

## **Iowa Department of Transportation**

### **Regulatory Plan August 1, 2011**

#### **Regulatory Objectives**

The Department of Transportation's current regulatory objectives are to adopt rules that:

- comply with enabling statutes.
- protect the public health, safety, welfare, and environment.
- are reasonable and are not arbitrary, capricious or beyond the authority of the agency.

#### **Proposed Regulatory Actions**

Following is a list of proposed "regulatory actions" [defined as each potential rule currently under active consideration or development, excluding those rules that do not have a substantial impact on the legal rights, privileges, or duties of persons] that the Department of Transportation reasonably expects to issue in proposed or final form in fiscal year 2012 or thereafter.

## **SECTION 1, HIGHWAY**

### **RISE Program**

- a. Description: Amend rules related to administration of the Revitalize Iowa's Sound Economy (RISE) program. This will affect 761 IAC Chapter 163.
- b. Legal Basis: Iowa Code section 312.2 and Iowa Code chapter 315.
- c. Need: The department is amending these rules to clarify procedures and requirements and update contact information.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Craig Markley, Office of Systems Planning, 515-239-1027.

### **Iowa Scenic Byway Program**

- a. Description: Amend rules related to administration of the Iowa Scenic Byway program. This will affect 761 IAC Chapter 132.
- b. Legal Basis: Iowa Code chapter 306D.
- c. Need: The department is amending these rules to clarify procedures and requirements and to update contact information.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Craig Markley, Office of Systems Planning, 515-239-1027.

### **Pedestrian, Equestrian, and Bicycle Routes (Sidewalks)**

- a. Description: Amend rules related to the construction of curb ramps. This will affect 761 IAC Chapter 150.
- b. Legal Basis: Iowa Code chapter 306.
- c. Need: Allows the department to implement the Americans with Disabilities Act guidelines without being dependant on funding sources under the control of other jurisdictions.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2013.
- e. Contact Person: Troy Jerman, District 5, 641-469-4014.

### **Primary Road Access Control**

- a. Description: Amend rules related to Primary Road Access Control. This will affect 761 IAC Chapter 112.
- b. Legal Basis: Iowa Code chapter 306A.

- c. Need: To ensure access management guidelines are effective and relevant to today's transportation system demands.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Eric Wright, Office of Traffic and Safety, 515-233-7903.

**Utility Accommodation**

- a. Description: Amend rules related to the Utility Accommodation. This will affect 761 IAC Chapter 115.
- b. Legal Basis: Iowa Code chapter 306A.
- c. Need: To ensure utility accommodation guidelines are effective and relevant to today's transportation system demands.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Eric Wright, Office of Traffic & Safety, 515 233-7903.

## **SECTION 2, MOTOR VEHICLE**

### **Motor Vehicle Records**

- a. Description: Amend rules related to release of motor vehicle records in bulk form. Motor vehicle records include any record that pertains to a driver's license, nonoperator's identification card, certificate of title, registration receipt, or registration renewal receipt issued by the department or the county treasurer. This will affect 761 IAC Chapter 610 and 761 IAC Chapter 611.
- b. Legal Basis: Iowa Code chapter 22, Iowa Code section 321.11, Iowa Code section 321A.3, and the Driver's Privacy Protection Act, 18 U.S.C. sections 2721-2725 ("DPPA").
- c. Need: Amend rules to provide agreements and mode of delivery appropriate and specific to records delivered in bulk format.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Mark Lowe, Motor Vehicle Division, 515-237-3121.

### **Driver's License Vision Standards and Screening**

- a. Description: Amend rules relating to driver's license vision standards and vision screening to bring these standards up to date with current recommendations from medical and transportation safety experts. This will affect 761 IAC 604.10, 761 IAC 604.11, and 761 IAC 604.13.
- b. Legal Basis: Iowa Code sections 321.186, 321.186A, 321.193, 321.196.
- c. Need: To ensure these standards are effective and relevant to today's driving environment.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

### **Regulations Applicable to Carriers--Annual Update**

- a. Description: Amend rules regarding regulations applicable to carriers by adopting the most recent annual codifications of 49 CFR Parts 107, 171 to 173, 177, 178, 180, 385, and 390 to 399. This will affect 761 IAC 520.1.
- b. Legal Basis: Iowa Code section 321.449 requires the department to adopt rules consistent with the federal motor carrier safety regulations 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 promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.
- c. Need: Each October, a revised edition of 49 CFR is published. To ensure the consistency required by statute, the department annually adopts the specified parts of the most recent annual edition of 49 CFR. The adoption of these regulations by the department will extend their enforcement to commercial vehicles operated intrastate unless exempted by statute.

- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Dave Lorenzen, Office of Motor Vehicle Enforcement, 515-237-3219.

### **Driver Records**

- a. Description: Amend rules to reflect statutory changes to Iowa Code section 321A.3(8) made by 2009 Iowa Acts, Senate File 374, which amends the "single-use" restriction for certified abstracts of operating records that are purchased from the department to allow for certain insurance industry uses. This will affect 761 IAC 610.4.
- b. Legal Basis: Iowa Code section 321A.3(8), as amended.
- c. Need: The department is amending the rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

### **Driver Licensing – Identity Theft**

- a. Description: Develop rules related to the removal of inaccurate information from a person's driving record due to identity theft.
- b. Legal Basis: Section 2 of Senate File 356 amended Iowa Code section 321.196.
- c. Need: The legislation requires the department to adopt rules to implement a program for investigation of identity theft that results in convictions or sanctions being entered against a person that did not commit the underlying offense, and for removal of those convictions or sanctions from the persons driving record.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010 and Paul Steier, Office of Motor Vehicle Enforcement.

### **Driver Licensing – Suspension for Nonpayment of Fines.**

- a. Description: Amend rules to reflect the deletion of language that requires the department to determine if an individual has ability to pay a fine imposed by the courts. This will affect 761 IAC 615.22(1)(b) and 761 IAC 615.22(2).
- b. Legal Basis: 2009 Iowa Acts, Senate File 419, section 11 amended Iowa Code section 321.210A.
- c. Need: The department is amending the rules to delete the provision allowing a person to avoid suspension by proving the person cannot pay the fine.

- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

**Driver Licensing – Waiver or Refund of License Fees**

- a. Description: Amend rules to reflect the repeal of Iowa Code section 321.192 regarding the waiver or refund of license fees. This will affect 761 IAC section 605.10.
- b. Legal Basis: Repeal of Iowa Code section 321.192, Code 2009
- c. Need: The department is amending the rules to remove provisions required by the repealed Iowa Code section.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

**Driver Licensing – REAL ID Compliant Driver License/Identification**

- a. Description: Amend rules to reflect new federal legislation regarding the issuance of REAL ID compliant licenses and identification cards. This may affect 761 IAC Chapter 600, 761 IAC Chapter 601 and 761 IAC Chapter 605 and may also require the addition of a new chapter.
- b. Legal Basis: REAL ID was included in Public Law 109-13, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, signed 2005. PASS ID legislation introduced before Congress as S. 1261, "Providing for Additional Security in States' Identification Act of 2009," may replace REAL ID.
- c. Need: Development of new rules prescribing procedures and requirement options for citizens seeking licenses or IDs compliant with federal security requirements. These detailed rules will supplement the base rules for material compliance established in fiscal year 2010.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Mark Lowe, Motor Vehicle Division, 515-237-3121.

**Driver Licensing – Persons Suffering Loss of Consciousness or Loss of Voluntary Control**

- a. Description: Amend rules regarding licensing of persons suffering loss of consciousness or voluntary control. This will affect 761 IAC section 600.4 and 761 IAC section 605.5.
- b. Legal Basis: Iowa Code sections 321.177 and 321.210.

