

Dear Senators OKUNIEWICZ, Den Hartog, Rabe, and
Representatives PALMER, Mitchell, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho Transportation Department:

IDAPA 39.03.40 - Rules Governing Junkyards and Dumps (ZBR Chapter Rewrite) - Proposed Rule
(Docket No. 39-0340-2301);

IDAPA 39.03.42 - Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way
(ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0342-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 12/08/2023. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 01/05/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

FROM: Division Manager - Matt Drake

DATE: November 14, 2023

SUBJECT: Idaho Transportation Department

IDAPA 39.03.40 - Rules Governing Junkyards and Dumps (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0340-2301)

IDAPA 39.03.42 - Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0342-2301)

IDAPA 39.03.40 - Rules Governing Junkyards and Dumps (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0340-2301)

Summary and Stated Reasons for the Rule

The Idaho Transportation Department submits Notice of Rulemaking via Docket No. 39-0340-2301. The Department states that this rulemaking is in the nature of a ZBR chapter rewrite. The proposed changes include technical corrections, revising language for clarity, removing references to code and rules, removing certain definitions that do not appear to be essential, and removing references to procedural matters that are provided for elsewhere in code or rule (e.g., hearings).

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no anticipated fiscal impact with this rulemaking.

Statutory Authority

This rulemaking appears to be within the statutory authority granted to the Department in Sections 40-312 and 49-201, Idaho Code.

IDAPA 39.03.42 - Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0342-2301)

Summary and Stated Reasons for the Rule

Paul Headlee, Deputy Director Legislative Services Office	Matt Drake, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Norma Clark, Manager Information Technology
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The Idaho Transportation Department submits Notice of Rulemaking via Docket No. 39-0342-2301. The Department states that this rulemaking is in the nature of a ZBR chapter rewrite. The proposed changes include technical corrections, revising language for clarity, removing references to code and rules, and removing certain definitions that do not appear to be essential.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no anticipated fiscal impact with this rulemaking.

Statutory Authority

This rulemaking appears to be within the statutory authority granted to the Department in Sections 40-312 and 49-201, Idaho Code.

cc: Idaho Transportation Department
Brendan Floyd

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.40 – RULES GOVERNING JUNKYARDS AND DUMPS

DOCKET NO. 39-0340-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule provides guidelines for the control of junkyards and dumps within one-thousand (1,000) feet of the nearest edge of the right-of-way for interstate, primary freeways, and primary highways of the state of Idaho pursuant to Chapters 1 and 19, Title 40, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023, Idaho Administrative Bulletin, [Vol. 23-6, pages 84-85](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brendan Floyd at 208-334-8474.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 1st Day of September, 2023.

Brendan Floyd
Policy Specialist
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
208-334-8474
Brendan.floyd@itd.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0340-2301
(ZBR Chapter Rewrite)**

39.03.40 – RULES GOVERNING JUNKYARDS AND DUMPS

000. LEGAL AUTHORITY.

Under authority of Sections 49-313(4), 40-1919, 40-1920, 40-1921, and 40-312, Idaho Code, the Idaho Transportation Board adopts this the following rule under the authority of Section 40-312, Idaho Code governing junkyards and dumps. (3-31-22)()

001. TITLE AND SCOPE/PURPOSE.

This rule ~~is titled IDAPA 39.03.40, “Rules Governing Junkyards and Dumps,” and~~ provides guidelines for the control of junkyards and dumps within one thousand (1,000) feet of the nearest edge of the right-of-way for interstate, primary freeways and primary highways of the state of Idaho ~~pursuant to Chapters 1 and 19, Title 40, Idaho Code.~~ (3-31-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Abandoned Junkyard. A junkyard that was operated as a business enterprise in the past, now existing with inventory, but without proprietorship or claim of ownership. The underlying fee title holder has no interest in the inventory. ()

02. Acceptable Fencing Materials. Steel or other metals, durable woods, or other woods treated with a preservative or walls of masonry. ()

03. Acceptable Planting Materials. Shrubs, trees, flowering plants and foliage. ()

04. Destroyed Junkyard. A junkyard that was operated as a business enterprise in the past that has been partially or totally destroyed by act of God or other means; and where the proprietor is not presently buying or selling junk. ()

05. Discontinued Junkyard. A junkyard that was operated as a business enterprise in the past and where the proprietor is retaining the inventory for the present, but is not actively engaged in buying or selling junk. ()

06. Industrial Activities. Those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the State, except that none of the following ~~shall will~~ be considered industrial activities. (3-31-22)()

a. Outdoor advertising structures. ()

b. Forest, farms and ranches. ()

c. Activities normally and regularly in operation less than three (3) months of the year. ()

d. Transient or temporary activities. ()

e. Activities not visible from the traffic lanes of the main traveled way. ()

f. Activities more than three hundred (300) feet from the nearest edge of the main traveled way. ()

g. Activities conducted in a building principally used as a residence. ()

h. Railroad tracks, minor sidings and passenger depots. ()

i. Junkyards, as defined in Section 136, Title 23, U.S.Code. ()

07. Junkyard. A place of business which is maintained, used, or operated for storing, keeping, buying, or selling ten (10) or more wrecked, scrapped, ruined, or dismantled ~~motor~~ vehicles or other types of machines; or equivalent amounts of old scrap copper, brass, rope, rags, batteries, paper, trash, junk, rubber, debris, waste, iron, steel, and other old or scrap ferrous or non-ferrous material or any combination of the above. (3-31-22)()

08. Non-Conforming Junkyard. One (1) which was lawfully established, but which does not comply with the provisions of state law or state regulations passed at a later date or which later fails to comply with state regulations due to changed conditions. ~~An example of changed conditions would be a junkyard lawfully in existence in an area which at a later date becomes non-industrial and thus subject to control, or a junkyard established on a non-primary highway later upgraded to a primary highway.~~ Illegally established or maintained junkyards are not non-conforming junkyards. (3-31-22)()

09. Screening. The use of any vegetative planting, fencing, ornamental wall of masonry, or other architectural treatment, earthen embankment, or a combination of any of these which will render invisible any deposit of junk from the main traveled way. ()

10. Unzoned Industrial Area. The land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within one thousand (1,000) feet thereof which is: ()

a. Located on the same side of the highway as the principal part of said activity. ()

b. Not predominately used for residential or commercial purposes. ()

c. Not zoned by state or local law, regulation or ordinance. ()

011. -- 099. (RESERVED)

100. APPLICATIONS, LICENSES, AND PERMITS.

01. General. ()

a. A license or permit ~~shall will~~ be issued to any person for the operation of a junkyard or dump when such person has made application for and obtained approval for such license or permit on the form provided for that purpose by the Department. (3-31-22)()

b. Any person operating a junkyard or dump ~~shall will~~ submit a basic plan for screening the same, together with his application, which ~~shall will~~ first be approved by the Department, before the installation of such screening and before a license or permit for the operation of such junkyard or dump ~~shall will~~ be issued. (3-31-22)()

c. All junkyards and dumps requiring screening by the owner so as not to be visible from the roadway by motorists using the roadway ~~shall will~~ provide such screening, which may include shrubs, trees, flowering plants, foliage, fencing, buildings, or some other type of screening as ~~shall will~~ first have been approved by the Department. (3-31-22)()

d. Every junkyard or dump ~~shall will~~ be operated and maintained in accordance with the plan for screening which has been approved by the Department for the issuance of the license or permit. Failure of any person to so operate or maintain said junkyard or dump ~~shall will~~ result in the revocation of the license or permit issued. (3-31-22)()

e. Applications for junkyard licenses or dump permits may be secured at the Idaho Transportation Department, ~~3311 West State Street, Boise, Idaho 83707~~ 11331 W Chinden Blvd, Boise, Idaho 83714, or at the following District offices: District One, 605 Prairie, Coeur d'Alene, Mailing address -- P.O. Box D, Coeur d'Alene,

Idaho 83814; District Two, 26th and North and South Highway, Lewiston, Mailing address -- P.O. Box 837, Lewiston, Idaho 83501; District Three, 8150 Chinden Blvd., Boise, Mailing address -- P.O. Box 8028, Boise, Idaho 83707; District Four, 216 Date Street, Shoshone, Mailing address -- P.O. Box 2-A, Shoshone, Idaho 83352; District Five, 5151 South 5th, Pocatello, Mailing address -- P.O. Box 4700, Pocatello, Idaho 83201; District Six, 206 North Yellowstone, Rigby, Mailing address -- P.O. Box 97, Rigby, Idaho 83442. (3-31-22)()

02. Conformity. ()

a. A non-conforming junkyard may continue as long as it is not abandoned, destroyed or voluntarily discontinued. Once a junkyard is abandoned, destroyed or voluntarily discontinued for a period of six (6) months or more, it becomes subject to laws and rules of a new junkyard. ()

b. Junkyards ~~shall~~ will be allowed in areas zoned industrial by local zoning ordinances, except that where such ordinances create several classes or zones of industrial use and one (1) or more classes or zones do not permit junkyards, local zoning ~~shall~~ will control. (3-31-22)()

101. -- 199. (RESERVED)

