

## **Motor Vehicle Division Policy Memo # 20-05**

### ***Commercial Driver's License Administrative Rule Updates***

**DATE:** April 13, 2020

**FROM:** Sara Siedsma, Compliance Officer, MVD

**TO:** All Driver and Identification Services staff, Iowa County Treasurers and County Treasurer's staff  
the issue driver's licenses and non-operator's identification cards

#### **SUBJECT**

This policy memo explains updates to administrative rule chapter 761—607, Commercial Driver Licensing and associated policy changes.

#### **SUMMARY**

This rule chapter was updated to align with existing legal authority and department practice related to the requirements for a commercial driver's license (CDL). The rule amendments also align with legislative changes made during the 2019 legislative session related to compliance with federal regulations regarding entry-level driver training (ELDT), the national drug and alcohol clearinghouse (DACH), third party CDL skills test examiners and federal driver age qualifications. The following paragraphs further explain the proposed amendments:

**ELDT.** The rules relating to adoption of federal regulations, CDL classes, CDL endorsements and commercial learner's permits (CLPs) were amended to add reference to the Federal Motor Carrier Safety Administration (FMCSA) regulations addressing ELDT requirements. Iowa Code section 321.188 was amended during the 2019 legislative session to provide that ELDT requirements apply to an applicant for a CDL if required by federal regulation. Since the code was amended, FMCSA announced that the federal regulations requiring ELDT have been delayed until February 7, 2022.

At this time, there are no changes to the way you issue a CDL due to ELDT. However, once the federal ELDT regulations become effective, an applicant applying for a Class A or Class B CDL, an upgrade of the applicant's CDL, or a hazardous material (H), passenger (P), or school bus (S) endorsement for the first time will be required to complete ELDT prior to taking the applicable CDL knowledge test or skills test.

We will issue additional guidance explaining the steps you will need to take to perform an ELDT completion check prior to performing a CDL knowledge or skills test when it is closer to the new effective date, and once the associated programming has been completed by FMCSA.

**DACH.** The rule relating to application for a CDL was amended to incorporate the federal requirement to check the DACH for violations prior to issuing a CDL if required by federal regulations. The DACH is a database operated by FMCSA that will contain information about violations of FMCSA's drug and alcohol testing program for CDL holders. Similar to ELDT, FMCSA also announced that the federal regulations requiring a state driver's license agency to query DACH prior to issuance of a CDL have been delayed until January 6, 2023.

We will issue additional guidance explaining the steps you will need to take to query DACH prior issuing a CDL when it is closer to the new effective date, and once the associated programming has been completed by FMCSA.

**CDL driver age qualifications.** The rule establishing CDL requirements, was amended to align with Iowa Code section 321.449, which gave us the authority to adopt rules authorizing an 18-year-old to obtain an interstate CDL once the federal law allows it. Currently, federal regulations do not permit a person less than 21 years old to operate a commercial motor vehicle (CMV) between states (interstate) unless an exception under the federal regulations applies. Iowa Code currently does allow an 18-year-old to operate a CMV within Iowa (intrastate) only. However, there has been movement at the federal level to broadly amend the driver age qualifications law to lower the current age for an interstate CDL driver from 21 years old to 18 years old. While the federal law has not changed yet, the proposed amendments to this rule cross reference to the driver age qualifications in the federal regulations and Iowa Code, thereby allowing us to adjust the age requirement for an interstate CMV driver if the federal law is changed in the future to allow 18-year-old CMV drivers in interstate commerce. If and when federal law changes to allow an 18-year-old to obtain an interstate CDL, we will issue additional guidance explaining the change.

**Hazardous materials endorsement.** The hazardous materials endorsement rule was changed to reference federal regulations governing the requirements for obtaining and retaining the endorsement. The amendments also provide that the exception for retesting and paying the fee for the hazardous materials endorsement only applies if the applicant is intending to transfer the applicant's CDL and provides evidence of passing the knowledge test in another state within the preceding 24 months, as allowed by the federal regulations. This change is a clarification of the current process, and there are no additional steps staff needs to take.

