

COMMISSION MINUTES

May 14, 2024

IOWA TRANSPORTATION COMMISSION Meeting Agenda / Commission Orders

May 14, 2024

Materials Conference Room

Ames DOT Complex

ITEM NUMBER	TITLE	SUBMITTED BY	PAGE
1:00 p.m. D-2024-49	* Approve Minutes of the April 9, 2024 Commission Meeting Commission Comments DOT Comments	Cindy Dorhout	2
TD-2024-50	* Administrative Rule Chapter - 761 IAC Chapters 529, 607, 800, 810, and 911	Stuart Anderson	4
TD-2024-51	* Corridor Preservation Renewal: I-380 from North of Swan Lake Road to North of County Road F12/120th Street	Bryan Bradley	11
TD-2024-52	* Draft 2025-2029 Iowa Transportation Improvement Program	Stuart Anderson	14

1:10 p.m. Adjourn

* Action Item

On Tuesday, May 14, the Commission and staff will meet informally at 9:30 a.m. in the Materials Conference Room. 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-2024-49
Submitted by Cindy Dorhout Phone No. 515-239-1067 Meeting Date May 14, 2024
Title Approve Minutes of the April 9, 2024 Commission Meeting

DISCUSSION/BACKGROUND:

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve the minutes of the April 9, 2024 Commission Meeting.

COMMISSION ACTION:

Moved by Richard Arnold 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>	_____	_____

D-2024-49

Commissioner Yanney called the meeting to order. She began by asking for approval of the minutes from the April 9, 2024 Commission meeting.

Commissioner Arnold moved.

Commissioner Stutsman seconded a motion to approve.

The vote to approve was unanimous.

Commission Comments: None

DOT Comments: None

Commissioners Present: Charese Yanney (Chair), Sally Stutsman (Vice Chair), Richard Arnold, Ray Gaesser, Kathy Fehrman, Linda Juckette, and Tom Rielly

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Transportation Development Division and Motor Vehicle Division Order No. TD-2024-50
 Submitted by Stuart Anderson Phone No. 515-239-1661 Meeting Date May 14, 2024
 Title Administrative Rules – 761 IAC Chapters 529, 607, 800, 810 and 911

DISCUSSION/BACKGROUND:

This proposed rulemaking aligns Chapters 529, For-Hire Interstate Motor Carrier Authority, and 607, Commercial Driver Licensing, with federal regulation changes that occurred during the 2023 federal fiscal year and aligns Chapters 800, Items of General Application for Railroads, 810, Railroad Safety Standards, and 911, School Transportation Services Provided by Regional Transit Systems, with federal regulation changes that occurred during the 2022 and 2023 federal fiscal years.

This proposed rulemaking adopts the current CFR dated October 1, 2023, for 49 CFR Parts 365 to 368 and 370 to 379 within Chapter 529.

This rulemaking also adopts the current CFR dated October 1, 2023, for 49 CFR Part 380, Subpart F; and certain portions of 49 CFR Part 383 within Chapter 607.

The proposed amendments to Chapter 800 add a date certain to references to 49 U.S.C. 20106 and adopt the current CFR dated October 1, 2023, for 49 CFR Part 1152 and 49 CFR Part 1241. The proposed amendment to Chapter 810 adopts the current CFR dated October 1, 2023, for 49 CFR Part 213.

The proposed amendment to Chapter 911 adopts the current CFR dated October 1, 2023, for 49 CFR Parts 38, 571, and 655.

The public comment period ended on April 26, 2024. 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. This rulemaking is an exception to Executive Order 10.

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
	Arnold	x	_____	_____
	Fehrman	x	_____	_____
	Gaesser	x	_____	_____
Moved by <u>Kathy Fehrman</u>	Seconded by <u>Linda Juckette</u>	x	_____	_____
	Juckette	x	_____	_____
	Rielly	x	_____	_____
	Stutsman	x	_____	_____
	Yanney	x	_____	_____
_____ Division Director	_____ Legal			_____ State Director

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to adoption of federal regulations
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 529, “For-Hire Interstate Motor Carrier Authority,” Chapter 607, “Commercial Driver Licensing,” Chapter 800, “Items of General Application for Railroads,” Chapter 810, “Railroad Safety Standards,” and Chapter 911, “School Transportation Services Provided by Regional Transit Systems,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.27(8), 321.188, 321.377, 324A.4(2) and 327G.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 324A and 327B and sections 307.26, 307.27, 321.187, 321.188, 321.207 to 321.208A, 321.377, 327C.4, 327C.38, 327C.41, 327F.31 and 327G.24.

