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**IDAPA 39
TITLE 03
Chapter 43**

39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

000. LEGAL AUTHORITY.

Under authority of Sections 40-312(3) and 67-5229, Idaho Code, the Idaho Transportation Board incorporates by reference its 1990 publication titled, "A Policy for the Accommodation of Utilities within the Right-of-Way of the State Highway System in the state of Idaho." (3-19-99)

001. TITLE AND SCOPE.

The purpose of the policy is to regulate the location, design and methods for installing, relocating, adjusting and maintaining utilities on State highway right-of-way when such use and occupancy is legal, in the public interest and will not adversely affect the highway or its users. (6-4-90)

002. -- 099. (RESERVED).

100. GENERAL.

01. Policy. "A Policy for the Accommodation of Utilities within the Right-of-Way of the State Highway System in the State of Idaho," as adopted by the Idaho Transportation Board on January 19, 1990, is hereby adopted and incorporated by reference as the official policy for governing the occupancy of state highway right-of-way by utility facilities. Copies of the policy may be obtained from the Department's Headquarters Office in Boise or from a District Office in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello or Rigby. (3-19-99)

02. Application Of Policy. The policy applies to new utility installations, to existing utility installations to be retained, relocated, maintained or adjusted because of highway construction or reconstruction, and to the relocation of utility facilities which are found to constitute a definite hazard to the traveling public. (6-4-90)

03. Hearing Requirements. The Idaho Transportation Board is authorized to order relocation of utilities after notice and opportunity for a hearing. When required, the Department will: (3-19-99)

- a. Request utility hearings; (3-19-99)
- b. Present the Department's viewpoint at such hearings; and (3-19-99)
- c. Issue orders to proceed with utility relocations. (3-19-99)

04. Relocation Cost. Relocation costs will be determined as follows: (6-4-90)

- a. Where the utility company has a right of occupancy for its facilities by reason of holding the fee, an easement or other property interest, the cost of relocation will normally be borne by the Department. (6-4-90)
- b. Where the utility facility occupies a public highway right-of-way, or land acquired for highway right-of-way, through sufferance or by actual encroachment, the cost of relocation will normally be borne by the utility company. (6-4-90)
- c. Where there is a combination of the above conditions, the cost of relocation will be pro-rated between the Department and the utility company. (6-4-90)
- d. In computing the cost of relocation at Department expense, credits shall be allowed for betterments, salvaged materials and expired service life. (6-4-90)

05. Agreements. An agreement shall be entered into between the Department and the utility company when the cost of utility adjustments and relocations are at Department expense. (6-4-90)

06. Permit Requirements. New utility installations which are to occupy existing highway right-of-

way shall require a written permit from the Department. All utility facilities, whether new, relocated or existing, which are located within the right-of-way of a highway construction project shall require a written permit from the Department. (6-4-90)

101. -- 999. (RESERVED).

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