200. SCREENING.

01. General Screening Requirements. ()

a. The screening ~~shall~~ will be located on the owner's land and not on any part of the highway right-of-way. (3-31-22)()

b. The screen ~~shall~~ will be in place prior to the time the junk is deposited. (3-31-22)()

c. At no time after the screen is established ~~shall~~ will the junk be stacked high enough to be visible above the screen. No junk ~~shall~~ will be placed outside of the screened areas or in the areas not covered by license. (3-31-22)()

02. Screening Plan. ()

a. The screening plan should provide a practical irrigation or watering system where necessary. ()

b. The screening plan should provide a replacement and fertilization program. ()

c. The screening plan should provide for landscaping that is relatively maintenance free. ()

d. The screening plan can provide a living screen which may be used in conjunction with a fence or wall. ()

201. FENCES.

01. Location. Fences must be located in such a manner as to not be hazardous to the traveling public. ()

02. Uniformity. Construction ~~shall~~ will be uniform and no patch work type of construction ~~shall~~ will be permitted. (3-31-22)()

03. Required Painting. Fences ~~shall~~ will be painted where the composition is such that painting is required. The paint used ~~shall~~ will be of such color so as to blend into the environs of the highway right-of-way. (3-31-22)()

04. Specifications. Fences ~~shall~~ will be constructed as specified in Department's "Standard Drawings."

(3-31-22)()

05. Strength. Fences ~~shall~~ will be designed and constructed to withstand adverse wind pressures.

(3-31-22)()

06. Gate Openings. Fences ~~shall~~ will have gates that are kept closed except for ingress and egress of moving vehicles or have gateways so constructed to screen the inventory and operation from the highway user at all times.

(3-31-22)()

07. Visibility. Some of the types of fences acceptable to preclude “see through” are: ()

a. Chain link type with aluminum, steel, plastic or wooden slat inserts. ()

b. Wooden types of basket weave, palisade, louver, or other suitable design. ()

c. Wall of masonry including plain or ornamental concrete block, brick, stone or other suitable masonry material. ()

d. Any other design of fencing constructed of other materials may be submitted for consideration. ()

202. PLANTING MATERIALS.

01. Species. Plant materials indicated on the plans ~~shall~~ will specify the common and botanical name of the plant materials used, the size at the time of planting and the spacing between plants.

(3-31-22)()

02. Growth and Conformity. Plant materials should be native to the area which grow to an appropriate height within a three (3) year period and are long-lived. The plantings should complement the existing highway and adjacent land use environmental condition. ()

03. Caretaking. Plant material ~~shall~~ will be watered, cultivated, or mulched, and given any ~~required~~ maintenance including spraying for insect control, to keep the planting material in a good healthy condition.

(3-31-22)()

04. Replacement. Dead plant material will be removed immediately and ~~shall~~ will be replaced during the next spring or fall planting season following death. The replacement plants ~~shall~~ will be at least as large as the initial planting.

(3-31-22)()

203. EARTHEN EMBANKMENTS.

Such as berms or mounds may be considered. ()

01. Conformity. After grading, landscaping must be done to maintain a natural environmental appearance. ()

02. Mix. May be used in conjunction with fences and plant materials. ()

204. -- 299. (RESERVED)

~~300. ADMINISTRATIVE HEARINGS.~~

~~Any person desiring an administrative hearing before the Idaho Transportation Board on any question involving this rule or any person desiring to appeal any administrative decision made by the Department of Transportation under this rule shall do so in accordance with the Department of Transportation's administrative procedure manual and as provided by law.~~ (3-31-22)

~~301.—399. (RESERVED)~~

400. PENALTIES.

Any person violating the provisions of this regulation or operating a junkyard without a license or a dump without a permit as provided for herein, ~~shall~~ will be subject to the penalties provided in Section 40-1926, Idaho Code. (3-31-22)()

401. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.42 – RULES GOVERNING HIGHWAY RIGHT-OF-WAY ENCROACHMENTS ON STATE RIGHTS-OF-WAY

DOCKET NO. 39-0342-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule establishes standards and guidelines for encroachments on state highway rights-of-way. Statutes covering these provisions only set forth broad requirements for the department, which necessitates the establishment of specific provisions in Administrative Rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023, Idaho Administrative Bulletin, [Vol. 23-6, pages 84-85](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brendan Floyd at 208-334-8474.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 1st Day of September 2023.

Brendan Floyd
Policy Specialist
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
208-334-8474
Brendan.floyd@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0342-2301
(ZBR Chapter Rewrite)

39.03.42 – RULES GOVERNING HIGHWAY RIGHT-OF-WAY
ENCROACHMENTS ON STATE RIGHTS-OF-WAY

000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Sections 40-310, and 40-312, and per the requirements of Sections 40-311, 40-313, 49-202(19), (23) and (28), and 49-221, Idaho Code. ()

001. SCOPE PURPOSE.

This rule establishes standards ~~and guidelines~~ for encroachments on state highway rights-of-way. (3-31-22)()

002. ADMINISTRATIVE APPEAL.

01. Commencement. Applicants may appeal denied permits, or permits granted with conditions that the applicant believes to be unreasonable, in writing to the Department's District Engineer within thirty (30) days of receipt of written notification of the denial or grant of the permit. The appeal process commences on the date the Department's District office receives written notification of appeal from the applicant. ()

02. Process Hold. If at any time during the appeal process it is determined that insufficient documentation was submitted with the appeal, all parties ~~shall will~~ be notified that the appeal process is placed on hold until the necessary documentation is supplied. (3-31-22)()

03. Appeal Process. The District will have thirty (30) working days to review the appeal. If the District Engineer does not rule on the appeal within the thirty (30) day period, the denial of the permit ~~shall will~~ be deemed overturned and the permit ~~shall will~~ be issued, or the contested permit conditions stricken. Notice of the decision of the District Engineer ~~shall will~~ be issued by certified mail within seven (7) days of the ruling. Otherwise, if the District Engineer does not overturn the original denial or strike the contested provisions from the permit, upon receipt of a written request from the applicant within twenty-one (21) days of the date of the denial of the appeal, it ~~shall will~~ be forwarded to the Department's legal section to initiate an appeal to the Idaho Transportation Board. The appeal will be processed in accordance with the Idaho Administrative Procedure Act and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-31-22)()

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. Shall/Will, Should, May. The use of "shall" or "will," "should," and "may" denote the following conditions: (3-31-22)~~

~~a. Shall/Will. A mandatory condition or requirement. (3-31-22)~~

~~b. Should. An advisory or recommended condition, or usage, but not mandatory. (3-31-22)~~

~~e. May. A permissive condition. No requirement is mandated. (3-31-22)~~

021. Access. The ability to enter or leave a public highway or highway right-of-way from an abutting private property or another public highway or public highway right-of-way. ()

032. ADT. Average Daily Traffic. The total volume of traffic during a given time period in whole days greater than one (1) day and less than one (1) year divided by the number of days within that time period. ()

043. Applicant. Agency, owner, or an authorized representative of the property owner, or utility facility applying for a permit to encroach within state highway rights-of-way. ()

054. Appraisal. A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of monetary value for a specific property based on a specific use, as of a specific date, supported by the presentation and analysis of relevant market information. ()

065. Approach. A connection between the outside edge of the shoulder or curb line and the abutting property at the highway right-of-way line, intended to provide access to and from said highway and the abutting property. An approach may include a driveway, alley, street, road or highway. ()

076. Approach Flare. The approved radius connecting the edge of the approach to the edge of the highway. The term “approach radius” is interchangeable with “approach flare.” ()

087. Approach Transition. The area from the edge of an urban approach sloped to match the curb and border area elevations. The term “approach apron” is interchangeable with “approach transition.” ()

098. Approach Skew Angle. For all approaches, the angle of deflection between a line perpendicular to the highway centerline and the approach centerline. ()

109. Approach Width. The distance between the outside edges of the approach measured perpendicular to the approach centerline along the curb line or the edge of pavement, excluding flares, transitions and radii. ()

140. Authorized Representative. Any applicant, other than the property owner, having notarized written verification signed by the owner giving authorization to act on the owner’s behalf. ()

121. Auxiliary Lane. The portion of the roadway adjoining the traveled way used for speed change, turning, storage for turning, weaving, truck climbing, and other purposes supplementary to through-traffic movement. ()

~~13. Board. The Idaho Transportation Board, as established by Title 40, Chapter 3, Idaho Code.~~
(3-31-22)

142. Border Area. The area between the outside edge of the shoulder or back of curb and the highway right-of way line. ()

153. Boulevard Approach. A two-way approach intended for high ADT volumes of large commercial vehicles, having a maximum width of eighty-four (84) feet in which opposing traffic is separated by a raised four (4) foot wide non-traversable median. ()

164. Capacity. The maximum number of vehicles that can reasonably be expected to travel along a lane of a highway during a given time period under prevailing roadway and traffic conditions. ()

175. Clear Zone. An area outside the traveled way, auxiliary lanes and shoulders that is constructed and maintained as free from physical obstructions as practical, for use as a recovery area by errant vehicles. ()

186. Commercial Approach. An approach serving a business or businesses. ()

197. Conduit. A tube or trough for receiving and protecting utility-related structures including, but not limited to, electrical wires, fiber optic cable, and fluids. ()

2018. Construction. The building of new facilities or the modification of existing facilities. Does not include maintenance. ()