Purpose and Summary

This proposed rulemaking aligns Chapters 529 and 607 with federal regulation changes that occurred during the 2023 federal fiscal year and aligns Chapters 800, 810 and 911 with federal regulation changes that occurred during the 2022 and 2023 federal fiscal years.

The proposed amendments are part of the regular process by which the Department adopts the most recent updates to the federal regulations. Iowa Code section 307.27(8) requires the Department to administer the registration of interstate authority of motor carriers pursuant to federal regulations, which are contained in 49 Code of Federal Regulation (CFR) Parts 365 to 368 and 370 to 379. Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver’s licenses (CDLs) in compliance with certain portions of 49 CFR Part 383. Iowa Code section 327G.24 allows the Department or roadway jurisdiction that has authority over the roadway to remove tracks from a roadway crossing pursuant to federal regulations adopted by the Department.

This proposed rulemaking adopts the current CFR dated October 1, 2023, for 49 CFR Parts 365 to 368 and 370 to 379 within Chapter 529. This rulemaking also adopts the current CFR dated October 1, 2023, for 49 CFR Part 380, Subpart F; certain portions of 49 CFR Part 383; and 49 CFR Part 384, Subpart B, within Chapter 607.

The proposed amendments to Chapter 607 include the adoption of 49 CFR Part 383, Subpart F. Subpart F concerns vehicle groups and endorsements. The Department is already in substantial compliance with this subpart. The Department determined that to comply with date certain requirements in Iowa Code section 17A.6 as amended by 2023 Iowa Acts, House File 688, section 8, it is preferable to adopt Subpart F rather than add a date certain to the numerous references to Subpart F in Chapter 607. In summary, 49 CFR Part 383, Subpart F, does the following:

- Adopts vehicle group descriptions for combination vehicles (group A), heavy straight vehicles (group B), and small vehicles (group C) and provides illustrations and examples of such vehicles.
- Sets standards for taking commercial driving skills tests in representative vehicles, according to the type of vehicle the applicant wishes to drive and the tests the applicant has already taken for prior licensing.
- Establishes descriptions and testing requirements for vehicle endorsements and restrictions on a commercial learner’s permit (CLP) or CDL.

The proposed amendments to Chapter 800 add a date certain to references to 49 U.S.C. 20106 and adopt the current CFR dated October 1, 2023, for 49 CFR Part 1152 and 49 CFR Part 1241. The proposed amendment to Chapter 810 adopts the current CFR dated October 1, 2023, for 49 CFR Part 213.

The proposed amendment to Chapter 911 adopts the current CFR dated October 1, 2023, for 49 CFR Parts 38, 571, and 655.

Proposed federal regulations are published in the Federal Register (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 (U.S. DOT).

No amendments to the Federal Motor Carrier Safety Regulations (FMCSR) impacting Chapter 607 have been made since the 2022 edition was adopted by the Department. There have also been no amendments to the Surface Transportation Board's regulations impacting Chapter 800 since the 2021 edition was adopted by the Department.

The following paragraphs provide a specific description of the affected amendments that have become final and effective since the latest edition of the CFR adopted that affect Chapters 529, 810 and 911.

Part 213 (FR Vol. 88, No. 4, Pages 1114-1132, 1-6-23)

This final rule provides the statutorily prescribed 2023 adjustment to civil penalty amounts that may be imposed for violations of certain U.S. DOT regulations. Effective date: January 6, 2023.

Part 213 (FR Vol. 87, No. 54, Pages 15839-15873, 3-21-22)

This final rule provides the statutorily prescribed 2022 adjustment to civil penalty amounts that may be imposed for violations of certain U.S. DOT regulations. In addition, this rule notes new U.S. DOT authority related to civil penalties. Effective date: March 21, 2022.

