

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 101  
“Farm-to-Market Review Board”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 306.6A

State or federal law(s) implemented by the rulemaking: Iowa Code sections 306.6 and 306.6A

#### *Public Hearing*

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

September 26, 2024  
9 to 9:30 a.m.

[Microsoft Teams Link](#)  
Or dial: 515.817.6093  
Conference ID: 255 936 075

#### *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](mailto:garrett.pedersen@iowadot.us)

#### *Purpose and Summary*

This proposed chapter formalizes the process by which the Farm-to-Market Review Board (Board), created by Iowa Code section 306.6, will administer its duties, including the designation of parts of the secondary road network as the farm-to-market road system. Iowa Code section 306.6A requires the Board to adopt rules.

#### *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.
  - 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 from this chapter.
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:  
The farm-to-market road designation facilitates the distribution of state funding, and this chapter outlines the function of the Board in determining which roads are eligible to gain this designation. The farm-to-market system is not to exceed 35,000 miles, and, as such, the Board reviews each county's share of that total to maximize the effectiveness of the funds being distributed.
  - Qualitative description of impact:

The Board membership is appointed by the Iowa County Engineers Association and represents great institutional and professional knowledge that helps to designate a system that is 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 chapter include the staff time associated with the preparation of materials and administration of activities for the board.

- Anticipated effect on state revenues:

The costs to the state are negligible and, when incurred, allow the Board 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 Board 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 rules and duties could be delegated to the Iowa Transportation Commission as defined in Iowa Code chapter 307A.

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

The Transportation Commission is a rotating body of appointed representatives. As such, 1) institutional and professional knowledge is not built up and shared amongst membership; therefore, reducing the ability of the body relative to the Board, and 2) the members of the Board are selected in such a way that Department district representation is maintained by up to two members from each area, and no less than one member, as the Board cycles through new representatives. This allows for a geographically diverse membership.

*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 business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 761—Chapter 101 and adopt the following **new** chapter in lieu thereof:

CHAPTER 101  
FARM-TO-MARKET REVIEW BOARD

**761—101.1(306) Scope.** This chapter formalizes the process by which the farm-to-market review board will administer its duties. The board reviews criteria for determining eligibility for inclusion of additional roads into the farm-to-market road system in accordance with Iowa Code sections 306.6 and 306.6A.

**761—101.2(306) Definitions.**

*“Area service roads,” “local roads,” or “local road system”* means those secondary roads that are not a part of the farm-to-market road system.

*“Board”* means the farm-to-market review board.

*“Executive board”* means the Iowa county engineers association executive board.

*“Farm-to-market extensions”* means extensions of the farm-to-market road system within municipalities, state parks, state institutions, other state lands, and county parks and conservation areas. The mileage of these extensions of the system is to be included in the total mileage of the farm-to-market road system.

*“Farm-to-market roads” or “farm-to-market road system”* means those county jurisdiction intracounty and intercounty roads that serve principal traffic generating areas and connect such areas to other farm-to-market roads and primary roads. The farm-to-market road system includes those county jurisdiction roads providing service for short-distance intracounty and intercounty traffic or providing connections between farm-to-market and area service roads and includes those secondary roads that are federal aid eligible. The farm-to-market road system is not to exceed 35,000 miles.

*“President”* means the president of the Iowa county engineers association.

**761—101.3(306) Composition and membership of the board.**

**101.3(1)** The board is composed of 12 county engineers selected by the Iowa county engineers association. Two members are selected from each district to serve staggered terms. After the first complete term rotation as shown below, the members serve six-year terms. Rotations should be staggered so that no more than one-sixth of the membership is rotated off the board in any one year. The rotation of board members should further provide that two members from one district will not be rotated off the board in the same year, and that their rotations will be varied by three years. Board rotation should be as follows and should be extended in future years in the same pattern:

Year	Rotation	
2021	District 1 Representative A	District 4 Representative A
2022	District 2 Representative A	District 5 Representative A
2023	District 3 Representative A	District 6 Representative A
2024	District 1 Representative B	District 4 Representative B
2025	District 2 Representative B	District 5 Representative B
2026	District 3 Representative B	District 6 Representative B

**101.3(2)** Members are nominated by their districts and approved by the executive board. A county engineer may serve multiple, consecutive terms if so nominated by the county engineer’s district. If a county engineer is unable to complete a term for any reason, the president selects another county engineer within the district to serve the balance of the term.

