

ITD Negotiated Rulemaking Comments

July 2022

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

Below is a listing of the submitted comments:

Date	Name/Organization	Pages
7/7/22	Syringa Networks, LLC	1-2
7/20/22	Idaho Cable Broadband Association (ICBA)	3-4
7/26/22	Idahoans For Safe Technology (IFST)	5-30
7/27/22	Idaho Telecom Alliance (ITA)	31-33
7/28/22	The Wireless Association (CTIA)	34-42



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Raymond D. Givens (1917-2008)

July 7, 2022

VIA EMAIL AND U.S. MAIL

Robert Beachler
Broadband Program Manager
Idaho Transportation Department
Division of Highways, Planning Services Section
600 W. Prairie Ave.
Coeur d'Alene, ID 83815
robert.beachler@itd.idaho.gov

Re: 2022 Broadband Negotiated Rulemaking

Dear Mr. Beachler,

The law firm of Givens Pursley LLP represents Syringa Networks, LLC ("Syringa Networks"). On behalf of Syringa Networks, please accept the following comments with respect to the Idaho Transportation Department's ("ITD" or "Department") 2022 Broadband Negotiated Rulemaking.

It is apparent that considerable thought and effort have gone into the proposed modifications to the ITD Utility Accommodation Policy, and Syringa Networks thanks the Department for its efforts.

Our review indicates some possible inconsistencies to the newly passed statute. To provide additional clarity, Syringa Networks requests the following changes to the draft be made:

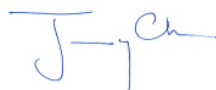
- Section 7.4, Syringa Networks requests that the words "operating" and "time period" be deleted. Currently, 7.4 reads, in part: "[t]he Provider's use of the Permitted Area is described in each separate permit issued by ITD for the purpose of installing, placing, mounting, operating, modifying, maintaining, upgrading, replacing and removing of broadband infrastructure." The purpose of the permits is to regulate the installation, maintenance and other physical aspects of equipment and infrastructure placement. We believe the word "operating" may lead to some confusion that a permit would be able to

regulate the substantive operations of the broadband service itself – which authority is not provided for in the statute. Additionally, 7.4 includes a portion, which reads, “[t]he non-exclusive license is only of the limited purposes and time periods stated in the Agreement.” (Emphasis added). Again, this section of the proposed rules involves installation and occupancy. Generally, installation and occupancy describe the physical placement of conduit underground. The proposed sentence seems to suggest that a broadband provider may only place its conduit underground for a limited amount of time, and once that time has run, the physical equipment, conduit lines, etc., would have to be removed. We do not believe this is consistent with the statutory language. The statute states that ITD, “shall allow a broadband provider longitudinal use and access....” (Emphasis added). The statute does not limit nor provide ITD the authority to limit how much time a broadband provider may use and access the broadband infrastructure. The lack of a time period is consistent with the intention of the Legislature to provide not just broadband service to unserved and underserved areas, but consistent and dependable service for years to come. Accordingly, we request that the word “operating” and time-periods” be deleted.

- Section 7.5., the rule expresses the Department’s intent to “utilize Shared Resources Agreements in lieu of fees or other financial transactions....” and “District Engineers and Division Administrators shall enter into Shared Resources Agreements with broadband providers....” Idaho Code 40-520 specifies that generally the only shared use the Department may require is the ability to “utilize the broadband infrastructure only for public safety warnings, road condition notifications, and amber alerts to motorists on highways.” I.C. Sec. 40-520(c). In some instances where the Department is requiring broadband providers to install ITD’s conduit, such conduit may only be used for internal Department purposes. I.C. Sec. 40-520(d). We request that language be added that clarifies such limitations in any Shared Resources Agreement.
- Section 7.6., suggests that the broadband infrastructure must be constructed and placed into use within 180 days. Syringa Networks believes that there will be many instances such as construction delays, permitting issues, employee availability, accidents and unforeseen events that would prevent a broadband provider from placing broadband infrastructure to use in 180 days. As such, we suggest revising the language to require that the broadband infrastructure be placed into use 180 days after the master project – including construction, permitting, connections and actual delivery of the project – is completed.

