

Motor Vehicle Division Informational Memo # 22-12

Annual Code of Federal Regulations Updates to Administrative Rules

DATE: June 6, 2022

FROM: MVD Policy & Compliance Team

TO: All Motor Vehicle Division and Motor Vehicle Enforcement staff; County Treasurers and County Treasurer's Staff that issue commercial driver's licenses

SUBJECT

This informational memo explains the regular, annual update to administrative rules in 761 IAC chapters 520, 529 and 607 to adopt the most recent updates to the Code of Federal Regulations (CFR) dated October 1, 2021. The rule amendments also clarify procedures regarding Class C commercial driver's license (CDL) vehicle types, retaking improperly administered knowledge or skills tests, and online CDL renewal eligibility as further described below.

SUMMARY

Annual update. At the conclusion of each federal fiscal year (September 30), we initiate an administrative rulemaking to adopt the most recent CFR updates to chapter 520 – Regulations Applicable to Carriers; 529 – For-Hire Interstate Motor Carrier Authority; and 607 – Commercial Driver Licensing.

We are required to make updates to these rule chapters by the following Iowa Code sections:

- Iowa Code section 321.188 requires us to adopt rules to administer commercial driver's licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.
- Iowa Code section 321.449 requires us 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 us 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.

The rulemaking at the link below provides specific descriptions of the amendments to the FMCSRs and HMRS that have become final since the 2021 edition of the CFR that affects 761 IAC chapters 520, 529 and 607.

CDL updates. The amendments to chapters 605 and 607 align the rules with existing legal authority and department practice, including:

- Specifying the type of vehicle a person with a Class C CDL may operate by connecting the rule to the definition of such vehicle in Iowa Code section 321.1(11).

- Outlining the consequences for a CDL or CLP holder who fails to retake a required test or fails the retest upon a determination that the knowledge or skills test was improperly administered by a DOT, county, or third-party examiner.
- Clarifying that an applicant seeking to add or remove a K (intrastate only) restriction is eligible to renew the applicant's CDL online.

While commercial vehicles transporting goods in interstate commerce and commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the FMCSRs and the HMRS on the effective dates specified in the Federal Register (FR), respectively, **the state administrative rule amendments are effective June 8, 2022.**

LINK TO IOWA ADMINISTRATIVE RULES

<https://www.legis.iowa.gov/docs/aco/arc/6307C.pdf>

CURRENT

The above-referenced administrative rule chapters previously adopted the 2020 edition of the CFR. Additionally, chapters 605 and 607 did not clearly outline that a Class C commercial vehicle is a vehicle designed to transport 16 or more passengers or a vehicle used to transport hazardous materials, the steps we will take to downgrade or cancel a CDL or CLP when a person fails to retake a required test upon a finding the test was improperly administered, and did not account for the fact that a person who is adding or removing a K (intrastate only) restriction from the person's license is eligible to utilize the online CDL renewal process.

NEW

As of June 8, 2022, the above-referenced administrative rule chapters will adopt the 2021 edition of the CFR and will reflect the additional CDL updates explained above.

BUSINESS IMPACT

This memo does not significantly impact the way that MVD functions, but it is important to know that these particular administrative rule chapters adopt the 2021 edition of the CFR, which is updated on an annual basis.

There is also nothing changing for staff or CDL holders at this time because of the additional CDL updates. As noted above, the vehicle types a Class C CDL holder may operate were already defined in Iowa Code, but the administrative rule was not similarly clear and the online CDL renewal function on myMVD was already programmed to allow a person with a K restriction to add or remove the K restriction while renewing their CDL online, provided they have a valid medical certificate on file (if changing their self-certification from non/excepted intrastate to nonexcepted intrastate).

Regarding retaking the CDL skills or knowledge test due to improper administration of the test, we already had the legal authority to require a person to retake the CDL skills or knowledge test if it was improperly administered by a DOT, county, or third-party examiner. However, it was unclear what action we would take against a person's CLP or CDL if they did not retake the test as required. The rule

amendments now lay out the consequences more clearly by providing that a person who fails to retake the test or fails the retest will be subject to a downgrade, "DWN170" (if the person holds valid noncommercial privileges) or a cancellation, "CAN97" (if the person did not hold valid noncommercial driving privileges). The necessary programming changes have already been made to impose the new type of "downgrade" for CDL or CLP holders who have failed to retake the CDL knowledge or skills test. When this scenario occurs, the CDL team directly contacts the MVD Sanctions Unit who initiates the downgrade or cancellation process, as appropriate. This new process does not change how we sanction a customer when the customer themselves has committed fraud in applying or testing for the CDL or CLP, as that process is outlined in 761 IAC 607.39(5) and would result in a CAN106 and a DIS173 or DIS175.