

**DRAFT #3.1**

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

**00. LEGAL AUTHORITY.**

Under authority of Sections 40-312(3) and 67-5229, Idaho Code, the Idaho Transportation Board adopts this rule. ( )

**01. 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 (ROW) 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. ( )

**02. ADMINISTRATIVE APPEALS.**

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

**03. INCORPORATION BY REFERENCE.**

The Idaho Transportation Department incorporates by reference the ~~July 2003~~<sup>22</sup> Edition of the “Utility Accommodation Policy.” This publication is available for public ~~inspection-review~~ inspection-review ~~and copying at the Office of the Utilities/Railroad Engineer at the Idaho Transportation Department central office, or the District offices, or on~~ the Idaho Transportation Department’s Website at <http://itd.idaho.gov>. ( )

**04. SMALL WIRELESS FACILITIES.**

**a. Definitions.**

**i. Small Wireless Facilities (SWF).**

**1. The facilities:**

- a. Are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. § 1.1320(d); or
- b. Are mounted on structures no more than 10 percent taller than other adjacent structures; or
- c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of an antenna in 47 C.F.R § 1.1320(d)), is no more than three cubic feet in volume;

3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

4. The facilities do not require antenna structure registration under 47 C.F.R § 17.4

5. The facilities are not located on Tribal lands, as defined under 36 CFR

800.16(x); and

6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. §1.1307(b).

**b. Small Wireless Facility Fees.**

- i. Federal Communications Commission (FCC).

Per the Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84, FCC 18-133, (Sept. 26, 2018), the fee schedule is as follows:

1. \$500 for non-recurring fees, including a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facilities beyond five; or
2. \$1,000 for non-recurring fees for a new pole (i.e. not a collocation) intended to support one or more Small Wireless Facilities; and
3. \$270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to structures in the ROW.

**05. -- 999. (RESERVED)**