Again, we thank ITD for the rulemaking and appreciate the opportunity to present the above comments for the Department’s consideration.

Very Truly Yours,



Jeremy C. Chou

RON WILLIAMS
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July 20, 2022

Ramon S. Hobdey-Sanchez
ramon.hobdey-sanchez@itd.idaho.gov
Robert Beachler
robert.beachler@itd.idaho.gov
Idaho Transportation Department
3311 W. State St.
P.O. Box 7129
Boise, ID 83707

Re: **ICBA Comments ITD Broadband Rulemaking**

Dear Mr. Hobdey-Sanchez and Mr. Beachler,

First, let me say thank you for the time and effort you and ITD have committed to this important rulemaking. The Idaho Cable Broadband Association (“ICBA”) very much appreciates ITD’s efforts and accommodations to the issues raised by the ICBA and other parties.

Last week, Mr. Beachler sent me the proposed change shown below, striking “Right of Way” as one of the areas where shared resource agreements would be required.

7.5 SHARED RESOURCE AGREEMENTS

It is ITD’s intent to utilize Shared Resources Agreements in lieu of fees or other financial transactions with broadband providers. District Engineers and Division Administrators shall enter into Shared Resources Agreements with broadband providers who are requesting access to ITD ~~Right of Way~~, conduits and vaults for longitudinal builds along the State Highway System.

The ICBA fully endorses this revision and believes the change is consistent with Idaho Code Section 40-515 *et. seq.* and in particular, Section 40-519.

July 20, 2022

Page 2

I would also request a revision of Section 2.3 (“PERMITTED”) and Section 2.7 (“PERMIT FEES”). As those sections read, they appear to only apply to “Utility Encroachment Permits” and “Right-of-Way Encroachment Application and Permit for Utilities,” with the term “Utility” being different than the term “Broadband Provider.” While some Broadband Providers are Utilities, many are not. Idaho Code Section 40-520(4) allows Broadband Providers to pay the same fee as Utilities, and it seems that Sections 2.3 & 2.7 should be reworked to include the word “Broadband Provider” next to or near “Utility” in both of the sections.

Again, thank you for your thoughtful work on this important rule.

Sincerely,



Ron Williams

Executive Director

Idaho Cable Broadband Association

7/24/2022

Ramon S. Hobdry-Sanchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
Via Email: ramon.hobdey-sanchez@itd.idaho.gov

ITD Wireless Broadband Rule Making Comments

5G Wireless Broadband is attempting to take over the Idaho Highways under the guise of "Broadband Connectivity". If allowed, this would be a massive over reach on behalf of ITD and strip local authority from our Cities and Towns. [Eagle](#) and [Ammond, ID](#) have already chosen a Hardwire Fiber Broadband networks that will protect the safety of its citizens and meet the needs of the future. Hardwire fiber is the best choice for the citizens of Idaho, it's 10x Faster, Environmentally Safe, Secure, [Less Expensive to our citizens](#). Our town does not want harmful, slow, outdated, unsecure wireless broadband from Verizon, T-Mobile & AT&T.

Idahoans For Safe Technology's request to ITD:

Add or Remove the following language from ITD's Utility Accommodation Policy and the Design Guidelines

1. Add: All SWF (Small Wireless Facilities) and LWF (Large Wireless Facilities), installations in ITD's ROW must adhere to local City and County Zoning Ordinances. Applicant must obtain and submit local municipality building permit prior to installation of "above" ground structures.
2. Remove: All SWF and LWF language from ITD's Design Guidelines that conflict with local Wireless Zoning Ordinances such as those in [Dalton Gardens, ID](#) or [Eagle, ID](#). This would include setbacks, zoning, and separation distances.

