESA 03005 (Recommendations Report). The amendments reflect those aspects of the Recommendations Report which require a rule making to implement and are within the FMCSA's authority and include

minor changes to the Transportation of Household Goods regulations and the Brokers of Property regulations which are intended to increase clarity and consistency. The updates will result in an aggregate reduction in costs for household goods motor carriers and provide clarity for individual shippers. Effective date: June 27, 2022.

Parts 171, 172, 173, 178, and 180 (FR Vol. 87, No. 142, pages 44944-45001, 7-26-22)

This final rule amends the HMR to maintain alignment with international regulations and standards by adopting various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements and to allow for better alignment with Transport Canada's Transportation of Dangerous Goods Regulations. Effective date: August 25, 2022.

Part 173 (FR Vol. 87, No. 157, pages 50271-50273, 8-16-22)

This final rule corrected the July 26, 2022, final rule that amended the HMR. The amendments are technical and were needed to correct an inadvertent removal of two paragraphs in the previously published final rule. Effective date: August 25, 2022.

Part 367 (FR Vol. 87, No. 169, pages 53680-53695, 9-1-22)

This final rule amends the FMCSR concerning the annual registration fees that states collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2023 registration year and subsequent registration years. The fees for the 2023 registration year would be reduced below the fees for 2022. The reduction in annual registration fees would be between \$18 and \$17,688 per entity, depending on the applicable fee bracket that is based on the number of vehicles owned or operated by the affected entity. Effective date: September 1, 2022.

Part 367 (FR Vol. 87, No. 173, page 54902, 9-8-22)

This final rule makes a typographical, nonsubstantive correction to the final rule that was published on September 1, 2022, concerning annual registration fees for the UCR Plan and Agreement. Effective date: September 8, 2022.

Parts 383, 385, 391, 395, 396, 397 (FR Vol. 87, No. 188, pages 59030-59037, 9-29-22)

This final rule amends the FMCSR by adopting nondiscretionary changes that align with directives under federal law, including increasing the maximum validity period of an agricultural restricted CDL issued under 49 CFR 383.3 from 180 days to 210 days as required by the Infrastructure Investment and Jobs Act. The final rule also makes technical corrections to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions and makes changes relating to agency management and to the FMCSA's rules of organization, procedures, and practice. Effective date: September 29, 2022.

Fiscal Impact

The fiscal impact statement cannot be determined. The federal regulations to be adopted by this rule making were subject to fiscal impact review by either the FMCSA or the U.S. Pipeline and Hazardous Materials Safety Administration when the regulations were enacted and were determined not to be cost-prohibitive. Each FR final rule cited contains a fiscal analysis.

Jobs Impact

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

Waivers

Various portions of the federal regulations and Iowa statutes 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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on February 2, 2023, via conference call at 1 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 31, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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 rule making.

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

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2021~~ 2022).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2021~~ 2022).

ITEM 3. 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, ~~2021~~ 2022, for regulating interstate for-hire carriers.

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

ITEM 4. Amend paragraph **607.10(1)“d”** as follows:

d. The following portions of 49 CFR Part 383 (October 1, ~~2021~~ 2022):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.
- (3) Subpart G—Required Knowledge and Skills.

(4) Subpart H—Tests.

ITEM 5. Amend paragraph **607.49(6)“f”** as follows:

f. On or after January 1, ~~2017~~ 2023, a licensee may have up to three individual periods of validity for a restricted commercial driver’s license, provided the cumulative period of validity for all individual periods does not exceed ~~180~~ 210 days in any calendar year. An individual period of validity may be ~~60, 90, or 180~~ 70, 105, or 210 consecutive days, at the election of the licensee. A licensee may add ~~30~~ 35 days to an individual period of validity by applying for an extension, subject to the ~~180-day~~ 210-day cumulative maximum period of validity. A request for extension must be made no later than the date of expiration of the individual period of validity for which an extension is requested; a request for extension made after that date shall be treated as a request for a new individual period of validity. An extension shall be calculated from the date of expiration of the individual period of validity for which an extension is requested. Any period of validity authorized previously by another state’s license shall be considered a part of the ~~180-day~~ 210-day cumulative maximum period of validity.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Motor Vehicle Division Order No. MV-2023-58
 Submitted by Melissa Gillett Phone No. 515-237-3010 Meeting Date March 14, 2023
 Title Administrative Rules – 761 IAC Chapter 605, License Issuance

DISCUSSION/BACKGROUND:

This proposed rule making aligns with existing legal authority and department practice, eliminates outdated or irrelevant requirements or options, and accommodates modern, electronic procedures and terminology.

Specifically, the proposed amendments incorporate current department practice regarding receipt and review of medical reports when a driver is undergoing a re-examination of driving abilities due to possible medical or vision issues.

The proposed amendments modify the process for an active duty military driver’s license extension, to clarify and simplify the process for staff and applicants, and also explain the conditions for early license renewal, including that an eight-year REAL ID cannot be renewed more than 180 days early due to federal REAL ID regulations.

Throughout the chapter, other clarifying changes are made such as eliminating the reference to driver’s license kiosks (as those are no longer used by the department) and updating form numbers.

The public comment period ended on January 31, 2022. The department did not receive any public comments or requests for oral presentations.

