

761—115.3(306A,318,320) General provisions.

115.3(1) *Permit required.* A permit is required to place utility facilities in, on, above or below the primary road rights-of-way to attach utility facilities to a primary road structure or to adjust existing utility facilities occupying the rights-of-way.

115.3(2) *Future adjustment.*

a. In the event any future maintenance or construction of the primary road requires an adjustment of the utility facility, the department will not reimburse the utility owner for adjustment costs incurred unless otherwise noted on the permit.

b. Should adjustment of the utility facility be required, the department makes no assurance nor assumes any liability to the utility owner that the utility facility will again be allowed to occupy the primary road rights-of-way.

115.3(3) *Compliance with requirements.* It is the responsibility of the utility owner to ensure that the utility owner's utility facility complies with all applicable federal, state, local and franchise requirements and meets generally accepted industry standards at the time of installation.

115.3(4) *Performance bond.* The department may require a performance bond for utility work within the primary road rights-of-way under the following circumstances: the work is being done to adjust or relocate the utility facility to accommodate a planned primary road project; the installation is unusual; abnormal site conditions exist, such as but not limited to unstable soil or unique vegetation; or the utility owner has a history of performance problems. A performance bond is required for longitudinal freeway occupancy; more information contained in subrule 115.15(9).

a. If a performance bond is required, the utility owner shall file the bond with the department prior to commencing work within the rights-of-way in the minimum amount of \$10,000 per permit. Depending on the type and extent of the utility facility to be installed, adjusted or relocated, the department may require a higher performance bond amount. The performance bond shall be in force for the duration of the permit and through completion of the primary road project construction, when applicable. The department will release the performance bond after all permit requirements have been accomplished by the utility owner. The department shall have the right to file a claim against the performance bond for two years after the performance bond has been released.

b. An annual performance bond in the amount of \$100,000 for statewide activities in lieu of an individual performance bond for each permit is permissible and shall be kept in force for as long as the utility owner's utility facilities occupy the primary road rights-of-way anywhere within the state of Iowa.

c. When required, a performance bond shall guarantee prompt relocation for primary road project construction, restoration of any damage that is the result of the utility facility's occupancy of the primary road rights-of-way, and correction of any installation that is not in accordance with the issued permit on location or method of installation.

115.3(5) *Execution of work.* Utility construction and maintenance work within the primary road rights-of-way is to be accomplished in a manner satisfactory to the department.

115.3(6) *Disturbance of other contractors.* Utility construction and maintenance work within the primary road rights-of-way is to be accomplished in a manner that minimizes disturbance to any other contractor working within the rights-of-way. It is the responsibility of the utility owner to coordinate work with other contractors.

115.3(7) *No adverse effect on primary road.* A utility facility must not adversely affect the safety, design, construction, operation, maintenance or stability of the present use or future expansion of a primary road.

115.3(8) *Safety, health and sanitation.* Construction and maintenance of a utility facility shall be accomplished in a manner that minimizes disruption of primary road traffic and other hazards to the road user. The utility owner is responsible to comply with the MUTCD and all applicable federal, state and local statutes, ordinances and regulations governing safety, health and sanitation. The utility owner is to furnish such additional safeguards, safety devices and protective equipment and take actions to protect the life and health of the public.

115.3(9) *Parking or storage in clear zone or median.*

- a. Unattended vehicles, equipment and materials shall not be parked or stored within the shoulder, median or clear zone and should be located as close to the right-of-way line as possible.
- b. When in use, vehicles are to be oriented with the direction of traffic.
- c. Exceptions to parking or storage requirements may be authorized by the district representative on a case-by-case basis.

115.3(10) *Protection of landscaped or planted areas.* Prior to permit approval, specific authorization is to be obtained from the district representative for mowing, trimming trees and shrubs, and for spraying within the rights-of-way. Landscaped and planted areas are to be avoided as much as practical. A landscaped or planted area that is disturbed is to be restored as nearly as practical to its original condition.

115.3(11) *Noncompliance.* The department may take any or all of the following actions for noncompliance with any provision of this chapter or any term of a permit:

- a. Halt utility construction or maintenance activities within the rights-of-way.
- b. Withhold an adjustment reimbursement until compliance is ensured.
- c. Revoke the permit.
- d. Determine a utility facility to be an obstruction and remove the noncomplying utility facility, restore the area to its previous condition, and assess the removal and restoration costs to the utility owner in accordance with Iowa Code section 318.5.
- e. Place all pending and future permits on hold until the issue is resolved.
- f. Initiate a claim on the performance bond as set out in subrule 115.3(4), when a bond is required.

115.3(12) *Identification signs and markers.* Utility facilities within primary road rights-of-way shall be properly marked in accordance with the following unless otherwise authorized by the district representative:

- a. Identification signs are to be installed and maintained by the utility owner.
- b. The signs must identify the utility owner, telephone number to contact in case of an emergency, and the type of buried utility.
- c. Identification signs are to be composed of highly visible ultraviolet-resistant material.
- d. Each sign is to be no larger than 200 square inches.
- e. The mounting height is to be 5 feet to the bottom of the sign.
- f. Signs are to be placed within 12 inches of the right-of-way line along the entire occupancy route.
- g. The interval between signs is not to exceed one-quarter mile in rural areas and 500 feet in urban areas or as designated by the district representative.
- h. Utility facility crossings must be properly marked on each side of the road.
- i. If the utility facility is removed or relocated, the utility owner is to remove or relocate the corresponding identification signs and markers.
- j. If the utility facility is abandoned in place, the utility owner is to promptly notify the department as set out in subrule 115.18(2).

115.3(13) *Insufficient capacity of rights-of-way.* The department may deny issuance of a permit if it determines there is insufficient room for additional utility facilities within the rights-of-way.

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