1st Point

ITD's mission statement is **"Your Safety. Your Mobility. Your Economic Opportunity."**

Wireless Broadband is not environmentally and ecologically safe for humans and nature. Many local cities and towns in Idaho realize this and have taken steps to update their zoning ordinances to provide hardwired, safe, fast, secure high speed internet to their citizens. ITD, please stay true to your mission statement and keep Idaho's Highways safe, do not allow mass deployment of SWF that will cause harm to drivers and create a major highway access barriers to citizens with RF radiation sickness.

When it comes to the safety of Wireless Broadband, I urge you to take time to do your own research into the scientific facts. Do not listen to high paid lawyers and lobbyists from the Telecom Industry that say there is no proven evidence of harm. Below is a link to my story and the most current scientific information on the harmful effects from wireless radiation. I urge all ITD stake holders to read the information on this link.

- [Click here to read Best Wireless Information for Public Officials](#)

2nd Point

Page 31. Idaho's Broadband Task Force Recommendations to Governor Little.

"Maintain local authority for closing the broadband gap. Any state action should still allow for municipalities to build out retail or wholesale models. (e.g. Muni broadband like Ammon, or partnerships like Sandpoint-Ting). Should also maintain tech neutrality, so local governments have the flexibility to meet needs cost effectively, so long as a common benchmark is attained (e.g. FCC definition of broadband)"

Cities and counties across the state are choosing Hardwired Broadband vs Wireless Broadband (Ammon, ID, Eagle, ID, Dalton Gardens, ID). The current version on ITD's Design Guidelines does not enforce local zoning ordinances. In fact it strips local authority away from local municipalities. ITD procedures need to include obtaining local building permits and following local zoning ordinances.

3rd Point

Page 31. Idaho's Broadband Task Force Recommendations to Governor Little.

Small cell/5G attractiveness. Explore pre-emption and other measures that would make Idaho cities more attractive for 5G and enhanced LTE deployments. Raise the "broadband speed" benchmark to 100/10mps to encourage high speed deployment that brings Idaho to the forefront of the country. o Idaho cities should be incentivized to build out local "low powered cellular radios" in preparation for 5G capacity, and should decrease barriers for companies interested in supporting that infrastructure

Wireless Broadband **is not** "pre-empted" by the 1996 TCA (See Case No. 18-1051, [Mozilla et al. v FCC](#)) . Hardwire Fiber networks are 10x faster 1,000 Mbs vs Wireless 100 Mbs networks. Local government has 100% control over how they get Broadband. For more info on the law see: [Broadband Facts and Terminology](#).

4th Point

Page 31. [Idaho's Broadband Task Force Recommendations to Governor Little.](#)

Dig once. Require city coordination with ISPs and other utilities when there is an opportunity to deploy fiber. Also, require utilities to deploy city-owned fiber at cost during their construction projects. o Enact “dig once” legislation to ensure that any road construction also places infrastructure for future broadband infrastructure o The Idaho Transportation Department is currently working on a major reconfiguration project at US-95 & ID-53 interchange. This two-year project will significantly improve traffic flow and enhance safety. As it relates to broadband service improvements in rural Kootenai county, this ITD project has incorporated conduit placement throughout the project area for future fiber optic and broadband services to this community. Joey Sprague with the ITD region 1 office confirmed the “Dig Once” initiative is part of this project.

Deployment of Hardwired Fiber is the key term that ITD should focus on. The bandwidth and speed of a fiber broadband networks offer 1,000 Mbs download speed. Wireless only offers speeds up to 100 Mbs download speed. Being that fiber is buried in the ground it's naturally protected from forest fires and other natural disasters. Let's truly “dig once” and put broadband underground in fiber and not have to dig every time a forest fire burns down a cell tower.