**101.3(3)** The board selects from its membership a chair and a vice-chair to serve one-year terms. The chair serves at the pleasure of the board and may be elected to multiple terms as deemed appropriate by the board. The vice-chair presides at a meeting in the absence of the chair.

**761—101.4(306) Collection of system modification requests and frequency of meetings.**

**101.4(1)** The department of transportation will collect applications for modifications to the farm-to-market road system. The board chair schedules meetings of the board to review accumulated applications for farm-to-market road system modifications. Applications should be filed no less than 21 calendar days prior to each scheduled board meeting.

**101.4(2)** The board follows the provisions of Iowa Code chapter 21 with regard to open meetings. The chair posts a meeting agenda on the Iowa county engineers association service bureau website and sends copies of the agenda to all counties.

**101.4(3)** Minutes of each meeting are kept; the chair is responsible for the minutes. Meetings may be recorded to facilitate the preparation of meeting minutes, but any recordings made are not to be retained after the minutes have been completed.

**761—101.5(306) Procedure for requesting modifications to the farm-to-market road system.** To apply for a modification to the farm-to-market road system, a county files an application through the department of transportation.

**101.5(1)** The application includes the following:

*a.* A copy of a resolution of the county board of supervisors requesting the modification to the existing farm-to-market road system. Farm-to-market modifications may include proposed roads, redesignation of area service roads, or transfers of jurisdiction.

*b.* A report of the county engineer explaining and justifying the addition of new mileage to the farm-to-market road system or the change in the route or farm-to-market classification proposed by the county.

**101.5(2)** In the case of intercounty routes, joint applications may be filed. Resolutions are necessary of each county.

**761—101.6(306) Voting and approval of requested modifications.** Each member is a voting member and is eligible to vote at every meeting at which that member is in attendance. Attendance may include members being present at the meeting through a conference telephone call, Iowa communications network connection, or other electronic means deemed appropriate by the chair.

**101.6(1)** *Determination of a quorum.* A minimum of eight board members is necessary for a quorum. If a quorum is not present at a meeting, the meeting is rescheduled.

**101.6(2)** *Number of votes needed to approve or deny a modification.* For a requested modification to the farm-to-market road system to be approved, it needs to receive a minimum of seven affirmative votes; in other words, a majority of the entire board. A motion to deny a requested modification needs to only receive six votes for the denial to be approved.

**761—101.7(306) Report of board decision to applicant county.** Within 30 calendar days after a board meeting, the chair sends a formal response to each county whose request was acted upon by the board at the meeting. The response apprises each applicant of the decision of the board. If the application is denied, the board provides an explanation of the reasons for the denial.

**761—101.8(306) Reapplication for modification.** A county may reapply for a modification to the farm-to-market road system if its initial request is denied. The county again follows all provisions for requesting a modification and should be prepared to present additional information in support of the requested change. Any requested system modification that receives two denials is not to be resubmitted for consideration for a minimum of three years.

**761—101.9(306) Judicial review.** Any county that is aggrieved or adversely affected by a decision of the board may seek judicial review of such agency action under the provisions of Iowa Code section 17A.19.

**761—101.10(306) Adoption and modification of rules.** The chair directs the board to review these rules annually. Board members may recommend changes to these rules.

**761—101.11(306) Severability clause.** If any section, provision, or part of these rules is adjudged invalid or unconstitutional, such adjudication will 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 306.6 and 306.6A.