

TRANSPORTATION DEPARTMENT[761]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 111
“Real Property Acquisition and Relocation Assistance”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 316.9
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 316 and sections 6B.42, 6B.45, 6B.54, 6B.55 and 310.22

Public Hearing

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

May 9, 2024
10 to 10:30 a.m.

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 532 501 292#

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:

Mark Holm
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.7867
Email: mark.holm@iowadot.us

Purpose and Summary

Proposed Chapter 111 defines the applicability of Section II of the manual entitled “Uniform Manual, Real Property Acquisition and Relocation Assistance” (Manual) and defines the potential repercussions for failure to comply with Section II of the Manual.

Section II of the Manual, which is adopted by reference within Chapter 111, has been established to comply with Iowa Code section 316.9, which requires that the Department adopt administrative rules to ensure compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). Chapter 111 is necessary to ensure that the entities that are acquiring real property or displacing persons for a program or project are following Section II of the Manual and ultimately the Uniform Act wherever applicable.

Contrary to many chapters that contain restrictive language that is applied to citizens of Iowa, Chapter 111 is intended to provide protections for citizens of Iowa by ensuring that public agencies abide by certain federal requirements that guarantee citizens’ rights. This chapter also establishes potential repercussions if the conditions of Section II of the Manual are not satisfied.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Entities that are authorized to acquire real property or displace persons for a program or project by eminent domain will bear the costs.

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

Private property owners or leasehold/tenant interests that are subject to real property acquisitions or displacement for a program or project where eminent domain is approved 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:

It is difficult to quantify costs associated with this chapter due to the varying number of projects in any given year and the varying effect a project may have on private property owners or leasehold interests where real property is being acquired or displacement occurs. Generally, the only quantifiable costs would be administrative costs associated with staff time for an agency that is acquiring real property or providing relocation assistance for displaced persons for a program or project. These costs would be incurred by the agency acquiring real property or providing relocation assistance to comply with this chapter and Section II of the Manual.

- Qualitative description of impact:

A variety of unmeasurable qualities exist that are primarily related to the overall well-being of citizens affected by real property acquisitions or displacement. This chapter ensures that citizens do not face undue hardship whenever real property is acquired or the citizens are displaced, which in and of itself is an unmeasurable benefit that guarantees the overall contentment of citizens directly affected by a program or project. By establishing the applicability of Section II of the Manual, this chapter also inherently ensures that entities acquiring real property or displacing persons for a program or project are not circumventing federal regulations, which helps to guarantee future federal funding for the program or project.

Aside from the qualitative characteristics that are beneficial to the public, this chapter may result in additional time/effort by staff of the entity acquiring real property or displacing persons in order to comply with this chapter and Section II of the Manual, which could indirectly affect project/program deadlines; however, the overall well-being of the public and adherence to federal regulations that provide these safeguards for citizens that result from complying with this chapter outweighs the negative aspects related to project/program timing.

3. Costs to the State:

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

Implementation of this chapter has a minimal cost to the Department; the chapter and Section II of the Manual establish guidelines to protect citizens of Iowa, so the costs incurred are through implementation of best practices or processes to ensure compliance and not through the actual enforcement of a specific rule that is restrictive to the public. Administrative costs related to compliance with Section II of the Manual and staff time for the agency acquiring the property or displacing persons would be the only costs realized.

- Anticipated effect on state revenues:

This chapter has a minimal effect on state revenues. The Road Use Tax Fund is the primary funding source for projects or programs.

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

The costs of inaction are unmeasurable. Inaction could preclude future financial assistance for the program or project and may result in violations of federal regulations related to the protection of citizens' rights. Inaction or circumventing this chapter and Section II of the Manual could also put the acquiring agency at risk of legal action by those having real property acquired or being displaced.

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

No other methods are possible; this chapter is unlike other intrusive/restrictive rules in that it provides protections for citizens that may have real property acquired or be displaced due to a program or project (i.e., it is not intrusive to citizens, but protective in its quality, and the associated costs implementing the chapter are minimal).

6. Alternative methods considered by the agency:

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

Not applicable.

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

Federal mandates and Iowa Code requirements necessitate rulemaking.

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 affect small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 111 and adopt the following **new** chapter in lieu thereof:

CHAPTER 111
REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE

761—111.1(316) Acquisition and relocation assistance manual. The September 2017 edition of Section II of the manual entitled “Uniform Manual, Real Property Acquisition and Relocation Assistance” is adopted by reference.

111.1(1) Contents. Section II establishes uniform rules and procedures that comply with Iowa law and the Federal Uniform Relocation Act for the acquisition of real property and for the provision of relocation assistance to persons who are displaced from real property as a result of programs and projects. Relocation assistance is not compensation for real property acquired nor is it compensation for damages to remaining property. Rather, relocation assistance is assistance and compensation provided to a displaced person for making the move and relocating.

111.1(2) Applicability.

a. In general, Section II applies to any program or project that involves the acquisition of real property or that causes a person to be a displaced person if the program or project:

- (1) Is undertaken with federal financial assistance, or
- (2) Is a road or street program or project undertaken with state financial assistance from the primary road fund, including primary road funds allocated for state park and institutional roads, or
- (3) Is a public road or highway eligible for federal aid.

b. In general, Section II applies to any of the following entities that acquire real property or displace a person for a program or project described in paragraph 111.1(2) “*a*”:

- (1) The state of Iowa.
- (2) A political subdivision of the state.
- (3) A department, agency or instrumentality of one or more states or political subdivisions.
- (4) A utility or railroad subject to Iowa Code section 327C.2 or chapter 476, 478, 479, 479A or 479B authorized by law to acquire property by eminent domain.
- (5) Any other person who has the authority to acquire property by eminent domain under state law.
- (6) Any other person who acquires real property or displaces a person for a program or project described in paragraph 111.1(2) “*a*.”

c. Any exceptions to paragraphs 111.1(2) “*a*” and “*b*” are set out in Section II.

d. In accordance with Iowa Code section 316.9(3), an entity that provides relocation assistance benefits for any program or project is to provide an appeal process, regardless of the source of funding for the program or project. The appeal process provided is not to diminish the rights of the appellant or the scope of the appeal as described in Section II.

111.1(3) Availability of manual. Copies of the manual are available from the Right of Way Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or on the department’s website at www.iowadot.gov/rightofway/brochures-and-manuals.

111.1(4) *Future programs or projects.* Failure to comply with Section II when acquiring real property or displacing persons for a program or project may preclude the receipt of future federal financial assistance for the program or project area.

This rule is intended to implement Iowa Code chapter 316 and sections 6B.42, 6B.45, 6B.54, 6B.55 and 310.22.