5th Point

Page 35. [Idaho's Broadband Task Force Recommendations to Governor Little.](#)

Research organizations such as [Harvard University and the Benton Foundation have furnished research reports detailing the benefits of the Ammon Model's](#) open access marketplace to provide data to offset incumbent monopolistic lobbying:

Ammon Fiber Optic Utility Statistics:

- Started in 2011, some 30+ miles of backbone with access fiber to over 1,200 addresses by 2020.
- Local Improvement Districts are used to expand and pass approximately 500 properties per year.
- Ammon provides dark fiber leasing in support of national and regional wireless, academic and public safety connections.
- Over fifty 1Gbps contracted circuits are provided for \$35 a month to eight separate providers in support of dedicated commercial services.

- Approximately 900 residential properties have access to the Ammon fiber optic utility today with some 600 properties receiving service.
- Ammon charges \$16.50 on a resident's monthly utility bill in support of operations.
- Service providers offer various packages in the marketplace starting at \$0 for 15Mbps up to \$10 - \$25 monthly for 1Gbps service depending on the provider selected. Service costs are set and billed directly by the provider

In the short and long run Hardwired Fiber Broadband is better for Idaho communities. Federal broadband money should be spent on hardwired infrastructure rather than lining the pockets of the wireless industry.

Please protect local authority over broadband and make sure ITD policies do not circumvent local city, town & county zoning ordinances.

Sincerely,



Hank Allen

Idahoans For Safe Technology

<https://idahoansforsafetechnology.org>

From: [David DeHaas](#)
To: [Robert Beachler](#); [Barbara Waite](#); [Ramon Hobdey-Sanchez](#)
Subject: Comments for Broadband Build out Tuesday, July 26,
Date: 2022 12:46:49 PM

On behalf of our many members, I would like to add to the comments the recommendations posted @ <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

We are all for Broadband services being put in to connect our cities with Fiberoptics the safest and most secure method of providing internet services.

It is imperative that no Small Cell Wireless Telecommunications or Macro Cellular, facilities be built in or near the rights of way.

Data now shows that Cell towers of any size be a minimum of 2500' or more from Humans.

Until the FCC heeds the District court's decision of August 13th, 2021, to provide safety studies or turn off all cell towers emitting 6000 MHZ or more, no towers of any G should be allowed to go up near our roadways.

Here are our recommendations. <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

Thank you,

David DeHaas,
President,
Idahoans For Safe Technology
www.idahoansforsafetechnology.org

--

David DeHaas
208-378-1234
Naturopathic Health Coach

[Healing from a Spiritual Perspective](#)

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From: [Allison Goodwin](#)
To: [Robert Beachler](#)
Cc: [Ramon Hobdey-Sanchez](#); [Barbara Waite](#)
Subject: Add me to this list Tuesday, July 26,
Date: 2022 2:07:21 PM

I am a new Idaho resident and fully support Smart Technology that Promoted Health of Humanity & Our Planet - Microwave & Milliwave Technology is VERY Dangerous, was originally designed as a Military Weapon and causes sickness including Cancer in Humans. Be Smart - New Safe Technology Alternatives are available - specifically the First "Tesla Tower" is being tested in Texas - Please look into this technology that puts 4G & 5G to rest - antiquated, unhealthy tech is going - So Idaho needs to join the Leaders in Tech!!

I'm with these folks and We are Growing!!

Attached, please find IFST comments on ITD's SWF Guidelines. Kindly add these comments to ITD's record. There is a lot of information on each of the hyper links. Please reach out with any questions.

A copy of this letter can also be found on our website: <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

Thanks,
Allison Goodwin

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~~~~~  
Allison Goodwin  
775.781.1837

**From:** [C.A. Concannon, M.A.](#)  
**To:** [Ramon Hobdey-Sanchez](#); [Robert Beachler](#); [Barbara Waite](#)  
**Cc:** [Neil Bradshaw](#)  
**Subject:** 5G rollout comment due today  
**Date:** Tuesday, July 26, 2022 4:40:17 PM

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## **Subject: IFST Comments on ITD's Small Wireless Facility Guidelines**

To:  
Ramon.Hobdey  
Robert Beachler  
Barbara Waite

I have researched the adverse affects on human and animal health for over a year. Suffice it to state, I am more than concerned and am strongly opposed to any roll out of 5G in Idaho.