2419. Corner Clearance. The distance along the curb line or outside edge of the shoulder measured from the beginning or end of the intersecting roadway flare to the nearest edge of the adjacent approach, excluding flares or transitions. ()

- ~~22. Department. The Idaho Transportation Department (ITD). (3-31-22)~~
- 230.** **Distance Between Approaches.** The distance measured along the curb line or outside edge of the shoulder between the nearest edges of adjacent approaches, excluding the flares, transitions or radii. ()
- ~~24. District. An administrative and maintenance subdivision of the Idaho Transportation Department encompassing a particular geographical region of the state of Idaho, per Section 40-303, Idaho Code. (3-31-22)~~
- ~~25. District Engineer. The administrator of an Idaho Transportation Department administrative district, or a delegated representative. (3-31-22)~~
- 261.** **District Route.** A state highway that accommodates trips of limited mobility and provides high levels of access to communities, to include distributing trips to geographical areas and serving major commercial and industrial districts. District routes may provide intra-community continuity and connection, to include local bus routes, but should not be used to provide direct access to residential lots. ()
- 272.** **Economic Opportunity.** Facilitate the increase in Idaho Gross Domestic Product, job creation, increased business, revenue; improve the efficiency in which goods are transported; and reduction in travel times for commuting, commerce, recreation, and tourism. ()
- 283.** **Emergency.** Any unscheduled work required to correct or prevent a hazardous situation that poses an imminent threat to life or property. ()
- 294.** **Encroachment.** Any authorized or unauthorized use of highway right-of-way or the air space immediately above the highway right-of-way. ()
- ~~3025. Encroachment Permit. Written authorization from the Department to use state highway right-of-way or the airspace above it under the conditions set forth in the permit. ()~~
- ~~3426. Expressway. A segment of a highway designated by the Idaho Transportation Board for use as a through highway, with partially controlled access, accessible only at locations specified by the Idaho Transportation Department, and characterized by medians, limited at-grade intersections, and high speeds. An existing segment of state highway may only be designated as an expressway if payment is made to adjacent property owners for the restriction of existing access rights. ()~~
- ~~32. Farming. Any activity associated with crops, including seed. (3-31-22)~~
- ~~33. FHWA. The Federal Highway Administration, a division of the U. S. Department of Transportation. (3-31-22)~~
- 3427.** **Fiber Optic Cable.** A cable containing one (1) or more glass or plastic fibers that has the ability to transmit light along its axis. ()
- ~~3528. Field Approach. An approach that serves only non-residential agricultural property, including farmyards. ()~~
- 3629.** **Flare Tangent Distance.** The distance of the approach radius measured along the edge of pavement. ()
- 370.** **Freeway.** A segment of a highway designated by the Idaho Transportation Board for use as a through highway, with fully controlled access, accessible only by interchanges (ramps), and characterized by medians, grade separations at cross roads, and ramp connections for entrance to and exit from the traveled way. An existing non-Interstate segment of state highway may only be designated as a freeway if payment is made to adjacent property owners for the restriction of existing access rights. ()
- 381.** **Frontage Road.** A road auxiliary to and located to the side of the highway for service to abutting

properties and adjacent areas for the purpose of controlling access to the highway. ()

392. Frontage Boundary Line. A line perpendicular to the highway centerline that begins at the point of intersection of the abutting property line and the highway right-of-way line. ()

4033. Full Control of Access. Any section of a highway system where access is prohibited except for interchange connections. ()

~~**41. Government Agency.** As used in these rules, the term includes federal, state, county, city, or local highway jurisdictions. (3-31-22)~~

4234. Highway Right-of-Way. Property used for highway purposes, open to the public, and under the jurisdiction of a government agency. Such property may be owned by the government agency in fee simple or be subject to an easement for highway purposes. ()

4335. Imminent Threat. Includes major traffic control deficiencies or safety situations that are likely to result in serious injury or loss of life. ()

4436. Interstate Highway. As identified by federal code, a segment of the Dwight D. Eisenhower National System of Interstate and Defense Highways consisting of an FHWA-approved freeway. ()

4537. Joint-Use Approach. An approach constructed at a common boundary between adjacent properties that abut the highway. A joint-use approach is equally owned and shared as common access by both property owners. ()

~~**46. Landscaping.** Any action taken to change the features or appearance of the highway right-of-way or abutting property with plants, soil, rock and related material. (3-31-22)~~

4738. Loaded Payroll Rate. A rate of compensation that includes hourly wages plus the associated employer overhead and benefit costs. ()

4839. Local Highway Agency. Any city, county, highway district or other local board or body having authority to enact regulations, resolutions, or ordinances relating to traffic on the highways, highway rights-of-way and streets within their respective jurisdiction. ()

490. Local Road. A city, county or highway district highway whose primary function is to provide access to adjacent properties. ()

5041. Median. The portion of a divided highway or approach that separates opposing traveled ways. Medians may be raised, flush, or depressed relative to the roadway surface, and may be landscaped or paved. ()

5142. Median Opening. A paved area bisecting opposite directions of a divided roadway that is designed to permit traffic to cross at least one (1) direction of travel. ()

5243. MUTCD. The Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, as adopted by the Idaho Transportation Board in accordance with Section 49-201(3), Idaho Code. A manual written by the Federal Highway Administration that sets national minimum standards for signing, striping, and traffic control devices. ()

~~**53. Non-Standard Approach.** Any approach that does not meet Department standards. (3-31-22)~~

~~**54. Performance Bond.** A statutory bond, issued by a surety company authorized to do business in the state of Idaho, that guarantees performance of work in accordance with permit requirements. (3-31-22)~~

5544. Permittee. Person or persons, utility facilities, and other agencies granted permission to encroach within the highway right-of-way for authorized purposes other than normal travel. ()

5645. Private Approach. Every privately owned traveled way that is used for ingress to and egress from the highway right-of-way and an abutting property. ()

5746. Property Line Clearance. The distance measured along the curb line or outside shoulder edge from the frontage boundary line to the nearest edge of the approach width, excluding flares, transitions and radii. ()

5847. Public Approach. Any approach that serves the public without restriction and is maintained by a government agency. ()

~~59. Public Highway.~~ Any highway open to public use and maintained by a government agency. (3-31-22)

~~60. Public Highway Agency.~~ The state transportation department, any city, county, highway district, or any other state agency, or any federal or Indian reservation, which has jurisdiction over public highway systems and highway rights-of-way. (3-31-22)

6148. Regional Route. A state highway that accommodates trips of moderate length with a lower level of mobility than a Statewide Route and that provides moderate access to communities, to include providing mobility for people and freight through and between communities and major activity centers of the region. ()

6249. Roadside. Any area beyond the main traveled way that may or may not be within the highway right-of-way. ()

6350. Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and other portions of the rights-of-way. ()

6451. Rural. State highway rights-of-way and right-of-way corridors outside the limits of Urban and Transitional areas. ()

6552. Setback. The horizontal distance between the highway right-of-way line and permanent fixtures, including but not limited to gas pump islands, signs, display stands and buildings, measured at right angles to the highway centerline. ()

6653. Shoulder. The portion of the right-of-way contiguous with the traveled way that accommodates stopped vehicles, emergency use, and lateral support of the sub-base, base, and surface courses. ()

6754. Signal Spacing. The distance between signalized intersections measured from the center of intersection to the center of intersection. ()

6855. Slope. Slope is expressed as a non-dimensional ratio between vertical and horizontal distance. For side slopes, the vertical component is shown first, then the horizontal. ()

~~6956. Speed.~~ The rate of vehicular travel as measured in miles per hour. All speeds used in this document ~~shall~~will be the eighty-fifth percentile speed as determined by an engineering study. (3-31-22)()

7057. State Highway System. The principal highway corridors in the state, including connections and extensions through cities and roads to every county seat in the state, as approved by the Idaho Transportation Board and officially designated as a state highway. ()

7158. Statewide Route. A state highway that provides the highest level of mobility and speeds over long distances. Access from a statewide route to communities and major activity centers should be by way of public roads with spacing that supports mobility and speed. ()

7259. Stopping Sight Distance. The sum of: ()

a. The brake reaction distance, which is the distance traveled by the vehicle from the instant the driver perceives an object necessitating a stop, to the moment the brakes are applied; and ()

b. The braking distance, which is the distance the vehicle travels from the moment the brakes are applied until the vehicle comes to a complete stop. ()

~~7360.~~ **Structure.** Includes, but is not limited to, bridges, culverts, siphons, headwalls, retaining walls, buildings and any incidental construction not otherwise defined herein. ()

~~7461.~~ **Subdivision.** A division of real property into three (3) or more separately platted parcels. ()

~~7562.~~ **Temporary Encroachment.** Any encroachment that is not approved as a permanent placement within the highway right-of-way. ()

~~76.~~ **Traffic.** ~~Pedestrians, bicycles, animals, vehicles, streetcars, buses and other conveyances, either singly or together, that use the highway right-of-way for the purpose of travel.~~ (3-31-22)

~~7763.~~ **Traffic Control Device.** Any marking or device whether manually, electronically, or mechanically operated, placed or erected by an authority of a government agency or official having jurisdiction, for the purpose of regulating, warning or guiding traffic. ()