Part 365 (FR Vol. 87, No. 219, Pages 68367-68381, 11-15-22)

This interpretive rule added appendices to the FMCSR to explain existing statutes and regulations Federal Motor Carrier Safety Administration (FMCSA) administers related to the applicability of the FMCSR, including the financial responsibility regulations, to motor carriers of passengers operating in interstate commerce, including limitations on such applicability based on characteristics of the vehicle operated or the scope of operations conducted; and the applicability of commercial operating authority registration based on the FMCSA's jurisdiction over motor carriers of passengers, regardless of vehicle characteristics, when operating for-hire in interstate commerce. Under certain conditions, motor carriers performing intrastate movements of passengers may still be operating in interstate commerce and, unless otherwise exempt, are subject to applicable FMCSA statutory and regulatory requirements. Effective date: November 15, 2022.

Part 365 (FR Vol. 87, No. 227, Page 72898, 11-28-22)

This notice corrected errors in the docket number, address section, and supplementary information section contained in the interpretive rule issued on November 15, 2022. Effective date: November 28, 2022.

Part 367 (FR Vol. 88, No. 119, Pages 40719-40724, 6-22-23)

FMCSA amended the regulations for the annual registration fees states collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration Plan and Agreement for the 2024 registration year and subsequent registration years. The fees for the 2024 registration year are approximately 9 percent less than the fees for the 2023 registration year, with varying reductions between \$4 and \$3,453 per entity, depending on the applicable fee bracket. Effective date: July 24, 2023.

Part 371 (FR Vol. 88, No. 116, Pages 39368-39373, 6-16-23)

This notice contained FMCSA's final guidance, in response to a mandate in the Infrastructure Investment and Jobs Act, to inform the public and regulated entities about FMCSA's interpretation of the definitions of "broker" and "bona fide agents" as they relate to all brokers of transportation by motor vehicle. Effective date: June 16, 2023.

Part 655 (FR Vol. 88, No. 84, Pages 27596-27653, 5-2-23)

This final rule amends the U.S. DOT's regulated industry drug testing program to include oral fluid testing. This additional methodology for drug testing will give employers a choice that will help combat

employee cheating on urine drug tests and provide a less intrusive means of achieving the safety goals of the program. Effective date: June 1, 2023.

A Regulatory Analysis, including the proposed amendments, was published in the February 7, 2024, Iowa Administrative Bulletin. A public hearing was held on March 1, 2024. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of the Notice of Intended Action on March 11, 2024.

Fiscal Impact

The federal regulations to be adopted by reference in this rulemaking were subject to a fiscal impact review by the Federal Motor Carrier Safety Administration, Federal Railroad Administration, and Federal Transit Administration when enacted and were determined not to be cost-prohibitive. Each FR notice cited contains a fiscal analysis.

Jobs Impact

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

Waivers

Various portions of the federal regulations and Iowa statutes that affect Chapters 529 and 607 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. Any person who believes that the application of the discretionary provisions affecting Chapter 800, 810 or 911 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 or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on April 26, 2024. 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

A public hearing at which persons may present their views orally will be held as follows:

April 26, 2024
10 to 10:30 a.m.

Via video/conference call:
teams.microsoft.com/l/meetup-join
Or dial: 515.817.6093
Conference ID: 819571984

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 rulemaking.

Any persons who intend to participate in 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.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. 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, ~~2022~~ 2023, for regulating interstate for-hire carriers.

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

ITEM 2. Amend **761—Chapter 529**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 307.27 and chapter 327B.

ITEM 3. Amend subrule 607.10(1) as follows:

607.10(1) Code of Federal Regulations. The department's administration of commercial driver's licenses shall be in compliance with the state procedures set forth in 49 CFR Section 383.73, and this chapter shall be construed to that effect. The department adopts the following portions of the Code of Federal Regulations, which are referenced throughout this chapter of rules:

- a. 49 CFR Section 391.11 as adopted in 661—Chapter 22.
- b. 49 CFR Section 392.5 as adopted in 661—Chapter 22.
- c. 49 CFR Part 380, Subpart F (October 1, 2023).
- d. The following portions of 49 CFR Part 383 (October 1, ~~2022~~ 2023):
 - (1) Section 383.51, Disqualification of drivers.
 - (2) Subpart E—Testing and Licensing Procedures.
 - (3) Subpart F—Vehicle Groups and Endorsements.
 - ~~(3)~~ (4) Subpart G—Required Knowledge and Skills.
 - (4) ~~(5)~~ Subpart H—Tests.

