

761—115.9(306A) Construction responsibilities and procedures.

115.9(1) *Permit required before work may begin.* The utility owner shall not commence construction work in the primary road rights-of-way until the utility owner has received a fully approved and issued permit from the department.

115.9(2) *Notice of construction.* The utility owner shall give the district representative at least 48 hours' prior notice of the utility owner's intent to start construction within the rights-of-way.

115.9(3) *Authority of the district representative.*

a. The district representative has the authority to resolve any issues or concerns that arise regarding the intent of the permit and compliance therewith.

b. During the progress of the work, the district representative may approve minor alterations in the plan or character of the work that the district engineer deems necessary or desirable to satisfactorily complete the work. Such an alteration is not a waiver of the permit, nor does it invalidate any provision of the permit.

115.9(4) *Work in progress.* The utility owner is responsible for the care and maintenance of partially completed work within the rights-of-way. Unless otherwise authorized by the permit or the district representative, all work performed within the rights-of-way is to be accomplished within the time frame of 30 minutes after sunrise to 30 minutes before sunset.

115.9(5) *Department inspection.*

a. The department may inspect any permitted work performed within the rights-of-way.

b. If the department finds performance of permitted work is not in compliance with the issued permit, the department will provide to the utility owner written notice of the defects found. The utility owner is to perform any rework or removal as ordered by the department in the time frame established by the department.

115.9(6) *Department inspectors.* The department may appoint inspectors to represent the department in the inspection of construction. Inspectors are placed on the job to keep the district representative informed of the progress of the work and the manner in which it is being performed, and to call to the utility owner's attention any infringements of the permit. The inspectors may not:

a. Modify in any way the provisions of the permit.

b. Delay the work by failing to inspect the work with reasonable promptness.

c. Act as a supervisor for the work or perform any other duties for the utility owner or its contractor.

d. Improperly interfere with the management of the work.

e. Approve or accept any portion of the work on behalf of the department.

115.9(7) *Repair and cleanup.* Prior to the department's final inspection, the utility owner is to:

a. Upon notification by the department, make any repairs to the rights-of-way that are necessary due to the construction work, including but not limited to shoulder and pavement repairs within the time frame established by the department.

b. Remove from the rights-of-way all unused materials and rubbish resulting from the work and leave the rights-of-way in a clean, presentable condition.

c. Make arrangements for repair or compensation for any damage to another utility facility or tile line found to have been caused by the utility owner's actions.

115.9(8) *Completion of work.*

a. The utility owner is to notify the district representative upon completion of work.

b. Upon notification by the utility owner that the work is complete, the department may inspect each item of work included in the permit as set out in subrule 115.9(5).

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