

# Broadband Utility Accommodation Rulemaking

13 June 2022



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## Agenda

- Goals and Objectives of Broadband Negotiated Rulemaking
- 2021 Broadband Rulemaking Review
- Small Wireless Facilities (SWF)
- HB640 aaS 2022 – “Idaho Broadband Dig Once and Right-of-Way Act”
- Discussion



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## GOALS AND OBJECTIVES OF BROADBAND NEGOTIATED RULEMAKING



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## Goals and Objectives of Rulemaking

- Orderly use of highway right-of-way by all utilities
- “Dig Once” within the highway right-of-way
- Manage current and future demands on the ROW for transportation purposes and accommodate all utilities when possible



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## Goals and Objectives of Rulemaking

- Serving the greatest public interest through collocation and other space saving practices
- Create a competitively neutral environment that is unbiased in its treatment of utility providers
- When feasible, to support the strategic deployment of broadband infrastructure across the State of Idaho



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## Managing the ROW

- Updating UAP and GUM will provide a framework for managing broadband facilities within the Right-of-Way (ROW) or State owned property
- Develop policies and procedures for accommodating and managing access for broadband infrastructure
- Manage ROW on a competitively neutral and non-discriminatory basis



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## 2021 Rulemaking Review

- ITD held broadband utility accommodation rulemaking during the summer and fall of 2021
- IDAPA 39.03.43 – Rules Governing Utilities
- Updated Utility Accommodation Policy (UAP)
- Pursued rulemaking to accommodate Small Wireless Facilities (SWF)
- Rulemaking regarding fixed wireline broadband paused
- Proposed SWF rules approved by the Idaho Transportation Board and State Legislature



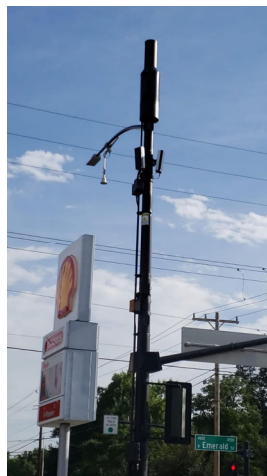
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## Small Wireless Facilities (SWF)

- IDAPA 39.03.43 Rules Governing Utilities in the State Highway ROW
- Changed to Fee Rule
- Implemented 2018 FCC SWF Fee Structure & Permit review “shot clocks”
- Approved by ITD Board & Legislature



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## Small Wireless Facilities (cont.)

- New rule adopts FCC SWF fee structure and “shot clocks”
- Providers enter into Non-Exclusive Installation and Occupancy Agreement
- Adhere to ITD SWF Design Guidelines
- Permits issued by Districts

IDAHO TRANSPORTATION DEPARTMENT



SMALL WIRELESS FACILITIES

NON-EXCLUSIVE INSTALLATION AND OCCUPANCY  
AGREEMENT

MAY 2022



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## HOUSE BILL 640 IDAHO BROADBAND DIG ONCE AND RIGHT-OF-WAY ACT



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## HB640 “Idaho Broadband Dig Once and Right-of-Way Act”

- At the beginning of the 2022 Legislative Session, industry authored legislation was introduced seeking access to State Highway System ROW for broadband infrastructure
- Legislative intent is for ITD to develop rules, standards and policies consistent with “Dig Once Policy”
- Coordinate installation of broadband infrastructure on highway ROW, and during ITD sponsored road construction projects



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## DIG ONCE

- “Dig Once” is a policy or practice that minimizes the number and scale of excavations or construction and costs when installing broadband infrastructure in highway rights-of-way



I-90 Widening, Coeur d'Alene



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## HOUSE BILL 640 IDAHO BROADBAND DIG ONCE AND RIGHT-OF-WAY ACT

“The department shall promulgate rules for carrying out the provisions of this section that are nondiscriminatory, neutral, fair, and objective and that promote competition among broadband providers.”



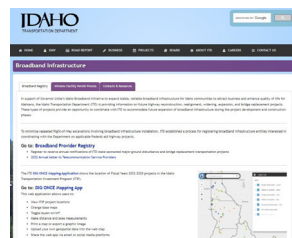
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## HB640 Requirements

- 40-518 (1) ITD to develop a Registry of broadband providers interested in installing broadband infrastructure
- [itd.idaho.gov/broadband](http://itd.idaho.gov/broadband)



**Idaho Transportation Department Broadband Provider Registry**

This Idaho broadband provider registry will be used to provide notifications to broadband providers interested in installing broadband infrastructure in coordination with state-sponsored major ground disturbance and bridge replacement transportation projects.

**Name\***  
Please provide your name

**Title\***  
Please provide your position title

**Organization or Company Name\***  
Please provide organization or company name

**Email Address\***  
Please provide email address to receive updates on transportation projects

**Address\***  
Please provide mailing address

**Broadband Provider Type\***  
Please select:



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## HB640 Requirements (cont.)

- 40-518 (2) ITD to identify projects eligible for placement of broadband infrastructure
  - ITD has identified major ground disturbance and bridge restoration projects
  - Preservation projects are not applicable



US-95 & SH-53 Interchange



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## HB640 Requirements (cont.)