A complete summary explaining the proposed amendments is included in the attached Notice of Intended Action.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended that the Commission approve the rule amendments included in the attached Notice of Intended Action.

COMMISSION ACTION:

Moved by Ray Gaesser Seconded by Sally Stutsman

	Aye	Vote Nay	Pass
Arnold	<u>x</u>	<u> </u>	<u> </u>
Fehrman	<u>x</u>	<u> </u>	<u> </u>
Gaesser	<u>x</u>	<u> </u>	<u> </u>
Juckette	<u>x</u>	<u> </u>	<u> </u>
Rielly	<u>x</u>	<u> </u>	<u> </u>
Stutsman	<u>x</u>	<u> </u>	<u> </u>
Yanney	<u>x</u>	<u> </u>	<u> </u>

Division Director Legal State Director

MV-2023-58

Melissa Gillett - Director - Motor Vehicle Division

The proposed rule making to Chapter 605 updates the chapter to provide clarification and updates that align to certain department processes that have been modernized over time, including, active duty military driver's license extension, the early renewal of driver's licenses and re-examination of driving abilities due to a medical or vision issue.

It is recommended that the Commission approve the proposed changes to Chapter 605.

Commissioner Gaesser moved, and
Commissioner Stutsman seconded a motion to approve.
The vote to approve was unanimous.

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to driver’s license issuance
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 605, “License Issuance,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.182, 321.189, 321.193, 321.196 and 321.198.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.13, 321.177, 321.182, 321.186, 321.186A, 321.189, 321.193, 321.196 and 321.198, and the REAL ID Act of 2005 (49 U.S.C. Section 30301 note) as amended by the REAL ID Modernization Act (H.R. 133, Division U, Title X).

Purpose and Summary

This proposed rule making aligns with existing legal authority and Department practice, eliminates outdated or irrelevant requirements or options, and accommodates modern, electronic procedures and terminology. The proposed amendments:

- State that a person who may be physically or mentally incapable of operating a motor vehicle safely must submit either a medical or vision report (rather than only a medical report) and may also be required to pass the applicable license examinations required under Chapter 604 or Chapter 607 before the Department is permitted to issue a license.
- Clarify that when an applicant’s medical report indicates the applicant suffered a loss of consciousness, the person may be licensed without having to undergo a six-month episode-free waiting period if the report indicates the loss of consciousness was a single nonrecurring episode and that the person is not being treated for the loss of consciousness or a contributing health condition. Also, a definition of “single nonrecurring episode” of loss of consciousness is added to mean an incident that is not caused by a health condition if there is no history of prior episodes or no history of a health condition that may cause such an episode. For example, the exception to the six-month episode-free waiting period would not apply to a person who is being treated for diabetes and experienced a low blood sugar event that caused the loss of consciousness, but the exception would apply to a person whose loss of consciousness resulted from an incident of fainting from high temperatures or choking on a piece of food while driving.
- Add pertinent references to certain Iowa Code sections within two implementation sentences.
- Incorporate the applicable cross references to Chapter 601 within the rule concerning the contents of a license. Additionally, the proposed changes clarify that the contents of the license shall include the licensee’s height in feet and inches, rather than inches alone.
- Align the rule with the Department’s existing statutory authority concerning the conditions under which the Department may issue a “recall” restriction to require certain existing licensees to provide additional information or complete additional examination to retain the license. The proposed amendments also clarify that the restriction could entail completion of a follow-up medical report, additional examination, or other additional information. These proposed changes ease the burden on licensees whose restriction requires only submission of additional information rather than in-person re-examination by no longer requiring the licensee to appear in person.

- Restructure the paragraphs relating to the procedures for loss of consciousness or voluntary control and incorporate cross references in lieu of unnecessary verbiage. These proposed updates do not represent any change to the existing requirements or procedures outlined in the current paragraphs.
- Allow individuals who are 21 years old and hold a commercial driver’s license to qualify for the electronic license replacement option.
- Update the contact information and form number for submitting address changes to the Department and remove the reference to the “driver’s license kiosk,” as kiosks are no longer utilized by the Department.
- Modify the rule relating to a military license extension under Iowa Code section 321.198 to align with current Department practice to allow a qualified military member to apply for the electronic record of the person’s driver’s license extension in person or by submitting a form to the Department and outline the documentation that must be provided to demonstrate eligibility. Furthermore, the proposed amendments add language to state that license renewal following separation from military service requires fee payment or examination, if applicable, and add cross-references to the rules that establish knowledge and driving skills examination waivers for military service members.
- Explain the conditions under which the Department can renew a noncommercial license prior to expiration date, including that a REAL ID cannot be renewed more than 180 days prior to the expiration date if the renewal would result in noncompliance with federal requirements governing the eight-year maximum period of validity for a REAL ID.
- Eliminate a subrule that is outdated and does not align with current Department practice for renewing licenses past the expiration date.
- Remove the reference to the restriction “R—Maximum speed of 35mph” related to criteria for electronic renewal eligibility because the restriction is no longer issued by the Department.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Tracy George
 Department of Transportation
 DOT Rules Administrator, Government and Community Relations
 800 Lincoln Way
 Ames, Iowa 50010
 Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on February 2, 2023, via conference call at 9 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 31, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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 rule making.