- c. Need: Amendments are needed to remain consistent with current medical advice regarding review and licensing of persons suffering episodes or loss of consciousness or loss of voluntary control.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

**Driver Licensing – Commercial Driver’s License Skills Testing by Community Colleges**

- a. Description: Amend rules to allow community colleges to administer the driving skills test required to receive a commercial driver's license (CDL). Community college skills testing will be limited to the school's own students. This will affect 761 IAC Chapter 607.
- b. Legal Basis: Iowa Code section 321.187(2).
- c. Need: The department is amending rules to decrease costs and improve efficiency.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010

**Driver Licensing**

- a. Description: Amend rules to remove the 35 miles per hour speed restriction from noncommercial driver’s licenses and to add a medical variance requirement for commercial driver’s licenses. This will affect 761 IAC Chapter 605.
- b. Legal Basis: Iowa Code chapter 321.
- c. Need: The department is amending the rules to remain consistent with current medical standards.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

**Driver Licensing**

- a. Description: Amend rules to preclude the department from issuing a license to the named individual on a certificate of noncompliance received from the department of revenue. This will affect 761 IAC Chapter 600 and 761 IAC Chapter 615.
- b. Legal Basis: Iowa Code section 272D.8.
- c. Need: The department is amending the rules to remain consistent with statutory directive.

- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

### **Driver Licensing**

- a. Description: Amend rules to provide the department flexibility to issue driver's licenses when supported by a favorable recommendation from a physician. This will affect 761 IAC Chapter 605.
- b. Legal Basis: Iowa Code chapter 321.
- c. Need: The department is amending the rules to remain consistent with current medical standards.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010

### **Commercial Driver Licensing – Reopening Hearing on Disqualification**

- a. Description: Amend rules related to reopening an OWI hearing to include contest of a CDL disqualification in the circumstances permitted by Iowa Code section 321J.13(6). This will affect 761 IAC section 620.4.
- b. Legal Basis: Iowa Code section 321J.13(6), as amended by 2009 Iowa Acts, Senate File 419.
- c. Need: The department is amending the rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact person: Kim Snook, Office of Driver Services, 515-237-3010.

### **Commercial Driver Licensing**

- a. Description: Amend rules to provide self-certification of type of driving and a medical examiner's certificate before the department issues, renews or upgrades the person's commercial driver's license. This will affect 761 IAC Chapter 607.
- b. Legal Basis: Iowa Code section 321.188.
- c. Need: The department is amending the rules to remain consistent with the statutory directive and 49 CFR 390.5.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

## **Commercial Driver Licensing**

- a. Description: Amend rules for downgrading a driver's commercial driver's license to noncommercial status upon failure to provide a medical examiner's certificate. This will affect 761 IAC Chapter 607.
- b. Legal Basis: Iowa Code section 321.207.
- c. Need: The department is amending the rules to comply with 49 CFR 383.71 and 383.73.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

## **Driver Education**

- a. Description: Amend rules regarding qualification and certification of driver's education instructors and behind the wheel instructors. This would affect 761 IAC Chapter 634.
- b. Legal Basis: Iowa Code section 321.178, as amended by 2010 Iowa Acts, House File 2466, section 1.
- c. Need: The department is amending the rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

## **Motor Vehicle Legislation – Temporary Restricted Licenses and Ignition Interlock Devices (IIDs)**

- a. Description: Amend rules to transfer district courts' authority to grant the issuance of a temporary restricted license for individuals whose driving privileges have been sanctioned, to the DOT, and expand the issuance of temporary restricted licenses to repeat offenders that have installed IIDs. This will affect 761 IAC Chapter 620.
- b. Legal Basis: House File 2452, enacted in the 2010 legislative session, amended Iowa Code sections 321.215, 321J.4(9), 321J.20, to allow the issuance of a temporary restricted license by the DOT, and sections 321J.4, 321J.9, and 321J.12 regarding eligibility and IID requirements.
- c. Need: The department is amending rules to implement this legislation in compliance with the statutory amendments.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

### **Motor Vehicle Legislation – Electronic Device Use by Minors on Restricted or Graduated Driver Licenses**

- a. Description: Amend rules to prohibit the use of cell phones or other hand-held electronic devices while operating a motor vehicle on an instruction permit, intermediate license, school permit, or minor's restricted license. This will affect 761 IAC Chapter 615.
- b. Legal Basis: House File 2456, enacted in the 2010 legislative session, amended Iowa Code sections 321.178, 321.180B, and created section 321.276.
- c. Need: The department is amending rules to implement restrictions for these licenses and sanctions for their violation to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

### **Vehicle Services – Validation Stickers**

- a. Description: Amend rules to provide clarify and update the guidelines for the placement of validation stickers. This will affect 761 IAC Chapter 400.
- b. Legal Basis: Iowa Code section 321.121.
- c. Need: The department is amending the rules to implement 2011 Iowa Acts, Senate File 312, section 3.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Jody Johnson, Office of Vehicle Services, 515-237-3040.

