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**IDAPA 39
TITLE 03
CHAPTER 63**

39.03.63 – RULES GOVERNING TRAFFIC ACCIDENT MEMORIALS

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Sections 49-1316 and 55-2201 through 2210, Idaho Code. (9-14-92)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.63, “Rules Governing Traffic Accident Memorials,” IDAPA 39, Title 03, Chapter 63. (3-20-04)

02. Scope. This rule specifies procedures to erect traffic accident memorials, hereafter referred to as memorial(s), in memory of people killed in traffic accidents on Idaho state highways under the jurisdiction of the Idaho Transportation Department (Department), pursuant to Section 49-1316, Idaho Code. (3-20-04)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (3-20-04)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter will be governed by IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-20-04)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (3-20-04)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P.O. Box 7129, Boise, ID 83707-1129. (3-20-04)

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (3-20-04)

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (3-20-04)

04. Idaho Transportation Department District Offices. District office addresses can be found at <https://itd.idaho.gov/> (3-20-04)

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Title 74, Chapter 1, Idaho Code. (3-20-04)

007. -- 099. (RESERVED)

100. GENERAL.

In accordance with Section 49-1316, Idaho Code, relatives or friends of a person killed in a traffic accident upon a state highway may apply for a permit to erect a memorial in memory of the decedent. Only one (1) memorial may be placed per fatal accident. Memorials placed before January 1, 2003 may be retained if they meet all of the requirements of Section 200 and Subsections 300.01 through 300.03. (3-20-04)

101. PERMIT.

After January 1, 2003, relatives or friends of a person killed in a traffic accident upon a state highway shall obtain an approved encroachment permit from the Department prior to installing, maintaining or removing a memorial within the state highway right-of-way. As a condition of permit approval, the individual(s) wishing to install a memorial

must provide the Department with the following: (3-20-04)

01. Written Approval from the Next of Kin. Written approval from the decedent's next of kin, who are related by blood, marriage or adoption; and (3-20-04)

02. Written Approval from the Property Owner. Written approval from all property owners whose property is within a five hundred foot (500') radius of the proposed memorial location. (3-20-04)

102. -- 199. (RESERVED)

200. PHYSICAL REQUIREMENTS.

The maximum dimensions of a memorial shall be thirty-six (36) inches high, sixteen (16) inches wide and shall weigh no more than seven (7) pounds. The height requirement shall be measured from the ground level to the highest point on the memorial, the width shall be measured horizontally at the memorial's widest point and the weight is based on the portion above the ground. (3-20-04)

01. Shape and Color. Memorials shall not be shaped or colored to portray, resemble or conflict with any traffic control device. The memorial shall not be reflectorized. (3-20-04)

02. Adornment. No text or items of adornment shall be placed on or near a memorial. (3-20-04)

03. Memorial Site. Planting or landscaping at a memorial is prohibited. (3-20-04)

201. -- 299. (RESERVED)

300. LOCATION.

Memorials must be erected as near as practical to the milepost location where the accident occurred. The person installing the memorial shall be responsible for contacting a utility locating service to identify the location of any utilities in the area prior to placement of the memorial. See call-before-you-dig requirements in Sections 55-2201 through 55-2210 of Idaho Code. The applicant shall also be required to meet on site with the Department highway maintenance supervisor assigned to the area where a memorial is to be erected to review the proposed installation. The Department highway maintenance supervisor will be responsible for final approval of the memorial location. (3-20-04)

01. Shoulder. Memorials shall be placed as far as practical from the edge of roadway, but must be placed a minimum of twenty (20) feet from the roadway shoulder where highway right-of-way width permits. (3-20-04)

02. Medians. Placement of an accident memorial in the median of any interstate or non-interstate highway is prohibited. (3-20-04)

03. Incorporated Cities. Memorials are prohibited within the boundaries of incorporated cities. (3-20-04)

301. -- 399. (RESERVED)

400. SAFETY.

01. Parking. Those participating in the installation, maintenance, or removal of the memorial shall park their vehicle(s) as far as practical from the travel lanes and in an area where there is adequate sight distance on the highway in both directions. (3-20-04)

02. Participants and Motorists. Those participating in the installation, maintenance, or removal of a memorial must wear proper safety attire and obey all safety procedures approved by the Department at the time of permit issuance. A high degree of safety must be maintained for the traveling public and the participants during the installation, maintenance, or removal of a memorial. (3-20-04)

401. -- 499. (RESERVED)

500. MAINTENANCE.

The Department shall not be responsible for maintenance, vandalism, damage, or theft of a memorial. The permittee shall be responsible for maintenance of the memorial. All memorials must be maintained in good condition at all times and in a manner that complies with this rule. (3-20-04)

501. COMPLIANCE.

01. Improper Installation. Memorials not installed in compliance with this rule shall be subject to removal by the Department. (3-20-04)

02. Maintenance. Memorials not maintained in good condition shall be subject to removal by the Department. (3-20-04)

03. Traffic Hazard. Memorials that have been installed or maintained in such a manner that either the memorial or the participants create a traffic hazard shall be subject to removal by the Department. (3-20-04)

502. -- 999. (RESERVED)

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