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

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend rule 761—605.4(252J,321) as follows:

761—605.4(252J,321) Persons not to be licensed.

605.4(1) No change.

605.4(2) The department shall not knowingly license any person who is unable to operate a motor vehicle safely because of physical or mental disability until that person ~~has submitted~~ submits a medical report or vision report stating that the person is physically and mentally capable of operating a vehicle safely and passes the applicable examinations if required under 761—Chapter 604 or 607.

605.4(3) No change.

605.4(4) The department shall not knowingly license any person who suffers from syncope of any cause, any type of periodic or episodic loss of consciousness, or any paroxysmal disturbances of consciousness, including but not limited to epilepsy, until that person has not had an episode of loss of consciousness or loss of voluntary control for six months, and then only upon receipt of a medical report favorable toward licensing.

a. to c. No change.

d. If a medical report indicates the person experienced a single nonrecurring episode, the cause has been identified, ~~and~~ the qualified medical professional is not treating the person for the episode or a contributing health condition, and the qualified medical professional believes ~~that~~ the episode is unlikely to recur, the department may license without the six-month episode-free period with a favorable recommendation from a qualified medical professional. As used in this paragraph, a “single nonrecurring episode” means an incident that is not caused by a health condition and there is no history of prior episodes or a health condition that may cause such an episode.

605.4(5) to 605.4(8) No change.

This rule is intended to implement Iowa Code sections 252J.8, 252J.9, 321.13, 321.177, 321.186, 321.193, 321.210, and 321.212.

ITEM 2. Amend subrule 605.5(2) as follows:

605.5(2) *Current residential address.* The licensee's current residential address shall be listed as established according to the requirements of 761 —subrule 601.1(6) and 761—subrule 601.5(3).

ITEM 3. Amend subrule 605.5(3) as follows:

605.5(3) Physical description. The physical description of the licensee on the face of the driver's license shall include the following as established according to the requirements of 761—subrule 601.1(5):

- a. No change.
- b. The licensee's height in feet and inches.

ITEM 4. Amend rule **761—605.7(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1(8) ~~as amended by 2021 Iowa Acts, House File 389, 321.180, and 321.189.~~

ITEM 5. Amend subrule 605.8(6) as follows:

605.8(6) Additional information.

a. ~~Reexamination or report~~ Recall of current licensees. ~~The~~ Based on information disclosed by the applicant to the department, or the department's knowledge of a licensee's physical or mental condition, the department may issue a restriction requiring a person to reappear complete additional examination or submit additional information at a specified time for examination to retain a valid license. The department may require a medical report to be submitted. The department shall send Form 430029 430511 as a reminder to appear submit the requested information or appear for examination.

b. Loss of consciousness or voluntary control.

(1) If a person is licensed pursuant to ~~subrule 605.4(4), paragraphs 605.4(4) "a," "b," or "c,"~~ the department shall issue the first driver's license with a restriction stating: "Medical report to be furnished at the end of six months."

(2) No change.

~~(3) If the latest medical report indicates the person experienced only a single nonrecurring episode, the cause has been identified, and the qualified medical professional is not treating or has not treated the person for the episode and believes it is unlikely to recur, the department may waive the medical report requirement upon receipt of a favorable recommendation from a qualified medical professional.~~

(4) ~~(3)~~ The department may remove the medical report requirement and issue a full-term driver's license if recommended by a qualified medical professional and if the latest medical information on file with the department indicates that either of the following are true:

1. ~~the~~ The person has not had an episode of loss of consciousness or voluntary control and has not been prescribed medications to control such episodes during the 24-month period immediately preceding application for a license.

2. The person has not had an episode of loss of consciousness or voluntary control during the ten-year period immediately preceding application for a license.

~~(5) The department may remove the medical report requirement and issue a full-term driver's license if recommended by a qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control during the 10-year period immediately preceding application for a license.~~

c. and d. No change.

ITEM 6. Amend rule **761—605.8(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 321A and sections 321.177, 321.178, 321.180, 321.180A, 321.180B, 321.186, 321.188, 321.189, 321.193, 321.194, 321.215, 321J.4, and 321J.20.

ITEM 7. Amend paragraph **605.11(3)"a,"** introductory paragraph, as follows:

a. Except for the requirements in subparagraphs 605.25(7)"a"(1) and 605.25(7)"a"(2), the licensee must meet the eligibility requirements listed in paragraph 605.25(7)"a" or paragraph 605.25(8)"a" to replace the license electronically and must also meet the following criteria:

ITEM 8. Amend subrule 605.12(1) as follows:

605.12(1) A licensee shall notify the department of a change in the licensee's mailing address within 30 days of the change. Notice shall be given by:

a. Submitting the address change ~~in writing~~ to the ~~Driver and Identification Services Bureau Motor Vehicle Division~~, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, using Form 430012 or a written and signed statement listing the licensee's full name, date of birth, driver's license number and new mailing address; or

b. Completing the address change on the department's website at www.iowadot.gov ~~or at a driver's license kiosk~~; or

c. No change.

ITEM 9. Amend rule 761—605.16(321) as follows:

761—605.16(321) Military extension.