We do not need this.

<https://youtu.be/-AeSoC6la9c> Video discussing a few aspects of concern.

<https://www.truthforhealth.org/2022/05/5g-wireless-radiation-and-health-a-scientific-and-policy-update/> This website covers different aspect of the numerous dangers to human and animal health.

[Still think 5G is harmless? Scientific American issues warnings about the confirmed and UNKNOWN DANGERS of 5G tech](#)

 <https://naturalnews.com/2020-10-20-scientific-american-issues-warnings-dangers-of-5g.html>

Still think 5G is harmless? Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Tuesday, October 20, 2020 by: Cassie B. 5g , badcancer , badhealth , badpollution , cell phones , dangerous tech , EMF , Public Health , radiation , real science , RFR , scientific american Bypass censorship by sharing this link:  
<https://www.distributednews.com/467011.html> Copy URL - (Natural News ) The oldest magazine in ...

[The dark reality of 5G technology: What is the 5G Dragnet?](#)

 <https://naturalnews.com/2020-07-14-dark-reality-of-5g-what-is-the-dragnet.html>

Powell warning that the 5G rollout will essentially irradiate everyone, with young children, pregnant women, the elderly and chronically ill being particularly vulnerable to its *dangers*. 5G poses serious privacy issues However, another dark reality about 5G is also raising concerns : privacy. ... Scientific American issues warnings about the confirmed and

UNKNOWN DANGERS of 5G tech Untested 5G ...

### **Unseen health dangers: 5G is exceptionally harmful to children**

 <https://naturalnews.com/2019-06-03-health-dangers-5g-is-harmful-to-children.html>


To learn more about the *dangers* of 5G and other forms of EMF, be sure to check out EMF.news . ... Scientific American issues warnings about the confirmed and UNKNOWN DANGERS of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried residents are fighting against 5G rollouts ...

### **Ads warning about dangers of 5G BANNED by Great Britain's advertising "authority"**

 <https://naturalnews.com/2020-02-02-ads-warning-about-dangers-of-5g-banned-by-advertising-authority.html>


For more related news about the *dangers* of 5G radiation, be sure to check out EMF.news . ... Scientific American issues warnings about the confirmed and UNKNOWN DANGERS of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried residents are fighting against 5G rollouts US and ...

### **Brussels halts 5G deployment indefinitely: 5G project, says authorities, not compatible with radiation safety standards**

 <https://naturalnews.com/2019-08-20-brussels-halts-5g-deployment-indefinitely-radiation-safety-standards.html>


There's much more to 5G radiation than that. Scientists warn about the *dangers* of 5G Dr. ... Scientific American issues warnings about the confirmed and UNKNOWN DANGERS of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried residents are fighting against 5G ...

### **5G Apocalypse: The Extinction Event film reveals how 5G is an assault weapon meant to destroy humanity**

 <https://naturalnews.com/2019-05-19-5g-apocalypse-extinction-event-film-destroy-humanity.html>


You can watch 5G Apocalypse: The Extinction Event in its entirety on YouTube . Read more news about the *dangers* of 5G at 5Galert.com . ... Scientific American issues warnings about the confirmed and UNKNOWN DANGERS of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried ...

### **Have you ever asked yourself what the possible dangers of 5G could be?**

 <https://naturalnews.com/2018-12-21-possible-dangers-of-5g.html>


Health *dangers* of 5G The electromagnetic radiation emitted from cellphones, base stations and other devices has long been associated with health issues, but 5G is poised to make things even worse. ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G ...

### **5G technology: A disaster waiting to happen**

 <https://naturalnews.com/2019-04-05-5g-technology-a-disaster-waiting-to-happen.html>

For more information about the immense *dangers* of 5G EMFs, be sure to check out EMF.news . 5G radiation is exponentially worse than earlier wireless technologies because electromagnetic pulses “re-radiate” inside the body to create new antennas According to author, researcher, and RF (radio-frequency) truth-teller Arthur Firstenberg, there's another very serious issue with 5G technology that almost nobody is talking about, and it has ...

