

# TRANSPORTATION DEPARTMENT[761]

## Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapters 529, 607, 800, 810, and 911  
“Federal Regulation Changes”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.27(8), 321.188, 321.377, 324A.4(2) and 327G.24  
State or federal law(s) implemented by the rulemaking: Iowa Code sections 307.26, 307.27, 321.187, 321.188, 321.207, 321.208, 321.208A, and 321.377; chapters 324A and 327B; and sections 327C.4, 327C.38, 327C.41, 327F.31 and 327G.24

## Public Hearing

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

March 1, 2024  
10 a.m.

Via video/conference call: [Microsoft Teams link](#)  
Or dial: 1.515.817.6093  
Conference ID: 529 274 993

## Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. 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](mailto:tracy.george@iowadot.us)

## Purpose and Summary

### Chapters 529 and 607:

The Department proposes to update Chapters 529 and 607 to align with federal regulation changes occurring during federal fiscal year 2023, as required by Iowa Code section 307.27(8), which requires the Department to administer the registration of interstate authority of motor carriers pursuant to federal regulations contained in 49 Code of Federal Regulations (CFR) Parts 365 to 368 and 370 to 379, and Iowa Code section 321.188, which requires the Department to adopt rules to administer commercial driver’s licenses (CDL) in compliance with certain portions of 49 CFR Part 383.

Proposed amendments to the 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).

The following paragraphs provide a specific description of the amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) concerning Chapters 529 and 607:

1. The proposed amendment to Chapter 529 adopts the current CFR dated October 1, 2023, for 49 CFR Parts 365 to 368 and 370 to 379. The following amendments to the FMCSR impacting Chapter 529 have become final and effective since the 2022 edition of the CFR:

a. Part 365 (FR Vol. 87, No. 219, Pages 68367-68381, 11-15-22). This interpretive rule added appendices to the FMCSRs to explain existing statutes and regulations the Federal Motor Carrier Safety Administration (FMCSA) administers related to the applicability of the FMCSRs, 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.

b. 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.

c. 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 (UCR) 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.

d. 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.

2. The proposed amendment to Chapter 607 adopts the current CFR dated October 1, 2023, for 49 CFR Part 380 and certain portions of 49 CFR Part 383. There were no amendments to the FMCSRs impacting Chapter 607 since the 2022 edition of the FMCSR was adopted by the Department.

3. The proposed amendment to Chapter 607 also adds the adoption of 49 CFR Part 383, Subpart F (Vehicle groups and endorsements), and 49 CFR Part 384, Subpart B (Minimum standards for substantial compliance by states). The Department has determined that, in order to comply with date certain requirements in Iowa Code chapter 17A as amended by 2023 Iowa Acts, House File 688, it is preferable to adopt the subparts rather than add a date certain to the numerous references to the subparts in Chapter 607.

a. 49 CFR Part 383, Subpart F. Subpart F concerns vehicle groups and endorsements and Iowa Code sections 383.91, 383.93 and 383.95. In summary, Subpart F does the following:

i. 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.

ii. 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.

iii. Establishes descriptions and testing requirements for vehicle endorsements and restrictions on a commercial learner's permit (CLP) or CDL.

b. 49 CFR Part 384, Subpart B. Subpart B concerns CDL testing and issuance standards that state driver's license agencies must adhere to. The Department already is in substantial compliance with this subpart and is intending to adopt this subpart as part of a separate rulemaking (Notice **ARC 7491C**, 1/10/24) due to 2023 legislation that impacts Chapter 607. However, as those amendments have not yet been adopted, they are included in this rulemaking in the event of overlapping rulemaking processes.

#### **Chapters 800 and 810:**

The Department proposes to update Chapters 800 and 810 to align with federal regulation changes occurring during federal fiscal year 2023. Iowa Code section 327G.24 allows the Department or roadway jurisdiction having authority over the roadway to remove tracks from a roadway crossing pursuant to federal regulations adopted by the Department. The proposed amendments to these two chapters adopt the October 1, 2023, CFR for 49 CFR Part 213, 49 CFR Part 1152 and 49 CFR Part 1241 and adopt a date certain to requirements within 49 U.S.C. Section 20106.