~~605.16(1) Form 430028 Application.~~ A person who qualifies for a military extension of a valid license ~~should request under Iowa Code section 321.198 and who wishes to have a record of the person's military service extension recorded in the department's computerized issuance system shall apply to the department in person by presentation of the person's unexpired Armed Forces of the United States Geneva Conventions identification card, also known as a common access card (CAC), or by submitting Form 430028 from the department and carry it with the license for verification to peace officers. Form 430028 explains 430081 to the department at the address in paragraph 605.12(1) "a."~~ The form shall be signed by the person's commanding officer to verify the military service and be accompanied by a copy of the person's CAC or current active duty orders. Upon approval, the department shall update the department's electronic records with the person's military exception status and issue the person a letter explaining the provisions of Iowa Code section 321.198 regarding military extensions.

~~605.16(2) Request for retention of record.~~ A person with a military extension may request that the department retain the record of license issuance for the duration of the extension or reenter the record if it has been removed from department records. The request may be made by letter or by using Form 430081. The letter or Form 430081 shall be signed by the person's commanding officer to verify the military service and shall be submitted to the department at the address in paragraph 605.12(1) "a."

~~605.16(3) 605.16(2) Renewal of license after military extension.~~ When an applicant renews a license after a military extension, the department may require the applicant to provide documentation of both the military service and the date of separation from military service. In accordance with Iowa Code section 321.198(1) "b," the applicant shall pay all applicable fees to renew the license. The applicant may also be waived from the applicable knowledge or driving skills examination in accordance with the provisions of 761—paragraphs 604.21(2) "c" and 604.31(2) "e" and 761—subrules 607.27(5) and 607.28(6).

~~605.16(4) 605.16(3) Reinstatement after sanction.~~ A person with a military extension whose license has been canceled, suspended or revoked shall comply with the requirements of rule 761—615.40(321) to reinstate the license.

This rule is intended to implement Iowa Code section 321.198.

ITEM 10. Amend rule 761—605.25(321) as follows:

761—605.25(321) License renewal.

605.25(1) No change.

605.25(2) A valid noncommercial license may be renewed within 180 days before the expiration date. ~~If this is impractical, the~~ The department for good cause may renew a noncommercial license earlier, except the department shall not renew a REAL ID driver's license issued under rule 761—601.7(321) earlier than 180 days before the expiration date if such a renewal would result in noncompliance under 6 CFR Section 37.5(a).

~~605.25(3) A valid license may be renewed within 60 days after the expiration date, unless otherwise specified.~~

605.25(4) No change.

605.25(5) A licensee who has not previously been issued a license that may be accepted for federal identification purposes under 6 CFR Part 37 (a REAL ID license) and wishes to obtain a REAL ID license

upon renewal must comply with the requirements of rule 761—601.5(321) to obtain a REAL ID license upon renewal.

605.25(6) No change.

605.25(7) The department may determine means or methods for electronic renewal of a noncommercial driver's license.

a. An applicant who meets the following criteria may apply for electronic renewal:

(1) to (9) No change.

(10) The applicant is not subject to any of the following restrictions:

G—No driving when headlights required

J—Restrictions on the back of card

T—Medical report required at renewal

8—Special instruction permit

Q—No interstate or freeway driving

~~R—Maximum speed of 35 mph~~

b. to d. No change.

605.25(8) No change.

This rule is intended to implement Iowa Code sections 321.186₂, 321.188 as amended by 2021 Iowa Acts, House File 280, section 1; and 321.196 as amended by 2021 Iowa Acts, House File 280, section 2; the REAL ID Act of 2005 (49 U.S.C. Section 30301 note); and 6 CFR Part 37.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Systems Operations Division Order No. SO-2023-59
 Submitted by David Lorenzen Phone No. 515-239-1205 Meeting Date March 14, 2023
 Title Administrative Rules – 761 IAC Chapter 119, Tourist-Oriented Directional Signing

DISCUSSION/BACKGROUND:

The Tourist-Oriented Directional Sign program consists of small, white-lettered, blue signs along the right-of-way that identify and direct motorists to service-oriented businesses and sites of “significant interest to the traveling public.” These signs are allowed on primary highways excluding interstates and freeways. The program is voluntary and driven by applications from business owners who, if approved, pay a fee to have a sign created and installed by the department within the right-of-way of a primary highway.

When determining whether sites are of significant interest to the traveling public, the department has relied upon the Tourist Signing Committee to review photos, descriptions, and take a vote. Although this committee consists of a broad-spectrum of well-meaning representatives across multiple agencies and tourist-related organizations, the question of whether a business would be of significant interest to travelers is difficult to address without some degree of subjectivity. Furthermore, denying an application can incorrectly suggest or imply that the department is telling an applicant that their business is just not of interest to the public. The “chicken and egg” analogy has also been raised by some applicants who were on the cusp of approval, indicating that the sign itself would make all the difference. Finally, outdoor advertising regulations prohibit the placement of privately erected signs on private property in agricultural areas, often leaving no option for signs in the immediate vicinity of the desired intersection.

The proposed amendments eliminate the standard requirement of being of significant interest to the traveling public and establish one very basic set of uniform requirements for all applicants.

The public comment period ended on February 28, 2023. The department did not receive any public comments or requests for oral presentations. The Tourist Signing Committee supports the amendments and FHWA has no objection.

A complete summary explaining the proposed amendments is included in the attached Notice of Intended Action.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended that the Commission approve the rule amendments included in the attached Notice of Intended Action.

