

Iowa Department of Transportation

Regulatory Plan August 1, 2009

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 2010 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.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- 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 2010.
- e. Contact Person: Craig Markley, Office of Systems Planning, 515-239-1027.

Bridge Safety Fund

- a. Description: Develop rules related to the administration of a Bridge Safety Fund. This will affect 761 IAC Chapter 162.
- b. Legal Basis: 2009 Iowa Acts, Senate File 376, Section 34.
- c. Need: New legislation requires the department to adopt rules.
- d. Contemplated Schedule: Emergency rules were adopted and filed July 15, 2009 with an effective date of July 15, 2009. The department will also complete the rulemaking process using the standard process in fiscal year 2010.
- e. Contact Person: Norman McDonald, Office of Bridges and Structures, 515-239-1206.

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.
- 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 2010.
- 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: Initiate rulemaking in fiscal year 2010.
- 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 2010.

- e. Contact Person: Dave Lorenzen, Office of Motor Vehicle Enforcement, 515-237-3219.

For-Hire Interstate Motor Carrier Authority--Annual Update

- a. Description: Amend rules regarding for-hire interstate motor carrier authority by adopting the most recent annual codifications of 49 CFR Parts 365-368 and 370-379. This will affect 761 IAC Chapter 529.
- b. Legal Basis: Iowa Code chapter 327B.
- c. Need: Each October, a revised edition of 49 CFR is published. The department annually adopts the specified parts of the most recent annual edition of 49 CFR.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Bruce Schuck, Office of Motor Carrier Services, 515-237-3250.

Unified Carrier Registration System

- a. Description: Amend rules to replace the single state registration system (SSSR) for motor carriers with the unified carrier registration system (UCR). The UCR replaces the SSSR. This will affect 761 IAC Chapter 529.
- b. Legal Basis: Iowa Code section 327B.1.
- c. Need: To conform to Iowa Code section 327B.1.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Bruce Schuck, Office of Motor Carrier Services, 515-237-3250.

Driver Records

- a. Description: Amend rules to reflect statutory changes to Iowa Code section 321A.3(8) made by Iowa Acts 2009, 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 2010.
- 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 2010.
- 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: Section 11 of Senate File 419 amended Iowa Code section 321.210
- c. Need: The department is amending the rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- 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 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 2010.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

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

- a. Description: Amend rules to reflect new federal legislation regarding the issuance of REAL ID/PASS ID compliant licenses and identification cards. This may affect 761 IAC Chapters 600, 601 and 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 requirements to confirm options and procedures for citizens that seek licenses or IDs compliant with federal security requirements.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- 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 600.4 and 761 IAC 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: Initiate rulemaking in fiscal year 2010.
- 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 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 2010.
- 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, 761 IAC 634.6 and 761 IAC 634.7.
- b. Legal Basis: Iowa Code section 321.178.
- c. Need: Recent administrative action regarding disqualification of driver's education instructors who have had contributive accidents suggests rule changes are needed to maintain the rules within statutory authority.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

Vehicle Records

- a. Description: Amend rules to clarify and update the process, requirements and restrictions for obtaining vehicle and title information protected by the Driver's Privacy Protection Act (DPPA), 18 U.S.C. section 2725. This will affect 761 IAC Chapters 4 and 415.
- b. Legal Basis: Driver's Privacy Protection Act, 18 U.S.C. section 2725.
- c. Need: The department is amending the rules to remain consistent with changes to rules regarding the process, requirements and restrictions for obtaining information protected by the DPPA from driver records.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Tina Hargis, Office of Vehicle Services, 515-237-3175.

Vehicle Registration and Certificate of Title

- a. Description: Amend rules to clarify policies and procedures regarding vehicle registration and certificate of title per Iowa Code section 633A.4604 and to comply with 2008 Acts, HF2452, which became effective 7-1-09. These amendments will affect Rules 761-400.1, 400.4(9), 400.13(1), 400.13(1)(d), 400.14(4), 400.16, 400.21(4), 400.27(3) & (5), 400.35, 400.39, 400.43 and 400.50.
- b. Legal Basis: Iowa Code sections 321.20, 321.23, 321.24, 321.30(2), 321.48, 321.52, 321.70, 321.101(1), 321.104, 321.109, 321.111, 321.124, 321.126, 321.127, 321.128, 321.134, 326.15, 633A.4604; and 2008 Iowa Acts, House File 2452.

- c. Need: The department is amending the rules to clarify procedures and streamline requirements to be consistent between systems, to document current practices, and to comply with the requirements of 2008 Iowa Acts, House File 2452.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Tina Hargis, Office of Vehicle Services, 515-237-3175.

Special Registration Plates

- a. Description: Amend rules to clarify special registration plate fees. This will affect 761 IAC 401.19 and 761 IAC 401.15(6).
- b. Legal Basis: Iowa Code sections 321.34(13) and (15).
- c. Need: The department is amending these rules to clarify procedures and document current practices and to allow applicants for processed emblem plates to build a supporting pool of applicants without restarting the approval process.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Tina Hargis, Office of Vehicle Services, 515-237-3175.

Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers

- a. Description: Amend rules to clarify policies regarding franchise requirements, temporary licenses and vehicle ownership. This will affect 761 IAC Chapter 425.
- b. Legal Basis: Iowa Code sections 321.62, 321.95, 322.13, 322.4 to 322.7, 322A.3, 322A.4, 322A.7, 322A.16; 322C.1, and 322C.4.
- c. Need: The department is amending these rules to clarify procedures and document current practices, and to ensure full compliance with licensing requirements before issuance of a license.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Tina Hargis, Office of Vehicle Services, 515-237-3175.

Motor Vehicle Equipment

- a. Description: Amend rules to comply with 2008 Iowa Acts, House File 2452, effective July 1, 2009. This will affect 761 IAC Chapter 450.
- b. Legal Basis: Iowa Code section 321.23, as amended by Iowa Acts 2008, House File 2452, effective July 1, 2009.

- c. Need: The department is amending these rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Tina Hargis, Office of Vehicle Services, 515-237-3175.

SECTION 3, RAILROAD

Close-Clearance Warning Devices

- a. Description: Adopt rules to implement 2007 Iowa Acts, Senate File 472. This bill requires railroads to post warning devices at locations of close clearance along railroad tracks. The department is proposing to adopt a new chapter: 761 IAC Chapter 813.
- b. Legal Basis: 2007 Iowa Acts, Senate File 472.
- c. Need: The legislation requires the department to adopt rules.
- d. Contemplated Schedule: Notice of Intended Action was published in the July 1, 2009, Iowa Administrative Bulletin.
- e. Contact Person: Diane McCauley, Office of Rail Transportation, 515-239-1670.

Railroad Revolving Loan and Grant Program (RRLG)

- a. Description: Amend rules related to administration of the Railroad Revolving Loan and Grant program. This will affect 761 IAC Chapter 822.
- b. Legal Basis: Iowa Code chapter 327H.
- c. Need: The department is amending the rules to clarify procedures and requirements.
- d. Contemplated Schedule: Initiate rulemaking by January 1, 2010.
- e. Contact Person: Tamara 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 2010.
- 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 correct contact information and clarify and streamline procedures.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2010.
- 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: Initiate rulemaking in fiscal year 2010.
- e. Contact Person: Dena Gray-Fisher, Office of Media and Marketing Services, 515-239-1922; and Bruce Dutton, Office of Document Services, 515-239-1941.