

761—115.1(306A,314,320) General.

115.1(1) Purpose. This chapter covers the requirements needed for placement, adjustment and maintenance of utility facilities in, on, above or below the rights-of-way of primary roads to ensure the safety of the road user and the integrity of the road.

115.1(2) Contact information. Information regarding this chapter may be obtained from the department's website at: www.iowadot.gov/consultants-contractors/right-way/utility-accommodation-coordination; any of the department's six district offices; or the Transportation Development Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

115.1(3) Considerations. If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation documenting the design decision in the permit or the road project file, as applicable, and addressing:

- a. Safety of motorists, pedestrians, construction workers and other road users.
- b. Integrity of the road.
- c. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.
- d. Topography and geometric limitations and constraints affecting typical engineering standards.
- e. Environmental protections, limitations and constraints of surrounding ecosystem.

115.1(4) Permit approval process.

a. To apply for a permit, the applicant must submit a request in the form and manner prescribed by the department. The department will do one of the following in response to a request for a utility accommodation on the primary road system: approve the request for a permit, approve the request for a permit with conditions, or deny the request for a permit. The department will notify the applicant of the determination in writing.

b. If the utility facility will impact a road or street under the jurisdiction of a local public agency, the request must be approved by the county. If the utility facility is within corporate limits of a city, the request must be approved by the city. The applicant is responsible for obtaining local jurisdiction approvals. If the utility facility will cross or impact an interstate road, the request must be approved by the FHWA. The department is responsible for obtaining FHWA approval.

c. Upon receipt of a denial notification or if the permit was approved with conditions, the applicant may choose to pursue a waiver from the director pursuant to subrule 115.1(5).

d. For the purposes of this chapter, required notifications may be made by electronic means.

115.1(5) Waivers. The director may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition is to contain the information as required in 761—subrule 11.5(2) and be submitted to the rules administrator either by mail to Rules Administrator, Office of the Director, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

115.1(6) Additional requirement for waivers involving interstate roads. The director will not waive these rules in utility accommodation and adjustment situations involving the interstate road system, including its ramps, without the approval of the FHWA.

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