Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 103
"Secondary Road Fund Distribution Methodology"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 312.3

State or federal law(s) implemented by the rulemaking: Iowa Code sections 7E.3(3) as amended by 2024 Iowa Acts, Senate File 2385, section 69; 312.2; 312.3 as amended by 2024 Iowa Acts, Senate File 2385, section 303; 312.3B as amended by 2024 Iowa Acts, Senate File 2385, section 304; 312.5 as amended by 2024 Iowa Acts, Senate File 2385, section 305; and 312.16 as amended by 2024 Iowa Acts, Senate File 2385, section 306

Public Hearing

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

October 24, 2024 1 to 1:30 p.m.	Microsoft Teams Link Or dial: 515.817.6093 Conference ID: 255 254 876

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Garrett Pedersen
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1027
Email: garrett.pedersen@iowadot.us

Purpose and Summary

This chapter sets forth requirements for the adoption of the formulas to be used for distribution of moneys in the Secondary Road Fund and the Farm-to-Market Road Fund and to formalize the process by which the Transportation Commission (Commission) will administer its duties.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There are no direct costs of rules to any classes of persons.

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

The traveling public along the secondary road system in Iowa, including people who live and/or work along the roadway, and those who travel the roadway will benefit.

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:

In fiscal year 2024, the Secondary Road Fund amounted to $421.2 million, and the Farm-to-Market Road Fund had $118.8 million. These figures amount to 98 percent of the total

nonappropriated funds in the county road fund. With this high percentage, the process to propose new or modified formulas is very impactful to the overall effective use of the funds.

- Qualitative description of impact:

The Commission would be advised by an ad hoc committee composed of Iowa county engineers and Iowa county supervisors that possess great institutional and professional knowledge to help manage distribution formulas that are beneficial to the State.

3. Costs to the State:

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

Costs to the State directly associated with the rule chapter include the staff time associated with the preparation of materials and administration of activities for the Commission and Committee.

- Anticipated effect on state revenues:

The costs to the State are negligible and, when incurred, allow the ad hoc committee to maximize its time serving as subject matter experts.

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

The cost of inaction would be inefficiencies in how collected State revenues are distributed. Without the functions defined in the rules, there would be no mechanism/governing body employed to ensure the maximum effectiveness of the affected state revenues.

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

No alternatives have been identified that are less costly or intrusive.

6. Alternative methods considered by the agency:

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

The Department did not seriously consider alternative methods. This chapter is required by statute.

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

Not applicable.

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?

This chapter does not have a substantial impact on small businesses.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 761—Chapter 103:

CHAPTER 103
SECONDARY ROAD FUND DISTRIBUTION METHODOLOGY

761—103.1(312) General.

103.1(1) *Purpose.* The purpose of these rules is to adopt the formulas to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund and to formalize the process by which the commission will administer its duties in accordance with Iowa Code section 312.3 as amended by 2024 Iowa Acts, Senate File 2385, section 303.

103.1(2) *Contact information.* Questions regarding this chapter may be directed to the Systems Planning Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone, 515.239.1664.

103.1(3) *Definitions.* As used in this chapter:

"Bridges" means those structures under the jurisdiction of a county secondary roads department that are included in the National Bridge Inventory System.

"Commission" means the same as defined in Iowa Code section 312.16 as amended by 2024 Iowa Acts, Senate File 2385, section 306.

"Committee" means an ad hoc committee as described in rule 761—103.2(7E,312).

"Daily vehicle miles of travel" means the product of a road segment's length, in miles, multiplied by the daily traffic count thereon, in vehicles per day, reported for that segment by department, based on the most recent counts available.

"Earth surfaced" means roads under the jurisdiction of a county secondary roads department that are not surfaced.

"Formula" means the appropriate secondary road fund distribution formula or farm-to-market road fund distribution formula as described in subrules 103.3(1) and 103.3(2).

"Granular surfaced" means roads under the jurisdiction of a county secondary roads department that have crushed rock, gravel, or oiled earth surfaces.

"Paved surfaced" means roads under the jurisdiction of a county secondary roads department with hot mix asphalt, Portland cement concrete, or stabilized base with waterproof surfacing.

"Rural population" means the count, taken from the most recently certified decennial federal census, of persons who reside in the unincorporated areas of a county.

761—103.2(7E,312) Composition and membership of the ad hoc secondary road fund distribution committee.

103.2(1) The committee is composed of six county engineers, six county supervisors, two representatives of the department, and the executive director of the Iowa County Engineers Association Service Bureau.

103.2(2) The county engineers are appointed by the president of the Iowa County Engineers Association, the county supervisors are appointed by the president of the Iowa State Association of County Supervisors, and the department representatives are appointed by the department.

103.2(3) The county engineer members and the county supervisor members are selected according to the population of their counties, as follows:

a. Two county engineers and two county supervisors from large counties.

b. Two county engineers and two county supervisors from medium counties.

c. Two county engineers and two county supervisors from small counties.

103.2(4) To the extent possible, the committee is geographically diverse, and no county will have both an engineer and a supervisor as members simultaneously.

103.2(5) All county members are voting members. The department representatives and the executive director of the Iowa County Engineers Association Service Bureau are nonvoting members.

103.2(6) The committee selects from its membership a chair and a vice-chair. The vice-chair presides at a meeting in the absence of the chair.