**Waiver of CDL knowledge test for military members.** The CDL knowledge test rule was amended to add the option of a waiver of the knowledge test for an applicant who is a current or former military service member. Federal regulation, 49 CFR Section 383.77, provides that we may waive the CDL knowledge test for an applicant that is regularly employed or was regularly employed within the past year in a military position as outlined in the regulation and operated a vehicle representative of the CMV the applicant expects to operate. We already have the authority to waive a CDL skills test for a current or former military service member and now will have the ability to offer a waiver of the knowledge test.

**CDL skills test vehicles.** The rule regarding representative vehicles used for the CDL skills test was amended to provide that an applicant seeking a tank endorsement must take the CDL skills test in a representative vehicle, such as a Class A, Class B, or Class C CMV, but the representative vehicle does not have to include a tank. The amendments also align the rule with our current process for an applicant seeking to remove a manual transmission restriction to only require the applicant to take the on-road segment of the CDL skills test, rather than all three segments of the CDL skills test.

**CDL retests.** The rules relating to CDL skills retests were amended to include the requirement to repeat a CDL skills or knowledge test if the Department determines the test was improperly administered, for example, as the result of an audit.

**Third-party CDL skills test examiners.** The rule addressing CDL skills tests administered by a third-party was amended to conform with legislation passed during the 2019 session, which added an “Iowa nonprofit corporation” that serves as a trade association for Iowa-based motor carriers to the list of entities authorized to perform third-party CDL skills tests. This change provides additional opportunities for applicants to receive the skills test necessary to obtain a CDL. The amendments also align with federal regulation, 49 CFR Section 383.75, which provides an exception to a third-party skills test examiner’s certificate being revoked for failing to perform at least 10 skills tests per year if the examiner provides proof of completion of the examiner refresher training or successfully completes one skills test under the observation of a Department examiner. Finally, the amendments conform with existing policy that a third-party skills test examiner may only administer CDL skills tests for the third-party skills test examiner’s primary employer unless authorized by us to perform CDL skills tests for another county or third-party tester.

**CDL knowledge and skills tests for non-domiciled military members.** We added a new rule to allow for the ability to perform and transmit CDL knowledge and skills tests for non-domiciled military personnel, as well as the ability to accept the same from another state's driver’s licensing agency. This rule adopts federal regulation, 49 CFR Section 383.79, which was recently amended to provide that a state may accept an application for a CDL or CLP from a military service member stationed, but not domiciled, in Iowa, if we have an agreement to accept such applications with the applicant’s state of domicile. Typically, a person can only apply and be tested for a CDL or CLP in the person’s state of domicile. This regulation attempts to address barriers experienced by military members stationed in a state other than the person’s state of domicile. The rule also provides that if a military service member is domiciled in Iowa, but stationed in another state, and applies for a CDL or CLP where the person is stationed, we may accept the application and CDL test results from the other state if we have an agreement to do so, and we may also issue the CDL or CLP.

We currently do not have any agreements in place with another state to perform, transmit or accept CDL knowledge and skills tests for non-domiciled military personnel. However, if we end up signing such an agreement in the future, we will send out additional guidance at that time for any steps you will need to take.

**Reduction of a lifetime CDL disqualification.** This rule was amended to align with the current process for reinstatement of an applicant's CDL after a lifetime CDL disqualification. A lifetime CDL disqualification is required pursuant to federal regulations in 49 CFR Section 383.51 for certain offenses committed by a CDL holder, for example, when a CDL holder has two Operating While Intoxicated (OWI) convictions. However, the federal regulations further provide that a CDL holder subject to a lifetime disqualification for certain offenses may be eligible to apply for reinstatement of the person’s CDL if it has been more than 10 years since the lifetime disqualification became effective and the person meets

certain criteria. A person reinstated under these provisions once is not eligible for reinstatement again if the person subsequently is convicted of any of the disqualifying offenses listed in 49 CFR Section 383.51(b)(1) through (b)(8).