~~7864.~~ **Traffic Impact Study.** A comprehensive analysis of the anticipated transportation network conditions with and without an applicant's proposed new or modified access, including an analysis of mitigation measures. ()

~~7965.~~ **Transitional.** State highway rights-of-way and right-of-way corridors within the area of city impact of any incorporated city, or areas designated as an area of city impact by city or county comprehensive plans. ()

~~8066.~~ **Traveled Way.** The portion of the roadway for the movement of vehicles, exclusive of shoulders. ()

~~8167.~~ **Travel Lane.** That portion of the traveled way designated for use by a single line of vehicles. ()

~~8268.~~ **Trenching.** A method in which access is gained by excavation from ground level to the required underground depth for the installation, maintenance, removal, or inspection of a cable, casing, conduit or pipe. The excavation is then back filled with approved material and the surface is then returned to a condition specified by the Department. ()

~~8369.~~ **Turnouts.** Roadside areas immediately adjacent to highways which may be utilized by vehicles for purposes of short-term parking or turning. They are extensions of the traveled way. ()

~~8470.~~ **Unauthorized Encroachment.** Any encroachment that has been placed, modified, or maintained, or removed within the highway right-of-way without authorization by the Department. ()

~~8571.~~ **Urban.** State highway rights-of-way and right-of-way corridors within the limits of any incorporated city. ()

~~8672.~~ **Utility Facility.** All privately, publicly or cooperatively owned systems used for the production, transmission, or distribution of communications, cable television, power, electricity, light, heat, petroleum products, ore, water, steam, waste, irrigation, storm water not connected with highway drainage, and other similar items, including communication towers, guy wires, fire and police signal systems, and street lighting systems, that directly or indirectly serve the public or comprise part of the distribution systems which directly or indirectly serve the public. ()

~~8773.~~ **Utility Locating Service.** Any locally or regionally recognized service that locates and maintains

records of existing utility facilities. ()

~~88. **Vehicle.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon rails or tracks. (3-31-22)~~

~~8974. **Vision Triangle.** An area delineated by extending perpendicular lines along the face of curb or edge of pavement from their point of intersection forty (40) feet in either direction and by a height between three (3) feet and ten (10) feet above the existing centerline highway elevation. ()~~

~~9075. **Volume.** The number of vehicles estimated to use a certain type of travel lane during a twelve-month period. A highway with “high” volumes is at or near capacity; a highway with “medium” volumes is at or near fifty percent (50%) of capacity. ()~~

~~9176. **Warrant.** An evaluation of need based on an engineering study. ()~~

~~92. **Working Day.** Any day except for Saturday, Sunday and any holiday as defined in Section 67-5302(15), Idaho Code. (3-31-22)~~

011. -- 099. (RESERVED)

100. GENERAL.

01. Access Control. ()

a. The Department shall/will retain the authority to issue all encroachment permits on the State Highway System. (3-31-22)()

b. No change may be made to the control of access on any Interstate Highway without the approval of the Idaho Transportation Board and Federal Highway Administration (FHWA). (3-31-22)()

02. Safety Requirements. ()

a. It is the permittee’s responsibility to provide for safe, efficient passage and protection of vehicles, pedestrians, and workers during any permitted work within the highway right-of-way. ()

b. The permittee shall/will submit, for Department approval, a traffic control plan for the installation, maintenance, or removal of any state highway right-of-way encroachment. The permittee shall/will provide advance notification to the Department prior to implementing any traffic control. (3-31-22)()

c. During the progress of the work, barricades, signs and other traffic control devices shall/will be erected and maintained by the permittee in conformance with the current “Manual on Uniform Traffic Control Devices.” The permittee shall/will be required to meet the minimum requirements of the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the Department. (3-31-22)()

d. All flaggers working on the State Highway System shall/will be certified in or recognized by the state of Idaho. They shall/will carry on their person a current flagger identification card that is recognized by the state of Idaho. All traffic control devices used on the State Highway System shall/will comply with current FHWA crash criteria. (3-31-22)()

e. When required, a striping plan for the placement of temporary and permanent pavement markings shall/will accompany the approved permit to use the right-of-way. Materials, placement, and removal of all pavement markings shall/will conform to current Department specifications and standards. (3-31-22)()

03. Maintenance of Encroachments. Once an encroachment has been constructed by the permittee to Department standards, maintenance of the encroachment, unless otherwise provided, shall/will be as follows: (3-31-22)()

- a. Paved public approach - State maintains to the right-of-way line. ()
- b. Paved private approach - State maintains to end of radii, permittee maintains beyond the radii. ()
- c. Gravel public approach. State installs an asphalt wedge sufficient to protect the roadway pavement edge (three (3) to six (6) feet back from the edge of road for the width of the approach). It is desirable to pave the approach to the right-of-way line when the road is reconstructed. State maintains to the right-of-way line. ()
- d. Gravel private approach. The permittee maintains beyond the wedge. ()
- e. Gravel turnouts. State maintains turnouts, other than mailbox turnouts, to the right-of-way line. The permittee maintains mailbox turnouts. ()
- f. Maintenance of all other encroachments shall will be the responsibility of the permittee. (3-31-22)()

101. -- 199. (RESERVED)

200. APPLICATIONS AND PERMITS.

01. Required. To help preserve the highways as constructed and provide responsible growth where allowed, any individual, business, or other entity planning to add, modify, change use, relocate, maintain, or remove an encroachment on the state highway or use highway right-of-way for any purpose other than normal travel, shall will obtain a permit to use state highway right-of-way. Encroachment permits approved by the Department are required for private and public approaches (driveways and streets), utilities and other miscellaneous encroachments. (3-31-22)()

02. Work Prior to Approval. No activities shall will be allowed on State highway rights-of-way until an approved permit has been issued by the Department or a delegated local highway agency. In an emergency, that effects highway operations and motorist safety, approval may be given by the Department or a delegated highway agency in advance of processing the permit. (3-31-22)()

03. Local Highway Agency Authority. The department may delegate authority to a local highway agency to issue permits to use state highway rights-of-way if adequate local ordinances are in place and are enforceable. The Department shall will retain final approval for all permits issued by a local highway agency on the State Highway System. (3-31-22)()

04. Administration. Permitting process shall will be administered by the Department or their delegated representative, within the representative's respective jurisdiction. Department District offices are located in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby. (3-31-22)()

05. Application Forms. All applications to use State highway right-of-way shall will be made on approved Department forms. (3-31-22)()

06. Applicant to Be Informed. Applicants shall will be informed of Department policies and regulations concerning encroachments. (3-31-22)()

07. Payment for Impacted Highway Features. Applicants shall will pay for any changes or adjustments of highway features or fixtures brought about by actions, operations or requirements caused by the applicant. (3-31-22)()

08. Encroachment Conflicts. Conflicts between proposed encroachments and highway maintenance or construction projects, utilities or other encroachments shall will be resolved before an application is approved. (3-31-22)()

09. Review Process. The review process shall will commence on the day the applicant submits the signed application and makes payment of the initial application fee(s). If the Department determines there is insufficient documentation to process the application, the process will be placed on hold until such documentation has been received. All applications for encroachment permits shall will be reviewed and evaluated for current access control requirements, deed restrictions, safety and capacity requirements, design and location standards, or an approved variance of these standards, environmental impacts, location conflicts, long-range planning goals, and the need for an appraisal. A time table for the review process is available at the Idaho Transportation Department Headquarters Office or any District Office. (3-31-22)()

10. Department Held Harmless. In accepting an approved permit, the permittee, their successors and assigns, shall will agree to hold harmless and defend, regardless of outcome, the state from the expenses of and against all suits or claims, including costs, expenses and attorney fees that may be incurred by reason of any act or omission, neglect or misconduct of the permittee or its contractor in the design, construction, maintenance or operation of the encroachment. (3-31-22)()

11. Permit Requirements. All permits shall will specify approach location and use, and be accompanied by approved traffic control plans, design details and specifications that address dust control, site reclamation, environmental protection and work site safety. The applicant shall will be required to submit construction plans stamped by an engineer licensed in the state of Idaho to the Department for approval. (3-31-22)()

12. Void Application. Once an application is submitted, if the permitting process is not completed within one (1) year as a result of inactivity on the applicant's part, the application shall will be considered void. (3-31-22)()

13. Denial of Application. Applications for encroachments not allowed shall will be verbally denied. If the applicant insists on proceeding with the application, the non-refundable fee shall will be accepted and a permit denial issued by certified letter. Upon receipt of the denial letter, the applicant can appeal the Department's action. (3-31-22)()

201. PERMIT COMPLIANCE AND EXPIRATION.

01. Permitted Work. If work does not begin immediately, the permittee shall will notify the Department or local highway agency five (5) working days prior to commencing such work. Local highway agency shall will promptly notify the Department, when applicable. (3-31-22)()

02. Work Site Documents. The permittee or contractor for the permittee, shall will maintain a copy of the approved permit, all special provisions and any related documents, at the work site while work is in progress. (3-31-22)()

03. Completion of Work. All permitted work shall will be completed and available for final inspection within thirty (30) days after construction begins, unless otherwise stated in the special provisions of the permit. If the permitted work is not completed within one (1) year of permit issuance, the permit shall will be considered void. At the discretion of the Department, a one-time extension not to exceed six (6) months may be granted if requested in writing by the permittee prior to permit expiration. New applications shall will be required for additional work following permit expiration. (3-31-22)()

