

761—607.51(321) National drug and alcohol clearinghouse.

607.51(1) *Applicability.* This rule applies to:

- a. An applicant for or holder of a commercial learner's permit,
- b. An applicant for or holder of a commercial driver's license,
- c. An applicant seeking to transfer a commercial driver's license from a prior state of domicile to the state of Iowa,
- d. An applicant seeking renewal of a commercial driver's license,
- e. An applicant seeking to upgrade a commercial driver's license or add an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license, or
- f. An applicant for or holder of a restricted commercial driver's license.

607.51(2) *Issuance procedures.* Prior to issuing the license or permit, the department shall request information from the national drug and alcohol clearinghouse to determine if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR 382.501(a). The department shall not issue, renew, transfer, or upgrade the license or permit if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR 382.501(a). However, this subrule shall not take effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver's license agency compliance with national drug and alcohol clearinghouse requirements.

607.51(3) *CDL downgrade.* Upon receiving notification that pursuant to 49 CFR 382.501(a) the person is prohibited from operating a commercial motor vehicle, the department shall downgrade the license or permit and record the downgrade on the CDLIS driver record within 60 days of the department's receipt of such notification. However, this subrule shall not take effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver's license agency compliance with national drug and alcohol clearinghouse requirements. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person is prohibited from operating a commercial motor vehicle due to notification the department received from the national drug and alcohol clearinghouse that the person has engaged in conduct prohibited by 49 CFR 382.501(a) and that upon receipt of the notification, the department initiated a downgrade of the person's CLP or CDL.

b. If the department receives notification that the person is no longer prohibited from operating a commercial motor vehicle before the downgrade is completed, the department shall terminate the downgrade process without removing the CLP or CDL privilege from the driver's license, transmit the information to the person's CDLIS driver record, and send written notice to the person.

c. If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that a driver is no longer prohibited from operating a commercial motor vehicle, the department shall record the end of the downgrade on the person's CDLIS driver record, reinstate the CLP or CDL privilege to the driver's license, and send written notice to the person.

d. If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that the person was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall reinstate the CLP or CDL privilege to the driver's license as expeditiously as possible and remove from the CDLIS driver record and driving record any reference related to the person's erroneous prohibited status.

607.51(4) *Limitation on hearing and appeal.* An informal settlement, hearing, or appeal to contest the downgrade is limited to a determination of whether the facts required by Iowa Code sections 321.188 and 321.207 and this rule are true. The merits of the information conveyed by the national drug and alcohol clearinghouse to the department shall not be considered.

This rule is intended to implement Iowa Code sections 321.188 and 321.207.

[ARC 7747C, IAB 4/3/24, effective 5/8/24]