ITEM 4. Amend subrule 800.4(1) as follows:

800.4(1) A railroad company submitting an annual report to the Surface Transportation Board under 49 CFR Part 1241 shall submit a copy of this report to the department on or before April 1 following the close of the calendar year. Included with this report shall be a “State Statistics” report, which shall include the following: annual data on additions and deletions of mileage within the state; mileage operated within the state at the end of the year; railway operating revenues earned within the state; statistics on rail line operations within the state, including locomotive unit-miles, car-miles and ton-miles; revenue freight carried within the state by commodity class; and a freight density map showing gross ton-miles for the railroad company's system within the state.

For the purpose of this rule, 49 CFR Part 1241 is adopted as of October 1, 2023.

ITEM 5. Amend paragraph **800.15(4)“a”** as follows:

a. The department may approve the proposed ordinance/resolution only if the proposal satisfies the requirements of 49 U.S.C. 20106 as amended to August 3, 2007: (1) it is necessary to eliminate or reduce a an essentially local safety or security hazard; (2) it is not incompatible with a federal law, regulation or order of the United States government; and (3) it does not unreasonably burden interstate commerce.

ITEM 6. Amend subrule 800.20(1) as follows:

800.20(1) 49 CFR Part 1152 contains the regulations governing the abandonment and discontinuance of railroad lines and rail transportation under 49 U.S.C. 10903 et seq. This part also

contains the regulations and procedures for the acquisition or use of railroad rights-of-way proposed for abandonment for interim trail use and rail banking pursuant to 16 U.S.C. 1247(d).

For the purpose of this rule, 49 CFR Part 1152 is adopted as of October 1, ~~2021~~ 2023.

ITEM 7. Amend subrule 810.1(1) as follows:

810.1(1) Standards. The department adopts the railroad track safety standards contained in 49 CFR Part 213 (October 1, ~~2021~~ 2023).

ITEM 8. Amend subrule 911.5(1) as follows:

911.5(1) Code of Federal Regulations. The department of transportation adopts the following portions of the October 1, ~~2021~~ 2023, Code of Federal Regulations, which are referenced throughout this chapter:

- a. 49 CFR Part 38, Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- b. 49 CFR Part 571, Federal Motor Vehicle Safety Standards.
- c. 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

TD-2024-50

Stuart Anderson, Director - Transportation Development Division

There are several State Administrative Rule Chapters that include references to federal regulations on a regular basis. We need to amend our state rules to refer to the most current version of those federal regulations. This afternoon, we're bringing to you Amendments to chapters 529, 607, 800, 810, and 911 to align with the most current version of the Code of Federal Regulations. The public comment period for these rule amendments ended on April 26. The department did not receive any public comments or requests for oral presentations.

Therefore, it is recommended that the Commission approve the rule amendments included in the Notice of Intended Action, which is attached to the Commission Order.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Transportation Development Division
Location and Environment Bureau Order No. TD-2024-51
 Submitted by Bryan Bradley Phone No. 515-239-1787 Meeting Date May 14, 2024
 Title Corridor Preservation Zone Renewal: I-380 from north of Swan Lake Road to north of County Road F12/120th

DISCUSSION/BACKGROUND:

The department has developed an overall improvement strategy for I-380 in Johnson and Linn Counties to improve safety and capacity of the interstate to meet future travel demands. Adjacent sections of I-380 are already programmed for expansion to six lanes as identified in the Interstate Investment Plan.