04. Temporary Encroachments. Temporary encroachment permits shall will have an effective time period not to exceed one (1) calendar year and shall will be removed within ten (10) days following permit expiration. (3-31-22)()

202. -- 299. (RESERVED)

300. GENERAL REGULATIONS FOR APPROACHES.

01. Required. All new or additional approaches, or the modification in design or use, relocation or removal of existing approaches require an approved State highway right-of-way use permit and shall will meet all access control requirements that correspond to the state highway being affected. (3-31-22)()

02. General. Requests for approaches shall will be reviewed and considered for approval based on the needs of the total development, regardless of the number of individual parcels it contains. (3-31-22)()

03. Joint-Use Approach. Only an owner of property abutting the state highway right-of-way, or their designated representative, can apply for access. Applications for a joint-use approach that serves two (2) or more abutting properties sharing common boundary lines shall will be accompanied by a legal recorded joint-use access agreement and shall will be signed by all deeded owners or authorized representatives. (3-31-22)()

04. Applicable Standards. The location, design, and construction of all approaches shall will comply with Department standards. Information regarding applicable standards is available at Department headquarters and all District offices listed in Subsection 003.01. (3-31-22)()

05. Approach Locations. Approaches shall will be located where the highway alignment and profile meet approved geometric standards, where they do not create undue interference with or hazard to the free movement of normal highway or pedestrian traffic, and where they do not restrict or interfere with the placement or proper function of traffic control signs, signals, lighting or other devices. (3-31-22)()

06. Denial of Approach Application. Failure to comply with these requirements may be sufficient cause for the Department to deny an approach application, prohibit specific approach usage, or remove an existing approach. ()

07. New Approaches in Highway Construction. Applications for an encroachment located within a state highway construction project shall will be processed by the Department. (3-31-22)()

08. Modification of Approaches by Department. The Department reserves the right to make any modifications, additions, repairs, relocations, or removals to any approach or its appurtenances within the highway right-of-way, when necessary for maintenance, rehabilitation, reconstruction or relocation of the highway and/or to provide proper protection of life and property on, or adjacent to, the highway. ()

09. Modification of Approaches by Permittee. Modifications of approach use, construction, or design shall will include but not be limited to width, grade, surface type, landscaping, and drainage. Such modifications by the permittee require Department approval. (3-31-22)()

301. -- 399. (RESERVED)

400. LOCATION AND DESIGN STANDARDS FOR APPROACHES.

01. Required. Location, design, construction and operations of all approaches shall will comply with current Department geometric standards and design principles. (3-31-22)()

02. Guidelines. The following access management guidelines shall will be considered on all approach applications: (3-31-22)()

a. Design approaches for current and future property access requirements; and ()

b. Reduce conflicts associated access points through the application of channelization, auxiliary lanes, joint-use approaches, frontage and other local roads, restricted on-street parking and off-street traffic circulation. ()

03. Signal and Approach Spacing. In order to maintain system capacity, safety and efficiency, maximize signal progression and minimize delays to the traveling public, all approaches and signals shall will be spaced in accordance with the following standards: (3-31-22)()

a. All traffic signal locations shall will meet Department signal warrant requirements and a signal operational analysis; (3-31-22)()

b. Location preference ~~shall~~will be given to State highways that meet or may be reasonably expected to meet signal warrants within five (5) years; and (3-31-22)()

c. Minimum recommended distances between approaches and signals are as follows:

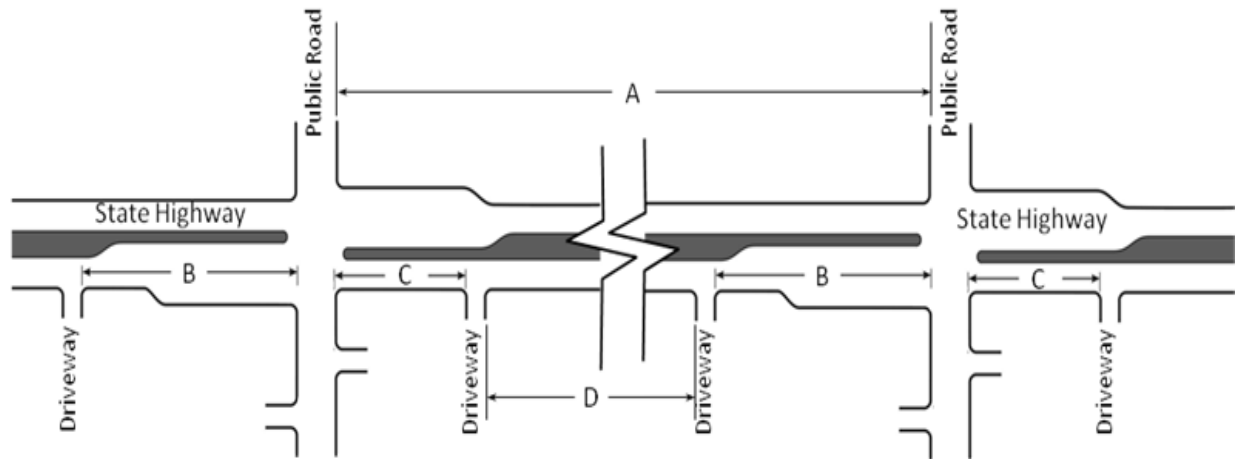
TABLE 1 – ACCESS SPACING*						
HIGHWAY TYPE	AREA TYPE	Signalized Road Spacing	Public Road Spacing (A)	Driveway Distance Upstream From Public Road Intersection (B)	Driveway Distance Downstream From Unsignalized Public Road Intersection (C)	Distance Between Unsignalized Accesses Other Than Public Roads (D)
Interstate	All	Accessible only by interchanges (ramps) and requires approval by the Board and Federal Highway Administration.				
Freeway	All	Accessible only by interchanges (ramps).				
Expressway	All	Accessible only at locations specified by the Department.				
Statewide Route	Rural	5,280 ft	5,280 ft	1,000 ft	650 ft	650 ft
	Transitional	5,280 ft	2,640 ft	760 ft	500 ft	500 ft
	Urban >35 mph	2,640 ft	1,320 ft	790 ft	500 ft	500 ft
	Urban ≤35 mph	2,640 ft	1,320 ft	790 ft	250 ft**	250 ft**
Regional Route	Rural	5,280 ft	2,640 ft	1,000 ft	650 ft	650 ft
	Transitional	2,640 ft	1,320 ft	690 ft	360 ft**	360 ft**
	Urban >35 mph	2,640 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban ≤35 mph	2,640 ft	660 ft	660 ft	250 ft**	250 ft**
District Route	Rural	2,640 ft	1,320 ft	760 ft	500 ft	500 ft
	Transitional	2,640 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban >35 mph	1,320 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban ≤35 mph	1,320 ft	660 ft	660 ft	250 ft**	250 ft**

*Distances in table are minimums based on optimal operational and safety conditions such as adequate sight distance and level grade. Definitions of spacing designated by (A), (B), (C), and (D) are represented on Figure 1.

** Where the public road intersection or private access intersection is signalized, the distances in the table are for driveways restricted to right-in/right-out movements only. For unrestricted driveways the minimum distance ~~shall~~will be 500 feet from a signalized intersection.

(3-31-22)()

Figure 1:



()

d. The District Engineer shall will have the authority to deny an encroachment permit or require the applicant to provide a Traffic Impact Study when an on-site review indicates that the optimal conditions (such as sight distance and queue length) assumed in Table 1 do not exist, and that operational or safety problems may result from the encroachment spacing. (3-31-22)()

e. The District Engineer shall will have the authority to approve a decrease in the minimum access spacing distances set forth in Table 1, provided that the basis for any exception is justified and documented. The basis for the exception may include overriding economic opportunity considerations. For any exception that would result in a decrease in access spacing of more than ten percent (10%) of the distances set forth in Table 1, a Traffic Impact Study will be required in order to determine whether auxiliary lanes or other appropriate mitigation must be included in the permit's conditions. (3-31-22)()

f. Unless the requirement is waived by the District Engineer, a Traffic Impact Study shall will also be required when a new or expanded development seeks direct access to a state highway, and at full build out will generate one hundred (100) or more new trips during the peak hour, the new volume of trips will equal or exceed one thousand (1000) vehicles per day, or the new vehicle volume will result from development that equals or exceeds the threshold values in Table 2. If the District Engineer waives the requirement for a Traffic Impact Study, the basis for such waiver shall will be justified and documented. (3-31-22)()

g. When required, the Traffic Impact Study shall will document access needs and impacts and whether any highway modifications are necessary to accommodate the new traffic volumes generated by the development. Such modifications could include, for example, turn lanes, additional through lanes, acceleration or deceleration lanes, medians, traffic signals, removal and/or consolidation of existing approaches, approaches limited to right-in/right-out access only, etc. (3-31-22)()

h. If a District Engineer denies an encroachment permit application and the denial is appealed to the board, the board or its delegate shall will have the authority to approve exceptions to the access and signal spacing distances in Table 1 if, in the judgment of the board, overriding economic considerations cause the exceptions to be in the best interests of the public. (3-31-22)()