**CDL disqualification due to fraud.** The rule related to CDL disqualifications was amended to add a new subrule that aligns with federal regulation, 49 CFR § 383.73(k), Iowa Code section 321.201(2)“b,” and our current process for cancelling a person’s CDL or CLP if the person commits fraud in the application. This new subrule creates a disqualification for a person who is convicted or suspected of fraud related to the testing or issuance of a commercial driving privilege. Upon receipt of a conviction for fraud, the person’s CDL shall be disqualified for one year. Upon receipt of credible evidence that person is suspected of committing fraud, the person shall be required to retake the applicable knowledge or skills test and will face a disqualification for one year if the person either fails or does not retake the applicable test.

**Restricted CDL.** The restricted CDL rule was amended to align with federal regulation, 49 CFR Section 383.3(f)(3)(vi), stating that a person may not hold a restricted CDL and an unrestricted CDL at the same time. However, the regulations do not prohibit a person from holding a restricted CDL and a commercial learner’s permit (CLP) at the same time. The rule relating to self-certification for CDL holders was also amended to provide that a restricted CDL holder is required to self-certify to the type of driving the applicant intends to undertake while operating a CMV.

**The administrative rule amendments are effective April 15, 2020.**

**LINK TO ADMINISTRATIVE RULES**

<https://www.legis.iowa.gov/docs/aco/arc/4986C.pdf>

**HELPFUL QUESTIONS AND ANSWERS**

The following questions and answers provide additional clarification which will be helpful to you and to customers.

**WHAT IS ELDT AND IS THERE MORE INFORMATION ABOUT DACH?**

When the legislation was passed in 2019 regarding ELDT and DACH, we issued informational memo IM 19-13 that explains more about ELDT and DACH. We encourage anyone with questions about those two federal programs to re-review IM 19-13. Below is a link to IM 19-13 as posted on the county treasurer’s website:

<https://iowadot.gov/mvd/ctmanual/memos/IM19-13.pdf>

**It is important to note that the implementation both of these federal programs is delayed, and we will issue additional guidance prior to their effective dates.**

**WHAT IS CONSIDERED “CREDIBLE EVIDENCE OF FRAUD” AS A BASIS FOR THE NEW DISQUALIFICATION?**

New subrule 761—607.39(5) aligns with federal regulation 49 CFR § 383.73(k) and provides that we shall disqualify a person’s CDL if they are convicted of fraud or suspected of fraud related to the testing or issuing of a CDL. For a disqualification based on suspected fraud, credible evidence could include, but not be limited to, a copy of a citation charging the person with fraud in relation to testing or issuance of a CDL, evidence of fraud that is uncovered during a DOT audit or evidence of an investigation or a report from law enforcement regarding fraud, including from our Bureau investigators.

**HOW WILL THE REINSTATEMENT FROM A LIFETIME CDL DISQUALIFICATION PROCESS WORK?**

The sanctions team in Central Office has already been processing reinstatements after a lifetime disqualification based on policy which mirrors new administrative rule 761—607.39(4), and that team will continue to process these requests as they come in.

**ARE THERE ANY NEW THIRD-PARTY CDL SKILLS TEST EXAMINERS OTHER THAN COMMUNITY COLLEGES, CRST OR TMC?**

The Central Office CDL team is currently working the Iowa Motor Truck Association (IMTA) in their effort to become a third-party CDL skills test examiner under the new category added by the 2019 legislation.

**ARE THERE ANY CHANGES REGARDING CDL DRIVER AGE QUALIFICATIONS?**

No. The required age to obtain a CDL to drive interstate is still 21 per federal regulations.

The required age to obtain a CDL to drive intrastate is still 18, unless the applicant is hauling placardable amounts of hazardous materials, then the required age is 21 per Iowa Code section 321.449.

**WHAT HAPPENS IF A PERSON HOLDING A CLP WANTS TO OBTAIN A RESTRICTED CDL, WILL THE PERSON HAVE TO SURRENDER THEIR CLP AND THEN RETEST IF THEY WANT TO REGAIN THEIR CLP?**

No. The administrative rules on restricted CDLs were clarified to provide that a person holding a CLP may hold a restricted CDL at the same time. The person does not have to surrender their CLP to obtain a restricted CDL, which is consistent with the requirements in federal regulation 49 CFR §383.3(f)(3)(vi). That regulation only prohibits a person from holding a restricted CDL and an unrestricted CDL at the same time.