### **Brighteon Films posts new 5G mini-documentary that warns humanity about the imminent danger of 5G cell towers**

 <https://naturalnews.com/2020-01-03-brighteon-films-new-5g-mini-documentary-imminent-danger-of-5g-cell-towers.html>

Titled, “5G: Next Gen Health *Dangers*,” the 22-minute video is available here: <https://www.brighteon.com/aacb48c0-08e0-4041-8acf-9d0584cc28b4> This mini-documentary exposes the health *dangers* of 5G and why this dangerous technology is a new source of “electromagnetic pollution” that endangers human lives. ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G ...

There is insufficient time to write a paper on the above subject. However, I can advise you that there is NOTHING GOOD from this technology and it will, not may, harm those exposed to it.

Cheryl Concannon, M.A., SRS  
[sunvalleyliving@topmail.com](mailto:sunvalleyliving@topmail.com)

**From:** [David Sundholm](#)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Subject:** Broadband to Idaho communities Tuesday,  
**Date:** July 26, 2022 2:35:18 PM

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I support broadband to Idaho communities, but it should be fiber optic. No to increased wireless communications, it all goes to fiber eventually anyway. Put in the conduit and it can be expanded in the future, wireless has many downsides.

Have a great day,

David Sundholm  
208-720-2742  
Sun Valley Life Real Estate

**From:** [Erica Linson](#)  
**To:** [Ramon Hobdley-Sanchez](#)  
**Cc:** [Robert Beachler](#); [Barbara Waite](#)  
**Subject:** Concerns Re: ITD's Small Wireless Facility Guidelines Tuesday,  
**Date:** July 26, 2022 4:29:37 PM

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To Idaho Department of Transportation:

The below recommendations from Idahoans for Safe Technology re: 5G on highways has been brought to my attention, and I very much agree with their recommendations.

I request that you look into the issues they raise closely. Technology can improve the quality of our lives but can also be deleterious. 5G has not been adequately tested, and many tests raise concerns regarding safety.

Additionally, what I appreciate about living in Idaho is our independent spirit. To cede authority to multinational corporations who often abuse power and duck accountability when it comes to safety and testing would not be wise, nor in anyone's best interest except theirs. Idaho and its cities and towns should retain full control of what is built in their borders, to make wise decisions for their own communities.

I support the Recommendations of Idahoans For Safe Technology as delineated here. : <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

---

Very best regards,

Erica Linson  
PO Box 5273  
Ketchum, ID 83340



**From:** [Julie Boraks](#)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Cc:** [Barbara Waite](#); [Robert Beachler](#)  
**Subject:** No to 5G towers in Blaine county Tuesday,  
**Date:** July 26, 2022 1:33:51 PM

---

Dear Ramon,

I am a concerned resident of Blaine County. I do not support 5G towers in any circumstance. I do not support any law/guidelines/etc. that circumvent local authority.

For the record, please note my support for the Recommendations put forth by the Idahoans For Safe Technology. Please see link below:

<https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

Thank you for putting citizen's safety first ahead of big tech company profits.

Sincerely,  
Julie Boraks  
4351 Fairway Nine  
Sun Valley, ID 83353

Sent from ProtonMail for iOS

**From:** [John and Janet Crews](#)  
**To:** [Ramon Hobdey-Sanchez](#); [Robert Beachler](#); [Barbara Waite](#)  
**Subject:** Support for the Recommendations of Idahoans For Safe Technology Tuesday,  
**Date:** July 26, 2022 3:23:02 PM

---

Dear Mr. Sanchez, Mr. Beachler, and Ms. Waite,  
I would like to add my support for keeping authority for “Broadband Connectivity” within the decision making process of local cities and towns: i.e.: Ketchum, Hailey, Bellevue, Sun Valley.  
Janet Crews

**From:** [Julie Daniels](#)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Subject:** Idahoans For Safe Technology Tuesday,  
**Date:** July 26, 2022 8:36:42 AM

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Idaho Department of Lands:

Please do not strip authorities from local Cities and Towns across Idaho. I support and am in favor of the rule changes put forth by Idahoan's For Safe Technology.