Table 2	
LAND USE TYPE	THRESHOLD VALUE
Residential	100 Dwelling Units
Retail	35,000 square feet
Office	50,000 square feet
Industrial	70,000 square feet
Lodging	100 rooms
School (K-12)	All (Sections 67-6508 & 67-6519, Idaho Code)

()

04. Corner Clearance.

()

a. Approaches should be located as far as practical from intersections: to preserve visibility at the intersection, to permit safe vehicle movement, and to accommodate the installation of traffic signs, signals and lighting where required. ()

b. Approach transitions or flares shall/will not encroach upon curbs or pavement edges forming the corner radii of the intersection. (3-31-22)()

c. Minimum corner clearances between signalized and unsignalized urban and rural intersections shall/will comply with current Department standards. (3-31-22)()

05. Approach Alignment. Whenever possible, all new or relocated approaches shall/will intersect the state highway at right angles and shall/will be aligned on centerline with existing approaches to facilitate highway safety and the development and use of turn lanes and/or signals. Approach skew angles shall/will be in conformance with current Department standards. (3-31-22)()

06. Width and Radius.

()

a. An approach shall/will be wide enough to properly serve the anticipated type and volume of traffic. Minimum widths should be used only when space limitations apply. (3-31-22)()

b. An approach that is adjacent to a public alley may include the alley as part of the approach if approved by the local jurisdiction, however, the width of the combined approach shall/will not exceed forty (40) feet. (3-31-22)()

c. Commercial approaches with volumes exceeding fifty (50) vehicles per hour during a total of any four (4) hours per day should be designed to public road standards. ()

d. A Boulevard Approach may be required to improve operation and/or aesthetics of commercial approaches and some public highways, when warranted, by a combination of vehicle length and higher traffic volumes. The approach shall/will be designed to serve the traffic with a right-turn lane, a left-turn lane, a median, and one (1) or more entrance lanes. (3-31-22)()

e. Minimum and maximum recommended approach widths and radii are as follows:

APPROACH USE	< 35 MPH		≥ 35 MPH		RADII	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Single Residential, Farmyard, Field	12ft	40ft	20ft	40ft	20ft	30ft
Multiple Residential	28ft	40ft	28ft	40ft	20ft	30ft
Commercial (One-Way)	15ft	30ft	20ft	30ft	30ft	40ft
Commercial (Two-Way)	25ft	40ft	25ft	40ft	30ft	40ft
Boulevard Approach	84ft	84ft	84ft	84ft	Contact Department	
Joint-Use Residential/Farm	25ft	40ft	25ft	40ft	20ft	30ft
Joint-Use Commercial	12ft	40ft	20ft	40ft	30ft	40ft
Public Highways	28ft	N/A	28ft	N/A	30ft	50ft

()

07. Property Line Clearance.

()

a. In curbed sections, there shall will be a minimum property line clearance of six (6) feet to accommodate approach transitions. Approaches shall will be constructed so that all approach flares and any extensions of the approach remain within applicant’s property. (3-31-22)()

b. In rural or uncurbed sections, property line clearances shall will be equal to approach radius. Approaches shall will be constructed so that all approach radii remain within applicant’s property. (3-31-22)()

c. Approach transitions or radii may be allowed to abut the adjacent property line when required for proper utilization of property. Joint-use approaches shall will be required whenever property frontage is insufficient to include full width of the approach, including both radii. (3-31-22)()

08. Setback.

()

a. Improvements intended to serve patrons on private property adjacent to state highway right-of-way shall will be setback from the highway right-of-way line so that stopping, standing, parking or maneuvering of vehicles on the right-of-way is not necessary. A minimum setback of fourteen (14) feet from state highway right-of-way line is recommended, unless a greater minimum is established by an engineering study. When an ordinance requires a certain number of parking spaces per square footage of building, the parking spaces shall will not be included within state highway right-of-way. (3-31-22)()

b. Traffic movements into and out of a business shall will be designed, whenever possible, to utilize existing local roads. Existing approaches along traveled way should serve as exits only from the business onto the state highway. Entrance to the property should be made from a local road. (3-31-22)()

09. Sight Distance. Any encroachment, including but not limited to hedges, shrubbery, fences, walls, or other sight obstructions of any nature, that constitutes a traffic hazard within the “vision triangle” of vehicle operators at the intersection of roads with other roads, private approaches, alleys, bike or pedestrian paths, or railroad

crossings shall/will be removed. (3-31-22)()

10. Transitions and Flares. ()

a. In curb and gutter sections, the transition connecting the edge of the approach to the curb shall/will meet minimum Department standards. (3-31-22)()

b. In sections not having a curb and gutter, approach flares should connect the outside edge of the approach to the outside edge of the roadway shoulders and shall/will meet minimum Department standards. The approach flare tangent distance should not exceed twenty (20) feet unless a larger radius is warranted by an engineering study. (3-31-22)()

c. The distance between approaches shall/will be such that the curb approach transition or radii of the one (1) approach does not encroach upon the transition or radii of the adjacent approach. (3-31-22)()

11. Grade. ()

a. If the maximum allowable slope is not great enough to bring the approach to the level of the sidewalk or back of curb, a depressed sidewalk should be installed, when required. If sidewalks exist, the connection between the original sidewalk and the depressed sidewalk shall/will be made through a transition area with a slope no steeper than twelve horizontal to one vertical (12:1) from the longitudinal grade of the original sidewalk. All new curbs or sidewalks should be constructed to the line and grade of the existing curb or sidewalk with every effort to construct a sidewalk that is uniformly graded and free of dips. (3-31-22)()

b. To accommodate emergency service vehicles, the Department recommends a maximum approach grade of plus or minus ten percent ($\pm 10\%$). ()

12. Border Area. ()

a. Border area work (including grading, seeding and landscaping) shall/will insure that adequate sight distance, proper drainage, desirable slopes for maintenance operations, and a pleasing appearance are provided. The border area shall/will be free of encroachments and designed as needed to prevent vehicular use through the incorporation of appropriate methods such as ditching, special grading, use of concrete or bituminous curbs, fencing, guard rail, and guide posts. The design or devices should not impair adequate sight distance or constitute a hazard to pedestrians, bicycles, or vehicles. (3-31-22)()

b. The maximum slope beyond the outside edge of shoulder, back of curb, or back of sidewalk to the right-of-way line shall/will meet minimum Department standards. The creation of ponds, pools, or drainage/evaporation swales within the highway right-of-way shall/will be prohibited. (3-31-22)()

13. Drainage. ()

a. All approaches shall/will be graded so that private properties abutting the highway right-of-way do not drain onto the traveled way, do not impair the drainage within the right-of-way, alter the stability of the roadway subgrade or materially alter the drainage of areas adjacent to the right-of-way. Post-development drainage flows shall/will not exceed predevelopment drainage flows. (3-31-22)()

b. Culverts and drop inlets shall/will be installed where required and shall/will be the type and size specified by the Department. Where the border area is regraded, landscaped or reclaimed (seeded), it shall/will have sufficient slope, ditches, culverts, and drop inlets for adequate drainage. Slopes, where practical, should be a six-horizontal-to-one vertical (6:1) maximum. (3-31-22)()

14. Base and Surfacing. ()

a. It shall/will be the responsibility of the permittee to supply, place and properly compact the approach fill and base material. All base and surfacing materials and compaction requirements shall/will meet minimum Department design and construction standards. (3-31-22)()

b. All rural private, commercial and public approaches shall will be paved to the right-of-way line or to the back of the approach radius. Farmyard and field gravel approaches that are occasionally used shall will be paved a minimum of five (5) feet from the edge of pavement. (3-31-22)()

c. In curb and gutter areas, approaches shall will be paved to the right-of-way line. (3-31-22)()

401. MEDIANS.

01. Median Placement. The placement of medians shall will meet the following considerations: (3-31-22)()

a. Where a traffic engineering study indicates that medians would be beneficial to control access, maintain street capacity, and improve traffic safety. ()

b. When medians are selected, non-traversable medians are the preferred median type; however, traversable medians in urban areas may be considered to accommodate emergency vehicles. ()

c. Pedestrian/bicycle safety shall will be given consideration in the choice and design of medians in areas that are frequently used by pedestrians/bicycles. (3-31-22)()

d. construction requirements for all new or modified public approaches to the state highway right-of-way, including private approaches to subdivisions and businesses, shall will be reviewed for the need to place medians on the state highway. (3-31-22)()

e. Channelization formed by raised curbs, solid painted islands, left turn lanes, or other traffic control installations may be required to create a mandatory right-in/right-out and/or left-in/left-out approach condition. ()

02. Median Openings. Median openings shall will be as follows: (3-31-22)()

a. Placed on multi-lane state highways at all signalized intersections, at locations which currently meet the criteria for a signal warrant and fulfill traffic signal coordination requirements, at locations that are anticipated to meet future traffic signal considerations, and at locations where there will be no significant reduction in safety or operational efficiency. ()

b. Designed with a left turn lane and sufficient storage for left turning traffic. ()

c. Median openings allowing U-turns shall will be provided only at locations having sufficient roadway width. (3-31-22)()

402. AUXILIARY LANES.

Review Required. Reviews shall will be conducted to determine the need to provide turn lanes, deceleration lanes and acceleration lanes on the state highway prior to issuing an approach permit. Consideration of auxiliary lanes shall will meet the following conditions: (3-31-22)()

