

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### Division of Highways

#### 39.03.43 – Rules Governing Utilities on State Highway Right-of-Way

##### **Who does this rule apply to?**

*The rule applies to ITD and their management of utility facility installations within the State Highway rights-of-way.*

- Utility companies; and
- Local jurisdictions

##### **What is the purpose of this rule?**

*This rule provides the structure/process by which ITD may allow utility installations, relocations and adjustments of facilities within the State Highway rights-of-way. It addresses the responsibility of costs for such installations, relocations and adjustments and requirements of the utility companies. The rule includes reference to the Utility Accommodation Policy, which is the guidance document for ITD's processes. Additionally, it authorizes ITD Board powers of exception in unique situations of financial hardship.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Highways and Bridges -

Idaho Transportation Board:

- [40-312, Idaho Code](#) – Powers and Duties — Rules and Regulations

State Government and State Affairs -

Idaho Administrative Procedure Act:

- [67-5229, Idaho Code](#) – Incorporation by Reference

##### **Who do I contact for more information on this rule?**

Idaho Transportation Department

Monday – Friday 8:00 am to 5:00 pm

P.O. Box 7129

Boise, ID 83707-1129

3311 West State Street

Phone: (208) 334-8000

[itd.idaho.gov](http://itd.idaho.gov)

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**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 adopts this rule. (3-20-04)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39, Title 03, Chapter 43, “Rules Governing Utilities On State Highway Right-of-Way.” (3-20-04)

**02. 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. 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. (3-20-04)

**002. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter shall be governed by Section 2.4 “Administrative Appeal” of the “Utility Accommodation Policy” incorporated by reference. (10-15-20)T

**003. INCORPORATION BY REFERENCE.**

The Idaho Transportation Department incorporates by reference the July 2003 Edition of “Utility Accommodation Policy.” This publication is available for public inspection and copying at the Office of the Utilities/Railroad Engineer at the Idaho Transportation Department central office, or the District offices, or the Idaho Transportation Department Website at <http://itd.idaho.gov>. (3-30-07)

**004. -- 999. (RESERVED)**

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