There have been no changes since the last update to 49 CFR Part 1152 or 49 CFR Part 1241 for Chapter 800.

The following paragraphs provide a specific description of the amendments to 49 CFR Part 213 for Chapter 810:

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 for 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 for certain U.S. DOT regulations. In addition, this rule notes new U.S. DOT civil penalties. Effective date: March 21, 2022.

#### **Chapter 911:**

The Department proposes to update Chapter 911 to align with federal regulation changes occurring during federal fiscal year 2023. The proposed amendment to Chapter 911 adopts the October 1, 2023, CFR for 49 CFR Part 38, 49 CFR Part 571, and 49 CFR Part 655 to ensure the rule contains the most up-to-date federal requirements for the Americans with Disabilities Act, proper construction of buses providing school transportation, and drug and alcohol testing for school bus and public transit operators. The CFR changes found since the last update of this chapter were in 49 CFR Part 655 that now allow for oral fluids to be used for drug testing. 49 CFR Section 655.53 adds “oral fluid collector” and 49 CFR Section 655.71 explicitly adds “oral fluid specimen” as an alternate to urine specimens. The changes to 49 CFR Part 655 were effective May 2, 2023. There were no pertinent changes to 49 CFR Part 38 or 49 CFR Part 571 affecting this chapter.

#### Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The proposed amendments to Chapters 511, 607, 800 and 810 do not create additional costs for any classes of persons. The adoption of the applicable federal regulations does not impose any requirements on commercial motor carriers, commercial drivers or railroad corporations beyond the requirements already contained in the applicable federal regulations. The purpose of adoption of the federal regulations is to conform with the Iowa Code requiring such adoption and to ensure the Department’s compliance with these federal regulations.

In reference to the proposed amendment within Chapter 911, the costs for the oral fluid specimen drug testing will be borne by Iowa’s public transit agencies, not a particular class of person. It is noted, however, that the oral fluid specimen drug testing method would be in place of a urine specimen test; therefore, the cost difference should be minimal.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa motor carriers, commercial drivers, law enforcement, and employers of commercial drivers will benefit from the proposed amendments to Chapters 511 and 607 because adoption of the federal regulations ensures consistency and compliance with FMCSA standards. Compliance ensures that the Department will remain authorized to issue CDLs and remain in receipt of federal highway funding that is contingent upon such compliance.

The State, Department, and railroad corporations will not benefit from the proposed rule amendments within Chapters 800 and 810 because adoption of the federal regulations ensures consistency and compliance with the federal regulations.

With respect to the proposed amendment to Chapter 911, those safety-sensitive employees of Iowa’s public transit agencies subject to preemployment, random, and post-accident drug testing will benefit from the option of oral fluid drug testing since it will be a less invasive, more convenient test.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Within Chapter 529, there is one quantitative impact to motor carriers and other entities that are registered under the UCR Plan and Agreement, due to the FR changes described in 1(c) of the purpose and summary section of this Regulatory Analysis. The effect is to reduce the annual registration fee that motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies are currently required to pay under the UCR. As noted in the FR, the reduction will be approximately 9 percent, ranging from \$4 to \$3,453 per entity, depending on the number of vehicles owned and/or operated by the affected entities.

There are no additional quantitative impacts to Chapter 529 or 607.

There are no additional quantitative impacts to Chapter 800 or 810.

The oral fluid testing included in the proposed amendment to Chapter 911 is noted in the FR as costing less than the traditional urine specimen testing, “an oral fluid test can cost between \$10 to \$20 less than a urine test (e.g., about \$50 for a typical urine testing process, vs. about \$35 for an oral fluid testing process, with the largest part of the difference being attributable to the collection process).” There may be some other small cost increases from using oral fluids, such as the cost of the collection kits, which can expire, at approximately \$4 each, whereas the urine collection test kits do not expire.