COMMISSION ACTION:			Aye	Vote Nay	Pass
			x	_____	_____
			x	_____	_____
			x	_____	_____
Moved by	<u>Kathy Fehrman</u>	Seconded by	<u>Tom Rielly</u>	x	_____
				x	_____
				x	_____
				x	_____
				x	_____
_____ Division Director	_____ Legal	_____ State Director			

SO-2023-59

David Lorenzen - Director - Systems Operation Division

We are seeking Commission approval for the approval of amendments to Chapter 119. As I shared this morning, this is the Department's Tourist Oriented Directional Sign Program. The amendments will relax some of the program entry requirements for businesses. The outdoor advertising regulations can be very restrictive in rural areas and this will provide an option for businesses that don't enjoy highway frontage. No public comments were received. FHWA has reviewed the changes and has no objection.

We recommend that the Commission approve the rule amendments Chapter one 119.

Commissioner Fehrman moved, and
Commissioner Rielly seconded a motion to approve.
The vote to approve was unanimous.

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to tourist-oriented directional signing
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 119, “Tourist-Oriented Directional Signing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.252.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.252.

Purpose and Summary

Currently, Chapter 119 limits participation for tourist-oriented directional signing to businesses that provide motorist services such as gas, food, and lodging, and to other businesses or sites that may be deemed “of significant interest to the traveling public.” This key phrase has been the subject of substantial discussion for many years between applicants, Department staff, and the Tourist Signing Committee. The decision as to whether a particular site is of significant interest to the traveling public has been made by majority vote of the Committee, after a presentation (photographs, descriptions, etc.) is given by Department staff at a regular monthly meeting. Although the Committee is diverse and adequately represents the various agencies and organizations related to tourism in Iowa, the qualifying standard of being “of significant interest to the traveling public” allows for a fair amount of subjectivity, despite attempts by the Committee to remain consistent and draw reasonable lines. Opinions might well be limited only by the number of people asked, and obviously rely greatly on intangible factors.

This proposed rule making aims to include more businesses into the program by adopting a less subjective singular set of standards for all applicants. This change will benefit more rural businesses that are not positioned along a highway and still serve the original program objective of providing service and tourist information to the traveling public.

The following paragraphs further explain each proposed amendment:

- A definition of “destination” is created so that this term can be used throughout the chapter instead of the phrase “activity or site.” This term matches the term used in the “Manual on Uniform Traffic Control Devices” (MUTCD), Chapter 2K, published by the U.S. Department of Transportation.
- The definition of “tourist-oriented directional signing” is amended so the term refers to a system of guide signs that display the identification of and directional information for an eligible destination.
- Subrule 119.3(1) is expanded to include the minimum operational requirements for all businesses.
 - Existing requirements relating to the location of a destination are retained and grouped together.
 - A condition is added to require that a major portion of income or visitors come from road users not residing in the area of the destination. This language is contained in the MUTCD and serves as the minimum baseline for being a “tourist-oriented” program under federal requirements.
 - Two existing requirements relating to compliance with other laws and regulations are grouped together.
 - The four categories describing how applicants can qualify are eliminated.
 - The title of the appropriate office for contacting purposes is corrected.
 - Proper nouns are replaced by general terms to reflect the committee’s composition.

The Tourism Signing Committee has approved the proposed amendments within Chapter 119.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, there may be a slight positive impact on jobs because the easing of entry requirements will increase the number of businesses being able to qualify for the signing program. The signs are installed in advance of intersections where the businesses can be accessed and generally boost customer traffic to the business. These changes may lead to a demand for more employees.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 2, 2023, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on February 28, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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 rule making.

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

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of “Destination” in rule **761—119.1(321)**:
“*Destination*,” for the purpose of this chapter, means a business, service, activity, or site that meets the program requirements established in rule 761—119.3(321).

ITEM 2. Amend rule 761—119.1(321), definition of “Tourist-oriented directional signing,” as follows:

~~“Tourist-oriented directional signing” is official signing that is located within the right-of-way of a primary highway and that identifies and gives directions to activities or sites of significant interest to the traveling public. However, official signing for campgrounds and ski area facilities is not included in this definition. This signing is provided for elsewhere~~ means a system of guide signs with one or more sign panels that display the identification of and directional information for an eligible destination.

ITEM 3. Amend paragraph 119.2(2)“a” as follows:

a. Tourist-oriented directional signing shall be installed only when sufficient space is available. The determination of whether sufficient space is available is the responsibility of the department in accordance with the MUTCD and department policies. If the number of applications exceeds the capacity to accommodate all of the requests, a lottery drawing shall be held to determine which applications will be accepted. However, ~~activities and sites which~~ destinations that are already participating in the tourist-oriented directional signing program shall not be subject to the lottery drawing, provided that each applicant’s participation remains in compliance with this chapter, including the timely payment of fees.

ITEM 4. Amend paragraph 119.2(2)“b” as follows:

b. Tourist-oriented directional signing shall be installed in advance of the intersection where the motorist leaves the primary highway system to travel to the ~~activity or site~~ destination. However, tourist-oriented directional signs may be placed on a higher classified highway to direct motorists onto a lower classified highway, or on a greater traveled highway to direct motorists onto a lesser traveled highway.