01. Traffic Engineering Study. A traffic engineering study shall will be made that considers highway operating speed, traffic volumes, projected turning movement volumes, availability of passing opportunities, sight distance, and collision history. (3-31-22)()

02. Auxiliary Lanes to Enhance Roadside Business. Auxiliary lanes shall will not be constructed to enhance a new roadside business, unless the applicant is willing to pay the full cost. (3-31-22)()

03. Auxiliary Lanes Required by Planned Development. Auxiliary lanes required as a result of a planned development, shall will be paid for by the developer. When the need for an auxiliary lane exists prior to an application for a planned development, the developer may not be required to pay for the lane unless such construction precedes the Department's construction schedule. (3-31-22)()

403. -- 499. (RESERVED)

500. LOCATION AND DESIGN STANDARDS FOR UTILITIES.

01. Approved Permit Required. An approved right-of-way encroachment permit shall be required for all utility encroachments, including new utility installation and the relocation, maintenance, modification, or removal of existing utility facilities prior to the initiation of any work within the state highway right-of-way. (3-31-22)()

02. Utility Locations. Final utility locations shall be identified on the appropriate roadway and bridge plans. (3-31-22)()

03. Interstate Highways. As addressed in the 1996 Telecommunications Act, longitudinal placement of telecommunication utilities in any Interstate right-of-way shall require a permit approved by the Department for the installation of utilities. Longitudinal placement of all other utilities in Interstate right-of-way shall require a utility permit approved by both the Department and the FHWA. (3-31-22)()

04. Utility Maintenance and Emergency Repair. Right-of-way encroachment permits, approved annually by the Department, shall be required for all maintenance or emergency repairs of utility facilities. The utility shall notify the Department in advance of any work that affects the traveling public. (3-31-22)()

05. Conduits Under the Roadway. ()

a. Conduits crossing under highways that carry utility structures including, but not limited to, water, sewage, chemicals, electrical wire, and communications cables, shall be installed by jacking, driving or boring unless trenching can be justified. Acceptable justification would only be poor soil conditions, such as rock or boulders, inadequate room for a boring pit, or conflicts with other utility lines which cannot be located accurately (gas lines, multiple telephone conduits). If gravel or boulders prevent boring or jacking on the first attempt, at least two (2) other documented attempts should be made at different locations before contacting the District about an alternate installation method, unless the utility can provide documentation from a qualified agency or engineer that indicates the strata is not conducive to boring, driving or jacking. Normally installation of conduit twenty-four (24) inches or less outside diameter should be attempted by jacking, driving or boring before consideration of trenching as an alternative. (3-31-22)()

b. The applicant is required to submit for review and approval, a set of construction plans stamped by an engineer licensed in the state of Idaho. The plans shall show all details on casing, conduits, bulkheads and placement, vertical and horizontal dimensions of the pit and shoring, method of installing the conduit, drainage, void filling, and traffic control devices. Sluicing or jetting shall not be allowed. If required by the engineer, casings should be installed from highway right-of-way line to highway right-of-way line to allow for servicing of the utility facility with minimal disruption to traffic flows. Casings should be installed wherever feasible to allow for placement of multiple conduits. (3-31-22)()

c. Conduits under interstate highways shall not be installed by cutting through the pavement under any circumstance. (3-31-22)()

06. Conduits Attached to Structure. Conduits attached to any structure shall meet the following requirements: (3-31-22)()

a. A set of construction plans showing all details and calculations of a crossing or proposed attachments, stamped by an engineer licensed in the state of Idaho, shall be submitted to the Department for review and approval at the time of permit application. A copy of the existing structure plans shall also be submitted that are marked to show the proposed structure modifications. (3-31-22)()

b. Reinforcement shall be located prior to the placement of threaded inserts to suspend utilities using a method approved by the Department. (3-31-22)()

- c. All attaching hardware shall will be galvanized or coated as directed by the Department. (3-31-22)()
- d. Bolts for the attachment clamps shall will be a minimum of one-half (1/2) inch in diameter. (3-31-22)()
- e. Slip joints shall will be installed as directed by the Department. (3-31-22)()
- f. Drilling of any bridge structural element shall will be prohibited without approval from the Department. (3-31-22)()
- g. Utilities shall will be attached to bridges in an interior bay, unless interior attachment is not practical due to the bridge diaphragm or end beam construction. (3-31-22)()
- h. Placing brackets along or around the structure rail is prohibited. ()
- i. The installing utility shall will relinquish exclusive rights to future use of a hanger system, once installed. However, the responsibility for required maintenance shall will remain with the installing utility until the hanger system is placed into a joint-use system. At that time, the responsibility for maintenance shall will become a shared responsibility. (3-31-22)()
- j. A set of “as-built” plans for all conduit or utility crossings and structure attachments shall will be submitted to the Department and the local utility locating service with all details of construction within thirty (30) days of the work completion. All “as-built” plans are required to be stamped by an engineer licensed in the state of Idaho. (3-31-22)()

501. -- 599. (RESERVED)

600. LOCATION AND DESIGN STANDARDS FOR OTHER ENCROACHMENTS.

- 01. Approved Permit Required.** An approved right-of-way encroachment permit shall will be required for all portable objects or signs, memorials, urban improvements, landscaping, farming, irrigation or drainage, mailbox stands or turnouts, recreational parking facilities, park-and-ride lots, school bus turnouts, or structures within the state highway right-of-way other than those authorized or installed by the Department, or those which the government entity deems necessary for regulating, warning, and guiding of traffic. (3-31-22)()
- 02. Benches, Planters, and Other Urban Structures.** Structures, including protrusions and overhangs, shall will be a minimum of eighteen (18) inches behind the face of curb. When a structure is within a sidewalk area, at least four (4) feet of unobstructed space shall will be available for pedestrians. (3-31-22)()
- 03. Overhanging Displays, Canopies and Marquees.** In a curb section, encroachments shall will not extend closer than eighteen (18) inches behind face of curb. In a non-curb section, encroachments supported by a building shall will not extend more than twelve (12) inches into right-of-way. Signs or displays shall will be no lower than twelve (12) feet above the sidewalk or ground level. Canopies and marquees shall will be no lower than eight (8) feet. (3-31-22)()
- 04. Landscaping, Farming and Associated Irrigation.** Repair of landscaping in the state highway right-of-way shall will be the responsibility of the permittee, and the Department will not be responsible for, or participate in, any repair or maintenance costs. All requests for landscaping, farming and irrigation shall will require a review of current access control records for restrictive covenants. Applications may be approved provided the following conditions are met: (3-31-22)()
 - a. Landscaping, farming, and irrigation systems shall will maintain the structural integrity of the state highway right-of-way. No undercutting of the present highway fill and ballast section nor shall will access to a state highway from unprotected bare soil be allowed. (3-31-22)()

b. Unless otherwise specified, the degree of landscaping will be limited to what is necessary to insure that the appearance of the state highway right-of-way is compatible with the appearance of the surrounding area and shall will not interfere with public safety and overall maintenance operations. (3-31-22)()

c. Landscaping, farming, and irrigation systems shall will not disturb, obstruct, or add to the normal drainage patterns of the state highway right-of-way. No new ditches shall will be constructed without prior approval. (3-31-22)()

d. Landscaping, farming, and irrigation systems shall will not interfere with utility installations, removals, or operations. ()

e. Provisions shall will be established for the responsibility of future maintenance. (3-31-22)()

f. Only planting of forage plants, grasses, flowers, and shrubs with a mature height not to exceed three (3) feet will be allowed within the clear zone of the state highway right-of-way. Type and size of grasses, flowers, and shrubs will be determined by the Department. ()

g. No trees shall will be allowed within the clear zone of the state highway right-of-way. (3-31-22)()

h. All work within the highway right-of-way shall will be required to return the right-of-way to either original condition or to the requirements of the encroachment permit as approved by the Department. (3-31-22)()

i. Irrigation systems shall will be no closer than five (5) feet from the pavement edge and shall will be adjusted so water does not cover any portion of the highway pavement. (3-31-22)()

j. No grading, excavation or other ground disturbing activities will be performed during rainy periods. If work cannot be avoided during rainy periods, the permittee will install check dams or other approved device(s) or structure(s) in drainage channels and provide a sediment retention basin to avoid discharging sediment containing runoff into the drainage system, or any wetlands, or water bodies (streams, rivers, lakes and ponds). No work shall will be performed in or adjacent to any wetland or water body without providing the Department with copies of the appropriate permits from the Army Corps of Engineers, Idaho Department of Water Resources, and the Idaho Division of Environmental Quality. (3-31-22)()

k. All areas within the state highway right-of-way disturbed by construction shall will be returned to its original condition and reclaimed (re-seeded, fertilized and mulched) as directed by the Department or delegated local highway agency. (3-31-22)()

l. Appropriate best management practices to temporarily control erosion and resulting sediment shall will be used. Typical soil surface protection practices include erosion control blankets, taced mulches of straw, wood fiber, paper fiber, soil amendments, or rock mulch. Typical sediment control practices may include silt fences, fiber wattles, rock check dams, sediment basins/ponds, inlet culvert risers, and inlet rock filters. For further information on best management practices, contact the Department. (3-31-22)()

m. Travel lanes shall will be kept reasonably free of dirt, rocks and other debris resulting from construction or maintenance of landscaping, farming, or irrigation. (3-31-22)()