Additional quantitative benefits are also listed in the FR: eliminating the costs of shy bladder evaluations and the thwarting of cheating.

- Qualitative description of impact:

There are no additional qualitative impacts of this proposed rulemaking concerning Chapter 529 or 607 other than the benefits described under the answer to Question 1.

There are no additional qualitative impacts of this proposed rulemaking concerning Chapter 800 or 810.

For Chapter 911, qualitative benefits of oral fluid testing are noted in the FR Notice: alleviating the burden on individuals who cannot produce a sufficient urine specimen due to a psychological and/or physical medical condition and opening transportation safety-sensitive employment possibilities to many who have disabilities rendering them unable to produce an adequate urine specimen.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no costs to the State due to implementation or enforcement of Chapters 529, 607, 800, 810 and 911. The Department is already in substantial compliance with the applicable federal regulations.

As noted in the quantitative costs question above, Iowa's public transit agencies may see a small increase in drug testing costs due to the oral fluid specimen kits, but that cost is expected to be minimal and possibly offset by the lower expected overall cost of oral fluid collection.

- Anticipated effect on state revenues:

The proposed rulemaking that affects Chapters 529, 607, 800, 810 and 911 has no anticipated effect on state revenues.

Regarding the proposed amendment within Chapter 529 to 1(c) described in the purpose and summary section of this Regulatory Analysis, there will be no impact to Iowa from the reduction of UCR fees. This is because participating UCR states, such as Iowa, do not receive any fees or revenue directly from registering entities and instead receive a set amount of UCR revenue entitlements for each fiscal year as adopted by federal rulemaking. As noted in the FR, "no changes in the revenue allocations to the participating States were recommended by the UCR Plan Board or authorized by this rule." In other words, registration fees paid by motor carriers are decreasing, but states will receive the same amount of revenue allocations.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

There is no cost to the State, the Department, or the public for the proposed amendments concerning Chapters 529 and 607. The cost of inaction would be to have administrative rules that are not reflective of the most current version of the FMCSR, which would result in confusion and inconsistency from Iowa motor carriers, commercial drivers, and law enforcement and department employees responsible for administering these regulations.

There is no benefit to inaction. The benefit of the proposed amendments to Chapters 529 and 607 is compliance with and consistency between Iowa administrative rules and the FMCSR.

There is no cost to the State, the Department, or the public for the proposed amendments concerning Chapters 800 and 810. Updating the date certain within specific federal regulations and federal law creates consistency and eliminates confusion. There is no benefit to inaction.

There are no costs to the State for updating the CFR sections included in Chapter 911. The costs to Iowa's public transit agencies will be minimal for the oral fluid testing if the transit agency chooses to utilize this testing method in place of urine specimens for drug testing. The transit agencies may benefit from more eligible applicants for safety-sensitive positions due to offering oral fluid testing. Inaction in incorporating the most up-to-date CFRs could jeopardize federal transit funding to the State since adherence with federal rules and regulations is required to receive federal dollars.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Since the proposed amendments to Chapters 529, 607, 800, 810 and 911 do not impose any requirements beyond those contained in underlying federal regulations, no less costly or less intrusive methods exist to achieve this purpose.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Department did not consider alternative methods for the proposed amendments in this rulemaking.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Adopting and amending the date certain for the affected parts of the CFR are required under Iowa Code and are consistent with applicable federal motor carrier safety regulations, federal railroad regulations and federal transit regulations.

## Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed amendments to Chapters 529 and 607 have no impact to small businesses other than the benefits described in the quantitative impact section of this Regulatory Analysis due to the reduction in annual fees under the UCR Plan and Agreement.

The proposed amendments to Chapters 800 and 810 have no impact to small business.

The proposed amendment to Chapter 911 does not have substantial impact on small business interests.

### Text of Proposed Rulemaking

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](http://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.
- e. 49 CFR Part 384, Subpart B (October 1, 2023).

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.