### **Vehicle Services – Special Plates**

- a. Description: Amend rules to provide guidelines for the establishment of special registration plates to acknowledge additional medals or badges of recognition awarded by various branches of the armed forces. This will affect 761 IAC Chapter 401.
- b. Legal Basis: Iowa Code section 321.34.
- c. Need: The department is amending the rules to implement 2011 Iowa Acts, House File 651, section 2.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Jody Johnson, Office of Vehicle Services, 515-237-3040.

## **SECTION 3, RAIL**

### **Reporting of Railroad Accidents/Incidents**

- a. Description: Amend rules related to the reporting of railroad accidents and incidents. This will affect 761 IAC Chapter 802.
- b. Legal Basis: Iowa Code chapter 327C.37.
- c. Need: The department is amending rules to update the criteria for when a railroad is required to notify the department of an incident and to update the method of immediate reporting to the department.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Tammy Nicholson, Office of Rail Transportation, 515-239-1052.

### **Railroad Revolving Loan and Grant Fund Program**

- a. Description: Amend rules related to the Railroad Revolving Loan and Grant Fund Program. This will affect 761 IAC Chapter 822.
- b. Legal Basis: Iowa Code chapter 327H.20A.
- c. Need: The department is amending rules to allow increased flexibility to use funds for planning activities.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Tammy Nicholson, Office of Rail Transportation, 515-239-1052.

## **SECTION 4, PUBLIC TRANSIT**

### **School Transportation Services Provided by Regional Transit Systems--Annual Update**

- a. Description: Update references to federal regulations. This will affect 761 IAC Chapter 911.
- b. Legal Basis: Iowa Code section 321.377.
- c. Need: Annual update of referenced federal regulations.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Michelle McEnany, Office of Public Transit, 515-239-1659.

## **SECTION 5, TRAILS**

### **Recreational Trails Program**

- a. Description: Amend rules related to administration of the recreational trails program. This will

affect 761 IAC Chapter 165.

- b. Legal Basis: Iowa Code chapter 465B.
- c. Need: The department is amending these rules to clarify procedures and requirements and to update contact information.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2012.
- e. Contact Person: Craig Markley, Office of Systems Planning, 515-239-1027.

## **SECTION 6, ADMINISTRATION AND MISCELLANEOUS**

### **Public Records and Fair Information Practices**

- a. Description: Amend the rule chapter regarding public records and fair information practices to update contact information and correct references to the department's Records Management Manual. The department also plans to review the entire chapter to determine if the procedures regarding public access to department records should be revised and listing of confidential department records modified. This will affect 761 IAC Chapter 4.
- b. Legal Basis: Iowa Code chapter 22.
- c. Need: The chapter was last revised in 2003, and it needs to be thoroughly reviewed and brought up to date.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2012.
- e. Contact Person: Dena Gray-Fisher, Office of Multimedia Services, 515-239-1922.

### **Government Efficiency Measures**

- a. Description: Reviewing our administrative rules to determine if there are any barriers that would prevent recovery of any unencumbered or unobligated state funding provided to a political subdivision of the state if the political subdivision no longer complies with requirements to receive the state funding per 2011 Iowa Acts, House File 45, section 37.
- b. Legal Basis: Iowa Code section 8.51
- c. Need: The department is reviewing our administrative rules as outlined above.
- d. Contemplated Schedule: Review rules in fiscal year 2012 and initiate rulemaking if necessary.
- e. Contact Person: Steve Bowman, Office of Policy & Legislative Services, 515-239-1362.