To Idaho Department of Transportation:

I support the Recommendations of Idahoans For Safe Technology as delineated here. : <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

Sincerely,

Julie Daniels

**From:** [Jeff McNee](#)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Subject:** IFST Comments on ITD's Small Wireless Facility Guidelines Wednesday,  
**Date:** July 27, 2022 8:21:09 AM  
**Attachments:** [ITD Wireless Broadband Rule Makeing Comments from IFST.pdf](#)

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To Idaho Department of Transportation:

I would like my request to be put on the record for suggestions to the rules for the build out of broadband to Idaho's cities. Please see attached for more details.

I am certainly in favor of broadband, but I believe it needs to be done right and needs to respect local cities' zoning ordinances and it absolutely needs to keep authority with local municipalities. No one knows what best for a local municipality, than those who are in it. There is A LOT of conflicting science regarding wireless broadband technologies such as 5G and wired broadband is without question, both safer and faster. It really shouldn't even be a debate.

Further info: Recommendations from Idahoans For Safe Technology are delineated here.  
: <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

Thank you,

- Jeff McNee  
Blaine County Resident

**From:** [jill.norton@powereng.com](mailto:jill.norton@powereng.com)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Cc:** [Barbara Waite](#); [Robert Beachler](#)  
**Subject:** IFST Comments on ITD's Small Wireless Facility Guidelines Tuesday,  
**Date:** July 26, 2022 1:47:37 PM

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To Idaho Department of Transportation:

I would like to put on the record my request to make some suggestions the rules for the build out to bring broadband to Idaho's cities.

I support the Recommendations of Idahoans For Safe Technology as delineated here.  
: <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

---

Please do not create broadband connection to all towns in Idaho! Please do not strip local authority from our Cities and Towns.

Sincerely,

Jill Norton  
520 N 5<sup>th</sup> St  
Bellevue, ID 83313

**From:** [belespritskin@gmail.com](mailto:belespritskin@gmail.com)  
**To:** [Ramon Hobdey-Sanchez](#); [Robert Beachler](#); [Barbara Waite](#)  
**Subject:** Let's do smart 5G not Verizon, T mobile and all the other unhealthy companies Wednesday,  
**Date:** July 27, 2022 2:58:31 PM

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Let's be smart and keeping cell towers a safe distance from residential neighborhoods and school zones. High-speed large bandwidth "Broadband" internet should and for the most part already is safely hardwired to our homes and schools. We are advocates for DSL, Cable & Fiber Optic "hardwired" Broadband, NOT 4G & 5G "wireless " broadband. Hardwired broadband is faster, more secure, and does not emit harmful microwave radiation 24/7.

Properly implemented, this plan will reduce exposure to unnecessary RF radiation, reduce unsightly visual blight in our skylines, protect humans, trees and our bees, provide superior broadband service and safe access to use our cell phones.

Juanita Young

**From:** [kbaltz](#)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Subject:** 5G  
**Date:** Tuesday, July 26, 2022 12:41:40 PM

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Idaho Department of Transportation:

In light of the Broadband Technology project set to go forth in my State, I would like to direct your attention to the suggestion/rules for the build out as described below.