761—103.3(312) Formulas.

103.3(1) *Formula for determining secondary road fund allocation factors.* The Iowa County Engineers Association Service Bureau annually computes percentage allocation factors for the allocation of secondary road fund revenues among the counties by using the methodology determined by the commission and calculating and summing the following percentage subtotals for each county:

a. Thirty percent times the ratio that the total area of each county bears to the total area of the state.

b. Ten percent times the ratio that the rural population of each county bears to the total rural population of the state.

c. Twelve and one-half percent times the ratio that the total daily vehicle miles of travel on each county's secondary roads bears to the total daily vehicle miles of travel on all secondary roads in the state.

d. One-half percent times the ratio that the earth-surfaced miles of secondary roads of each county bears to the total miles of earth-surfaced secondary roads in the state.

e. Twenty percent times the ratio that the granular-surfaced miles of secondary roads of each county bears to the total miles of granular-surfaced secondary roads in the state.

f. Thirteen percent times the ratio that the paved-surfaced miles of secondary roads of each county bears to the total miles of paved-surfaced secondary roads in the state.

g. Fourteen percent times the ratio that the length, in lineal feet, of secondary road bridges of each county bears to the total length of secondary road bridges in the state.

103.3(2) *Formula for determining farm-to-market road fund allocation factors.* The Iowa County Engineers Association Service Bureau annually computes percentage allocation factors for the allocation of farm-to-market road fund revenues among the counties by using the methodology determined by the commission and calculating and summing the following percentage subtotals for each county:

a. Thirty percent times the ratio that the total area of each county bears to the total area of the state.

b. Fifteen percent times the ratio that the rural population of each county bears to the total rural population of the state.

c. Ten percent times the ratio that the total daily vehicle miles of travel on each county's farm-to-market roads bears to the total daily vehicle miles of travel on all farm-to-market roads in the state.

d. Nine percent times the ratio that the granular-surfaced miles of farm-to-market roads of each county bears to the total miles of granular-surfaced farm-to-market roads in the state.

e. Twenty-three percent times the ratio that the paved-surfaced miles of farm-to-market roads of each county bears to the total miles of paved-surfaced farm-to-market roads in the state.

f. Thirteen percent times the ratio that the length, in lineal feet, of farm-to-market road bridges of each county bears to the total length of farm-to-market road bridges in the state.

103.3(3) *Considerations for a new or modified distribution formula.* A distribution formula that is proposed in accordance with rule 761—103.4(312) should substantially meet the following objectives:

a. Funding levels to counties should be relatively stable, with only small changes occurring from year to year.

b. The formula should be able to factor in changes in population, mileages, the centerline lineal feet of bridges, and traffic levels as they occur over time, without needing to be revised.

761—103.4(312) Process for approval of a new or modified distribution formula.

103.4(1) Proposals to adopt a new or modified distribution formula may be initiated by the executive board of either the Iowa County Engineers Association or the Iowa State Association of County Supervisors upon request to the commission.

103.4(2) When a formula change has been initiated or requested, the commission directs the committee to develop a work plan and set up a work schedule.

103.4(3) The committee is to evaluate the proposal and, within 18 months after initiation or receipt of the proposal, publish an official report outlining the committee's findings and recommendations.

103.4(4) If the official report recommends adoption of a new or modified distribution formula, the chair communicates the details of the committee's recommendations to all county engineers, all county supervisors and the department in such a manner as the committee deems appropriate. This communication solicits comments on the committee's recommendations.

103.4(5) After receipt and consideration of comments from counties, the committee may adopt a resolution that formally proposes a distribution formula and places it into official consideration.

103.4(6) The chair forwards the resolution to the executive boards of both the Iowa County Engineers Association and the Iowa State Association of County Supervisors, with a request for endorsement of the proposed distribution formula.

103.4(7) If both executive boards endorse the proposed distribution formula, the chair requests each individual county to consider and adopt a resolution in favor of or in opposition to the proposed distribution formula.

103.4(8) If at least 66 counties adopt resolutions in favor of the proposed distribution formula, the chair forwards the distribution formula to the commission for action.

103.4(9) If adopted by the commission, the committee chair notifies the following organizations and groups when the distribution formula has been approved:

a. The executive board of the Iowa County Engineers Association.
b. The executive board of the Iowa State Association of County Supervisors.
c. The systems planning and local systems bureaus of the department.
d. The office of the treasurer of state.
e. All county engineers and county supervisors.
f. The Iowa County Engineers Association Service Bureau.

761—103.5(312) Judicial review. Any county that is aggrieved or adversely affected by a decision of the commission may seek judicial review of such agency action under the provisions of Iowa Code section 17A.19.

761—103.6(312) Severability clause. If any section, provision, or part of these rules is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of these rules as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

These rules are intended to implement Iowa Code sections 7E.3(3) as amended by 2024 Iowa Acts, Senate File 2385, section 69; 312.2; 312.3 as amended by 2024 Iowa Acts, Senate File 2385, section 303; 312.3B as amended by 2024 Iowa Acts, Senate File 2385, section 304; 312.5 as amended by 2024 Iowa Acts, Senate File 2385, section 305; and 312.16 as amended by 2024 Iowa Acts, Senate File 2385, section 306.