ITEM 5. Amend subrule 119.2(3) as follows:

119.2(3) Message. The message on a tourist-oriented directional sign is limited to a descriptive name, a directional arrow, the travel distance to the ~~activity or site~~ destination, and in some cases for motorist services, an additional short word or acronym indicating an essential fuel type such as diesel, E-85, or EV (electric vehicle charging station). ~~However, if an agricultural business activity offers tours, the message for the activity shall include the word “tours.”~~

ITEM 6. Amend rule 761—119.3(321) as follows:

761—119.3(321) General eligibility Eligibility requirements for an activity or site a destination. This rule describes the general requirements which ~~an individual activity or site a destination~~ must meet to qualify for tourist-oriented directional signing.

119.3(1) Hours Operational requirements. ~~The activity or site shall be open to the general public during regular and reasonable hours and not by appointment, reservation or membership only.~~

a. ~~Seasonal activities shall be in operation a minimum of four consecutive weeks~~ The destination shall be open to the general public for a minimum of 20 hours per week.

b. ~~The current months, days and hours of operation shall be conspicuously posted on the premises~~ The destination shall be open to the general public at least four days per week.

c. Hours of operation that are available to the public only by appointment, reservation, or membership shall not count toward meeting the minimum requirements set forth in this subrule.

d. Manufacturing plants, trucking terminals, distribution centers, warehouses, production facilities, and other industrial activities for which the general public has access but for which employees and contractors are the primary users shall not qualify as destinations. However, if the facility has developed public tours and is prepared to receive unscheduled visitors, the tourist signing committee may consider this information during the application review and make an exception to the general rule as set forth above.

e. Unless the destination is open 24 hours per day, the hours of operation shall be conspicuously posted on the destination premises.

f. Entrance to the destination shall not be restricted based on age.

g. The destination shall be properly licensed by all governing authorities relative to the nature of the activity engaged in by the destination.

h. Seasonal destinations shall be in operation for a minimum of four consecutive weeks.

119.3(2) Building or area Location requirements. The activity shall be conducted in an appropriate area or in a building appropriately designed or well-suited for the purpose.

a. The activity shall not be conducted in a building principally used as a residence unless there is a convenient, separate, and well-marked entrance. The destination shall be located within ten miles of the intersection on the primary highway where the tourist-oriented directional signs will be placed.

b. The building or area must be maintained in a manner consistent with standards generally accepted for that type of business or activity. The destination shall be located outside the city limits of any incorporated municipality with a population of 5,000 or more (population as established by the U.S. Census Bureau).

c. The destination shall not be visible from the highway in a way that allows for motorists to react safely by slowing and making a turn.

d. The building and site for the destination shall be appropriately designed and suited for the purpose. Buildings used principally as a residence shall not be used, unless there is a convenient, separate, and well-marked entrance to access the activity identified on the sign.

e. Buildings and grounds must be maintained in a manner consistent with standards generally accepted for that type of business or activity.

119.3(3) Location of activity or site Customer base. The activity or site shall be located: A destination shall derive a major portion of income or visitors from road users not residing in the area of the destination.

a. Within ten miles of the intersection on the primary highway where the tourist-oriented directional sign will be placed.

b. Outside the urban area, as established by the U.S. Census Bureau, of an incorporated municipality with a population of 5000 or more.

119.3(4) Signing restrictions Compliance with other laws and regulations. An activity or site does not qualify for a tourist-oriented directional sign if:

a. The activity or site or an on-premises sign advertising the activity or site is readily recognizable from the primary highway far enough ahead of the entrance to allow the motorist time to safely make the turn into the entrance destination shall comply with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.

b. An advertising device which serves the activity or site is erected or maintained in violation of The destination shall comply with Iowa Code chapter 306B; Iowa Code chapter 306C, division II; or Iowa Code chapter 318; and all other statutes or administrative rules regulating outdoor advertising.

119.3(5) Nondiscrimination. The activity or site shall comply with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.

ITEM 7. Rescind and reserve rule **761—119.4(321)**.

ITEM 8. Amend rule 761—119.5(321) as follows:

761—119.5(321) Application and approval procedure.

119.5(1) Applications for tourist-oriented directional signing shall be submitted to: Advertising Management Section, Office of Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

119.5(2) No change.

119.5(3) The tourist signing committee consists of representatives from the economic development authority, the department of transportation, the department of agriculture and land stewardship, the department of natural resources, the department of cultural affairs, ~~the Travel Federation of Iowa~~ Iowa's

tourism industry, and the ~~Outdoor Advertising Association~~ of outdoor advertising association for Iowa. The committee's responsibility is to approve or deny applications.

ITEM 9. Amend rule 761—119.6(321) as follows:

761—119.6(321) Installation, maintenance, replacement and removal.

119.6(1) No change.

119.6(2) *Installation and maintenance of trailblazing signs.* If the ~~activity or site destination~~ is not located adjacent to the secondary road or city street intersecting the primary route, trailblazing signs are required. Trailblazing signs shall conform to requirements in the MUTCD.

a. to c. No change.

119.6(3) No change.