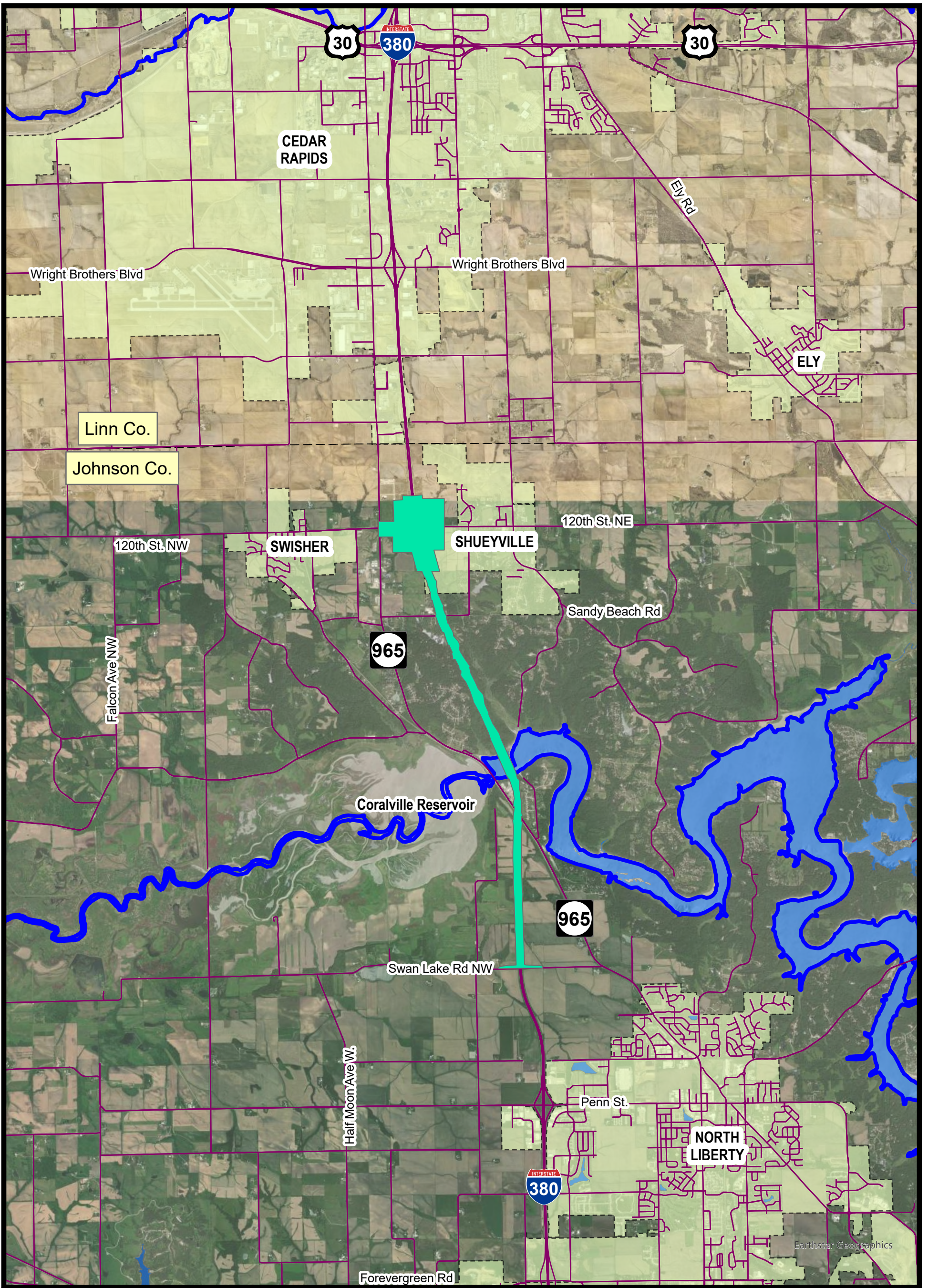
The Cedar Rapids to Iowa City corridor continues to be a major growth area and this section of I-380 is seeing increased development. Renewing this corridor preservation zone will help preserve the necessary right of way for continued future expansion of I-380.