- 40-518 (3) ITD to notify providers on the registry of projects suitable for coordination
  - Beginning in 2020 ITD has sent out annual coordination letter
  - Provides link to ITD Dig Once App showing suitable projects
  - Provides District Planning POCs for coordination



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IDAHO TRANSPORTATION DEPARTMENT  
P.O. Box 7723 • Boise, ID 83727-1123  
(208) 334-6000 • [idaho.gov](http://idaho.gov)

February 12, 2021

To: Idaho Telecommunications Service Providers

RE: Idaho Transportation Department, Idaho Transportation Investment Program (ITIP) Ground Disturbance Projects for Fiscal Years 2021-2027

In support of Governor Little's Idaho Broadband Initiative to expand stable, reliable broadband infrastructure for Idaho consumers to attract business and enhance quality of life for Idahoans, the Idaho Transportation Department (ITD) is providing information on future highway reconstruction, realignment, widening, expansion, and bridge replacement projects. These types of projects provide an opportunity to coordinate with ITD to accommodate future expansion of broadband infrastructure during the project development and construction phases.

This coordination will allow telecommunications providers with advanced notice of upcoming projects and also supports the goal of "Dig Once" to place infrastructure during the construction phase of a project.

To view upcoming projects please visit our web mapping service: <https://data.idaho.gov/dataset/2980>

ITD would like to coordinate with providers on future expansion of broadband infrastructure along the State Highway System and particularly these upcoming projects. We invite you to contact the respective ITD District Headquarters Office, Planning & Scoping Section (contact information is included in the attached map). Please note the Project Key Number and description with your inquiry.

Respectfully,

Blake Rindbacher, P.E.  
State Engineer

cc: [ITD@idaho.gov](mailto:ITD@idaho.gov)

Comments/Reply, Forth

Attachment: ITD District Map and Office Contact Information



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## HB640 Requirements (cont.)

- 40-518 (8)(a) Procedures consistent with the "Dig Once Policy" for processing and reviewing statements of interest received from a broadband provider by the department
  - Providers on registry will receive an annual coordination letter following the approval of the Idaho Transportation Investment Program by FHWA
  - Providers interested in coordinating with ITD should submit a letter of interest to the respective ITD District Planning and Scoping Section
  - Reference ITD Project Name, Key Number, Route and description of the providers proposed infrastructure



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## HB640 Requirements (cont.)

- 40-518 (8)(b) A broadband provider shall be charged for the actual cost incurred by the department as a result of the installation of a broadband provider's broadband infrastructure
  - Providers shall share equally in the common charges of the installation of broadband infrastructure
  - ITD may require advance payment from providers for utility work
  - ITD may require a Performance Bond from providers to guarantee utility work (see Utility Accommodation Policy Section 2.9)



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## HB640 Requirements (cont.)

- 40-518 (8)(c) Criteria for identifying projects that would be suitable for the placement of broadband infrastructure
  - ITD has identified major ground disturbance and bridge restoration projects as suitable for the placement broadband infrastructure



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## HB640 Requirements (cont.)

- 40-518 (8)(d) Criteria for the installation of the department's own conduit. Rules may allow use of such conduit by broadband providers
  - ITD places conduit in projects that have Intelligent Transportation System requirements, or provide connectivity to ITD facilities or assets
  - ITD may place conduit in projects with limited ROW
  - ITD needs input on where providers need to go
  - Providers may gain access to ITD owned conduit through Shared Resource Agreement



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## HB640 Requirements *(cont.)*

- 40-518 (8)(e) Procedures and forms for permitting processes
- Reference ITD Utility Accommodation Policy (UAP) 2022 Edition
  - UAP Section 2 – Right-of-Way & Permit
  - UAP Section 2.1 – Right-of-Way Use
  - UAP Section 2.2 – Pre-Existing Property Interests
  - UAP Section 2.3 – Permit documents and requirements



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## HB640 Requirements *(cont.)*

- 40-518 (8)(f) A contested case administrative appeals process, pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.
  - Additional appeal process information located in UAP Section 2.4



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## HB640 Requirements *(cont.)*

- 40-520 (7)(a) Governing the installation, operation, and maintenance of broadband infrastructure granted longitudinal access pursuant to this section
  - UAP Section 2.5 - Requirements of Permittee
  - UAP Section 2.6 - Emergency Repair & Maintenance
  - UAP Section 3.1 - Maintenance by Utilities
  - UAP Section 5 - Location
  - UAP Section 6 - Construction



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## HB640 Requirements *(cont.)*

- 40-520 (7)(b) Specifying the procedures for establishing an agreement for longitudinal access for a broadband provider
  - Statute defines longitudinal access as 100+ feet
  - Provider to enter into a Non-Exclusive Installation and Occupancy Agreement with Division of Highways
  - Permits to be issued by appropriate District office



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## HB640 Requirements (cont.)

- 40-520 (7)(c) Specifying criteria for the installation of the department's own conduit and use of such conduit by broadband providers consistent with this section
  - ITD places conduit in projects that have Intelligent Transportation System requirements, or provide connectivity to ITD facilities or assets
  - ITD may place conduit in projects with limited ROW
  - Providers may gain access to ITD owned conduit through Shared Resource Agreement



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## HB640 Requirements (cont.)

- 40-520 (7)(d) Providing for the relocation or removal of broadband infrastructure for needed changes to a highway on the interstate system
  - Interstates are Controlled Access Highways and require additional review and approval by FHWA
  - Relocation or removal of any utility facilities, including broadband infrastructure, applies to all of the State Highway System and Interstate roadways
  - UAP Section 2.5 Requirements of Permittee
  - UAP Section 4.2 Relocating Costs
  - UAP Section 5.7-5.7.2 Controlled Access Highways



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## COMMENTS & DISCUSSION



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## Points of Contact

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