119.6(4) *Seasonal ~~activity or site destination~~.* A tourist-oriented directional sign for a seasonal ~~activity or site destination~~ must either be masked or have a “closed” panel installed over the sign's directional information when the ~~activity or site destination~~ is closed or when the hours of operation decrease below the minimum requirements during the off-season period. Either the department or the ~~activity or site destination~~ with the department's permission shall perform the work. If the department performs the work, the approved applicant must pay the actual cost to install and remove the “closed” panel or to mask the sign.

119.6(5) *Required replacement.*

a. The department shall determine when a tourist-oriented directional sign is no longer serviceable and needs to be replaced. If such a determination is made, the ~~activity or site destination~~ must pay for the cost of a new sign and its installation prior to installation.

b. The department is not responsible for theft of or damage to any tourist-oriented directional signs ~~or damage to them caused by vandalism, vehicle accidents, or natural causes sign.~~ If a sign requires repair or replacement due to theft or damage, the ~~activity or site destination~~ must pay the cost of a new sign and its installation ~~the repair or replacement and installation.~~ At the ~~activity's or site's destination's~~ request, this cost may be spread over a 12-month period.

119.6(6) *Not-for-profit organizations.* A not-for-profit ~~organization operating an activity or site in accordance with the requirements of this chapter destination~~ is exempted from all fees and costs associated with the installation and maintenance of a single set of signs at a location determined by the department to be the most reasonable approach to the destination. If additional locations are requested by the not-for-profit organization, all fees and costs described in this chapter shall apply to the additional locations.

119.6(7) *Removal.* The department shall remove a tourist-oriented directional sign if the ~~activity or site destination~~ no longer qualifies for tourist-oriented directional signing. As official signs, all tourist-oriented directional signs are the property of the department and shall not be given to applicants upon the signs' removal.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Transportation Development Division
Systems Planning Bureau Order No. TD-2023-60
 Submitted by Garrett Pedersen Phone No. 515-239-1027 Meeting Date March 14, 2023
 Title Revitalize Iowa's Sound Economy (RISE) Application – Plymouth County

DISCUSSION/BACKGROUND:

Plymouth County submitted a RISE Immediate Opportunity application requesting a grant to assist in paving of approximately 2,625 feet of 240th Street located south of Le Mars. This project is anticipated to be completed by December 2024.

Because this project will provide improved access to five acres for industrial purposes and to maximize RISE support for this project, staff evaluated the application as a RISE Local Development project.

The evaluation and rating for the project will be discussed.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission, based on the capital investment commitment and potential for future job creation, reclassify the project as a RISE Local Development project in the February 2023 round of applications and award a RISE grant of \$792,778 or up to 50 percent of the total RISE-eligible project cost, whichever is less, from the county share of the RISE Fund.

COMMISSION ACTION:				
Moved by <u>Charese Yanney</u>	Seconded by <u>Sally Stutsman</u>	Arnold	Aye	Vote
		Fehrman	Nay	Pass
		Gaesser	_____	_____
		Juckette	x	_____
		Rielly	x	_____
		Stutsman	x	_____
		Yanney	x	_____
_____ Division Director	_____ Legal	_____ State Director		

TD-2023-60

Deb Arp - Transportation Development Division

Plymouth County submitted an Immediate Opportunity RISE Funding Request to pave approximately 2,625 feet of 240th Street located south of Le Mars. Because this project will provide improved access to five acres for industrial purposes and to maximize RISE support for this project, staff evaluated the application as a RISE Local Development Project. Under our RISE Local Development criteria the project scores 58 points. The total estimated cost of the project is \$1,585,556. This county is requesting a RISE Grant of \$792,778 and will be providing 50% in local match.

It is recommended to Commission based on the capital investment commitment and potential for future job creation reclassify the project as a RISE Local Development Project in the February 2023 round of applications and award a RISE Grant of \$792,778 or up to 50% of the total rise eligible project costs, whichever is left from the county share of the RISE Fund.

Commissioner Yanney moved, and
Commissioner Stutsman seconded a motion to approve.
The vote to approve was unanimous.

TD-2023-61

Deb Arp - Transportation Development Division

On November 10th, 2015, the City of Burlington was awarded a RISE Grant of \$1,536,000 to assist with the reconstruction of approximately 2,100 feet of Agency Road, including a traffic signal and synchronization located on the northwest side of town. The Commission approval of this project was contingent on the creation of 128 new jobs within three years after completion of the roadway, associated capital investment was to be \$7,400,000. On May 1st, 2019, the roadway was open to traffic. As of September 2022, the City of Burlington had not met the job creation contingency. The department was advised that an average of 61 total jobs were created. The method of calculation and amount of proposed settlement was provided to the City. The City of Burlington has agreed to repay the proposed settlement of \$233,123.

It is recommended the Commission approve the project settlement and proposed payment to the City share of RISE Fund of \$233,123 for the City of Burlington.

Commissioner Rielly moved, and
Commissioner Stutsman seconded a motion to approve.
The vote to approve was unanimous.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Transportation Development Division Order No. TD-2023-62
 Submitted by Stuart Anderson Phone No. 515-239-1661 Meeting Date March 14, 2023
 Title 2023-2027 Iowa Transportation Improvement Program Amendment

DISCUSSION/BACKGROUND:

In order to address deteriorating roadway conditions resulting from the extreme winter weather, the statewide contract maintenance program line item needs to be increased by \$15 million in fiscal year 2023 of the highway section of the 2023-2027 Iowa Highway Program. This funding will permit the hiring of contractors to patch, repair, and place pavement overlays on relatively small stretches of highway with the worst conditions.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve the amendment to the highway section of the 2023-2027 Iowa Transportation Improvement Program.