The area of the corridor preservation zone is adjacent to I-380 in Johnson County extending from north of Swan Lake Road to north of County Road F12/120th and is shown on the attached map. All procedures per Iowa Code Section 306.19 will be followed to implement corridor preservation. If a decision is made to acquire property within the corridor preservation zone, the department will use emergency and contingency funds in the Five-Year Program or funds that are programmed for project right of way acquisition. Renewal of this corridor preservation zone will provide condemnation authority for the department within this area.

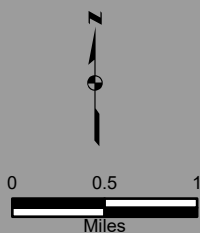
PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission renew the implementation of corridor preservation along I-380 in Johnson County from north of Swan Lake Road to north of County Road F12/120th.

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



Created May 2024



Legend

- █ Corridor Preservation Zone Major
- █ Streams
- █ Major Lakes
- County Borders
- City Limit Boundaries

CORRIDOR PRESERVATION ZONE

IM-380-6(332)8--13-52

North of Swan Lake Road to north of County Road F12/120th

Johnson County, Iowa

Earthstar Geographics

TD-2024-51

Bryan Bradley, Location and Environment Bureau- Transportation Development Division

As it says in the order, the Cedar Rapids to Iowa City Corridor continues to be a major growth area and this section of I-380 is seeing increased development. This section will fill in between the segments that are already being expanded. Renewing this Corridor Preservation Zone (CPZ) will help preserve the necessary right-of-way for future expansion of I-380. The area of the Corridor Preservation Zone is adjacent to I-380 in Johnson County extending from north of Swan Lake Road to north of County Road F-12/120th. If the decision is made to acquire property within the Corridor Preservation Zone, the department will use Emergency Contingency Funds in the program or funds that are programmed for the project right-of-way acquisition. Renewal of this Corridor Preservation Zone will provide condemnation authority for development within this area.

It is recommended the Commission renew the implementation of corridor preservation along I-380 in Johnson County from north of Swan Lake Road to north of County Road F-12 and 120th.

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Transportation Development Division Order No. TD-2024-52
Submitted by Stuart Anderson Phone No. 515-239-1661 Meeting Date May 14, 2024
Title Draft 2025-2029 Iowa Transportation Improvement Program

DISCUSSION/BACKGROUND:

The draft 2025-2029 Iowa Transportation Improvement Program will be reviewed.

PROPOSAL/ACTION RECOMMENDATION:

For information only.

COMMISSION ACTION:

Moved by _____ Seconded by _____

Division Director Legal State Director

	Aye	Vote Nay	Pass
Arnold	_____	_____	_____
Fehrman	_____	_____	_____
Gaesser	_____	_____	_____
Juckette	_____	_____	_____
Rielly	_____	_____	_____
Stutsman	_____	_____	_____
Yanney	_____	_____	_____

TD-2024-52

Stuart Anderson, Director - Transportation Development Division

This is a for information item only. This is not for action. This is in regards to the Draft 2025-2029 Iowa Transportation Improvement Program, which you have been working on since October of last year. The draft program documents your investments for all modes of transportation in Iowa through documentation of the actions you've taken to award funds through formula programs and grant programs over the last year. But on the highway side, this program lists specific highway and bridge investments anticipated to be constructed over the next five years on the state highway system. For this Draft Program, approximately \$4.5 billion of state and federal funding is available for those highway projects and is consistent with your goals and objectives of the State Long Range Transportation Plan. More than \$3.9 billion of that is targeted on stewardship investments. Your prioritization of stewardship investments is reflected both by a continued reduction in the number of poor condition bridges on the state highway system, and by a new record level of stewardship investment planned for Fiscal Year 2029 with 91% of that investment in that year being towards repair and replacement of roads and bridges, or on safety investments on the state highway system.

This state program also includes additional focused safety initiatives like you've been doing the last several years in this program. An example of that is dedicating funding for enhanced pavement lane markings on non-interstate highways like you've been doing on the interstate system the last several years. The draft program is available for public review following this meeting and comment through the Iowa DOT website. We will share comments with you at the June meeting that we received during this public comment period and bring a final version of the program for your consideration for action. Again, this is a just **for information only item** and a press release will be going out following this meeting announcing the availability of the Draft Program.