05. Recreational Parking and Park-and-Ride Lots. ()

a. Parking areas shall will be designed to safely accommodate an adequate number of parking spaces as determined by the Department. (3-31-22)()

b. Access points shall will be located so that adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. (3-31-22)()

- c. Approaches shall will be constructed in accordance with Department standards. (3-31-22)()
- d. Installation of fencing and delineation should be considered to restrict ingress and egress locations and widths. ()
- e. Unrestricted drainage shall will be provided and shall will comply with Department standards. (3-31-22)()
- f. Construction and maintenance of parking areas, including snow removal shall will be the responsibility of the permittee. (3-31-22)()

06. Mailbox Turnouts. ()

- a. Mailbox turnouts in rural areas may be combined with an adjacent approach or may be independent of the approach. For safety reasons, the mail carrier should be able to stop out of the traveled way whenever possible. The applicant should be required to construct a mailbox turnout at the same time a mailbox is installed. ()
- b. Mailbox turnouts and mailbox supports shall will be constructed in accordance with Department standards. The box-to-post attachments shall will resist separation when struck by a vehicle. No massive metal, concrete, stone or other hazardous supports shall will be allowed. Owners of mailboxes that do not meet minimum installation requirements shall will be notified that correction is required. (3-31-22)()

07. School Bus Turnouts. ()

- a. School bus turnouts shall will be constructed with sufficient length and width to accommodate bus length and turning maneuvers as determined by the Department. (3-31-22)()
- b. Turnouts shall will be located so adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. (3-31-22)()
- c. All permitted school bus turnouts shall will include approved advance warning signs installed at Department expense. (3-31-22)()

601. -- 699. (RESERVED)

700. APPLICATION FEES.

01. Fee Administration. Fees for applications for permits shall will be based on the Department's cost to produce the permit and administer the program. Fees for permits are not refundable in the event of denial of the permit or in the event the permittee fails to comply with the permit. Applications shall will not be processed until all applicable permit fees are received. (3-31-22)()

02. Fee Schedule. The permit application fees shall will be as follows: (3-31-22)()

a. Approaches:

Land Use Category	Permit Application Fee
Residential, < 100 units (includes farm and field approaches)	\$50
Residential, ≥ 100 units	\$100
Retail, < 35,000 sq. ft.	\$50
Retail, ≥ 35,000 sq. ft.	\$100
Office, < 50,000 sq. ft.	\$50

Land Use Category	Permit Application Fee
Office, ≥ 50,000 sq. ft.	\$100
Industrial, < 70,000 sq.ft.	\$50
Industrial, ≥ 70,000 sq.ft.	\$100
Lodging, < 100 rooms	\$50
Lodging, ≥ 100 rooms	\$100
School (K-12)	\$100

- ()
- b. Encroachments other than approaches: fifty dollars (\$50). ()
- c. Utility Permits: ()
 - i. Non-interstate: new, modify, relocate with no prior easement rights, fifty dollars (\$50). ()
 - ii. Interstate: fees will be addressed at the time of application. ()
 - iii. Interstate and non-interstate: maintenance or emergency repairs with no prior easement rights - No Charge ()
 - iv. Interstate and non-interstate: new, modify, relocate with prior easement rights within an ITD State highway project) - No Charge. ()
- 03. Miscellaneous Costs.** In addition to the application fee, the Department may require payment of costs associated with the following: ()
 - a. Study or appraisal review; or ()
 - b. Appraisal fees required to establish the value of property for new, additional, modification in design or use, or relocation of approaches or other encroachments in a controlled access highway. ()
 - c. Inspection fees may be charged at the discretion of the District Engineer when substantial inspection time will be required to monitor and accept work done within the right-of-way. This includes wages, travel, subsistence and other expenses incurred. The intent is to recover only Department costs. When the inspection fee is to be assessed, it shall will be stipulated under the application’s special provisions. Travel time in excess of one (1) hour, a loaded payroll rate, vehicle rental cost, subsistence, and other expenses incurred. If additional inspections are required, the permittee will be billed a flat fee as determined by the Department at the time the permit is issued. (3-31-22)()
 - d. A performance bond may be required of an applicant at the discretion of the Department. The purpose of this bond is to guarantee completion of the work in accordance with the requirements of the permit. The bond amount should be large enough to cover costs to correct potential damage that might be caused by the permittee. The bond shall will be executed by a surety company authorized to conduct business in Idaho. (3-31-22)()
 - e. Construction of highway modifications or improvements, including but not limited to signals, illumination, signs, pavement markings, delineation, guardrail, and culverts; ()
 - f. Changes or adjustments made to highway features or fixtures; or ()
 - g. Expenses relating to photocopying highway plans, permits or related documents. ()
- 04. Waivers.** Permit fees may be waived and the justification included with the application for:

()

- a. Approaches resulting from right-of-way negotiations that are included in plans and completed during construction of a highway project. ()
- b. Government agencies. ()
- c. Agricultural uses of the right-of-way as included in the right-of-way agreement. ()
- d. Approaches and other encroachments where direct benefit to the Department is gained. ()
- e. Utility adjustments or relocations per project utility agreement, or requested by the Department, or utility maintenance and emergency repairs. ()

701. – 799. (RESERVED)

800. UNAUTHORIZED AND NONSTANDARD ENCROACHMENTS.

01. Compliance. District Engineers shall will ensure compliance with all applicable laws and Department policies relating to the removal or correction of unauthorized and non-standard encroachments in accordance with Department rules and policies. (3-31-22)()

02. Prohibition. Approaches and other encroachments on state highway rights-of-way that are installed without an approved state highway right-of-way permit, or not constructed in accordance with the Department requirements as stated in the permit, or are naturally occurring adjacent to the state highway right-of-way line and create a hazard, are prohibited, may be removed or their use may be suspended until corrective action is taken. The application process shall will be immediately initiated when applicable or the encroachment removed when such a permit cannot be approved. (3-31-22)()

03. Nonstandard Encroachment. When a permitted encroachment does not meet Department standards, the applicant or permittee shall will be given one (1) month to upgrade the encroachment to the encroachment standards. Encroachments may be removed by the Department and legal action initiated to collect the removal cost. (Section 40-2319, Idaho Code) The one (1) month period may be shortened if an imminent or immediate threat to the safety of the traveling public is present. Time extensions may be granted by the Department or delegated local highway agency. However, if the permittee does not comply, the permit shall will be revoked and the encroachment removed. (3-31-22)()

04. Encroachment Removal. Any person or entity maintaining an unauthorized encroachment of any kind upon state highway right-of-way shall will be served, according to law, with a notice to remove the same. Failure to remove the encroachment within forty-eight (48) hours shall will be followed by a certified letter from the Department requesting removal within ten (10) days. If the encroachment is still not removed, the Department shall will institute appropriate legal action to have it removed. The Department may take immediate corrective action if an imminent or immediate threat to the safety of the traveling public is present. (3-31-22)()

05. Liability of Applicant. The applicant may be held liable for injury or damages caused by the unauthorized or non-standard encroachment. The Department shall will make no reimbursement for removal of unauthorized or non-standard encroachments nor shall will compensation be made for any losses that may arise from their removal. The Department may initiate legal action to recover costs for the removal of unauthorized or non-standard encroachments. (3-31-22)()

801. PROHIBITIONS.

01. Prohibited Uses. The use of the highway right-of-way or any portion thereof for any of the following uses or purposes shall will be prohibited: (3-31-22)()

- a. Mobile stores, mobile lunch wagons or similar businesses that stop vehicles to offer for sale or sell their wares. ()

- b. Solicitation or sale of any goods or services, attempts to serve, distribute, petition or recruit, and all associated stopping, standing or parking of vehicles (except Department-approved vending privileges in safety rest areas. ()
- c. The storage of any substance, equipment or material, including but not limited to logs, lumber, supplies or aggregates. ()
- d. The abandonment of vehicles or other large objects. ()
- e. Servicing, refueling and repairing of vehicles, except for emergencies. ()
- f. The placement of portable objects or signs (material or copy), displays, or other unapproved highway fixtures. ()
- g. Permanent, temporary or mobile structures, manned or unmanned. ()
- h. Any obstruction that creates a traffic hazard, including trees, shrubbery, fences, walls, non-standard mailbox stands, or other appurtenances. ()
- i. Signs or displays that resemble, hide or because of their color, interfere with the effectiveness of traffic signals and other traffic control devices. ()

~~02. **Modification of Rule.** The Department may modify this rule for emergency, temporary installations for the benefit to the highway user. (3-31-22)~~

032. Encroachment Hazards. Encroachments ~~shall~~will not interfere with the safety of the highway or the visibility and effectiveness of traffic control devices, form a wall or building support, obstruct crosswalks or wheelchair ramps, or force pedestrians into the highway. (3-31-22)()

~~04. **Board Jurisdiction.** The Board, by and through the Department, may consummate agreements with cities and villages whereby they may exercise their police powers on those matters within their jurisdiction. (3-31-22)~~

802. -- 999. (RESERVED)