COMMISSION ACTION:

Moved by Sally Stutsman Seconded by Kathy Fehrman

Division Director Legal State Director

	Aye	Vote Nay	Pass
Arnold	<u>x</u>	_____	_____
Fehrman	<u>x</u>	_____	_____
Gaesser	<u>x</u>	_____	_____
Juckette	<u>x</u>	_____	_____
Rielly	<u>x</u>	_____	_____
Stutsman	<u>x</u>	_____	_____
Yanney	<u>x</u>	_____	_____

TD-2023-62

Stuart Anderson -Director - Transportation Development Division

In order to address deteriorating roadway conditions resulting from the extreme winter weather, it is recommended to increase the statewide contract maintenance line item by \$15 million in Fiscal Year 2023 of the Highway Section of the 2023 to 2027 Iowa Highway Program. This funding will permit the hiring of contractors to patch, repair and place pavement overlays on relatively small stretches of highway with the worst conditions.

Therefore, it is recommended the Commission approve the amendment to the Highway Section of the 2023 to 2027 Iowa Transportation Improvement Program.

Commissioner Stutsman moved, and
Commissioner Fehrman seconded a motion to approve.
The vote to approve was unanimous.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Transportation Development Division Order No. TD-2023-63
 Submitted by Stuart Anderson Phone No. 515-239-1661 Meeting Date March 14, 2023
 Title Statewide Line Items (2024-2028 Highway Program)

DISCUSSION/BACKGROUND:

Prior to identifying specific roadway construction projects for the 2024-2028 Highway Program, funding targets for statewide line items are determined that come off-the-top of funding available for programming. These line items are for funding categories that are used to support specific statewide activities. Attached is the list of statewide line items with the targeted annual funding level.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve the Statewide Line Items and funding targets as shown on the attached list.

COMMISSION ACTION: Move to defer to a later date

Moved by Tom Rielly Seconded by Sally Stutsman

Division Director Legal State Director

	Aye	Vote Nay	Pass
Arnold	<u>x</u>	_____	_____
Fehrman	<u>x</u>	_____	_____
Gaesser	<u>x</u>	_____	_____
Juckette	<u>x</u>	_____	_____
Rielly	<u>x</u>	_____	_____
Stutsman	<u>x</u>	_____	_____
Yanney	<u>x</u>	_____	_____

TD-2023-62

Stuart Anderson -Director - Transportation Development Division

This action item is intended to approve statewide line items and funding targets for the next five year program. However, the department is still analyzing one of the line item recommendations. Therefore, we recommend deferring this item until the analysis is concluded and we're able to share the results of that analysis with the Commission.

Commissioner Rielly moved, and
Commissioner Stutsman seconded a motion to approve.
The vote to approve was unanimous.

Statewide Line Items (2024 - 2028 Highway Program)

Line Item	Type Of Work	Project Estimated Costs X \$1000				
		2024	2025	2026	2027	2028
Statewide Interstate Guardrail Repair	Guardrail Repair	2,000	2,000	2,000	2,000	2,000
Statewide Interstate Lighting	Lighting	500	500	500	500	500
Statewide Interstate Rest Area Maintenance	Rest Area Improvement	8,800	8,900	9,000	9,100	9,200
Statewide Interstate Signing	Traffic Signs	1,000	1,000	1,000	1,000	1,000
Statewide Interstate Pavement Maintenance	Pavement Rehab	9,500	9,500	9,500	14,500	14,500
Non-Interstate Pavement Modernization	Pavement Rehab		150,000	155,000	200,000	210,000
Statewide Safety Specific	Paving		33,000	34,000	35,000	36,000
American with Disabilities Act	Miscellaneous	4,000	4,500	5,000	5,500	6,000
Construction Industry Training Program	Miscellaneous	1,000	1,000	1,000	1,000	1,000
Cooperative City/County/State Highway Research	Miscellaneous	2,250	2,500	2,500	2,500	2,500
Emergency & Contingency (U-STEP/C-STEP)	Miscellaneous	6,000	6,000	6,000	6,000	6,000
Post Letting Project Cost	Miscellaneous	30,000	30,000	30,000	30,000	30,000
Prevocational Training and DBE Support Services	Miscellaneous	360	360	360	360	360
Scenic Byway Program	Miscellaneous	500	500	500	500	500
Statewide Consultant Services	Outside Services Engineering	59,000	59,000	59,000	59,000	59,000
Statewide Contract Maintenance	Miscellaneous	36,850	37,350	37,850	38,350	43,500
Statewide Railroad Crossings	Miscellaneous	500	500	500	500	500
Statewide Roadside Improvement	Landscaping	2,500	2,500	2,500	2,500	2,500
Statewide Traffic Control Devices/Signs	Traffic Signs	5,000	5,000	5,000	5,000	5,000
Statewide ITS	Miscellaneous	5,750	5,750	5,750	5,750	5,750
Statewide Operations	Outside Services Engineering	11,000	11,000	11,000	11,000	11,000
Winter Maintenance Materials	Miscellaneous	15,000	15,000	15,000	15,000	15,000