I support the Recommendations of Idahoans For Safe Technology:

<https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

Sincerely,

Dr. Kathleen Baltz DDS MS  
Sun Valley 83353

**From:** [Kerrin McCall](#)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Cc:** [Robert Beachler](#); [Barbara Waite](#)  
**Subject:** ITD Wireless Broadband Tuesday,  
**Date:** July 26, 2022 1:14:13 PM

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Attention:

I am writing to express my concern for plans for extensive "Broadband connectivity." Placing 5G towers along roadways and in our Idaho communities is an unacceptable and unsafe disruption when hardwire technology is faster, safer and less expensive. I am currently reading "The Invisible Rainbow" by Arthur Furstenberg. I suggest you read this book with an extensive bibliography of hard science to back up the current and future dangers of cell tower technology. The massive installations of cell tower radiation is disruptive to the Earth's magnetic field causing severe harm to natural electrical fields. I also suggest you follow the recommendations of Idahoans for Safe Technology.

It is time to stop the harm and secure a safe future for all life.

Sincerely,  
Kerrin McCall



**From:** [electylej@gmail.com](mailto:electylej@gmail.com)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Cc:** [Barbara Waite](#); [Robert Beachler](#); [jcrozier@co.jerome.id.us](mailto:jcrozier@co.jerome.id.us); [bcrouch@co.jerome.id.us](mailto:bcrouch@co.jerome.id.us); [chowell@co.jerome.id.us](mailto:chowell@co.jerome.id.us)  
**Subject:** STOP 5 G TOWERS IN OUR TOWNS & ON OUR HIGHWAYS  
**Date:** Tuesday, July 26, 2022 1:25:07 PM

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To whom it may concern,

I am against any more 5G Cell Towers: along highways, Interstates, or clustered around our local towns and cities! This “safe and affective” thing is not proven to be either Safe or good for the culture! Let the companies hardwire the towns and cities or go without. In the research I have done 5G can be very harmful to people especially the children under these towers that the schools all across Idaho have become the prostitutes to technology and money.

Please stop this insanity, if the Federal government is paying for it; all the better reason not to partake.

Respectfully,

Lyle Johnstone  
[lyle@lyle4idaho.com](mailto:lyle@lyle4idaho.com)

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208 324 2234

**From:** [Leslie Manookian](#)  
**To:** [Ramon Hobdey-Sanchez](#)  
**Cc:** [Robert Beachler](#); [Barbara Waite](#)  
**Subject:** ITD's Small Wireless Facilities Guidelines for Idaho Tuesday,  
**Date:** July 26, 2022 12:33:55 PM

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Dear ITD,

I am writing to voice my support for the Recommendations of Idahoans For Safe Technology as delineated here. : <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

I have no issue with connectivity but do not support initiatives which would usurp local zoning code and authority and put towers along every road.

Thank you for your consideration,

Leslie Manookian  
Ketchum, ID  
[leslie.manookian@me.com](mailto:leslie.manookian@me.com)

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**From:** [marciahart](#)  
**To:** [Barbara Waite](#); [Robert Beachler](#); [Ramon Hobdey-Sanchez](#)  
**Subject:** IFST Comments on ITD's Small Wireless Facility Guidelines 7-25-22 Tuesday,  
**Date:** July 26, 2022 5:23:04 PM

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Dear Ramon, Robert, and Barbara of ITD...

I have researched the adverse affects of the EMF radiation from 5G and 4G

installations and transmissions on human and animal health for the last 3 years. I am more than concerned and I am strongly opposed to any reckless roll out of 5G in Idaho; right now, I am opposed to the rule changes you want to make for expanding broadband delivery to ID cities via towers. Towers are a problem for so many reasons, and so is the problem of the effect of blanket wifi radiation from your many planned towers.

Even more important is my objection to your rapid movement in attempting to (changing the rules regulating 5G installations in favor of the companies putting up towers and making money off them) take away OUR RIGHT as citizens of this state to HAVE A SAY AND INPUT for agreeing on a truly safe way to provide more service to ID. Please look at the suggestions offered by "Idahoans for safe technology". Fiber optics delivery of communication and entertainment provide a more reliable & healthier delivery mode, a smaller impact on the environment & the various beings in ID - use fiber optics instead of towers to maintain the quality of life and the value of property in ID.

<https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>


We do not need this rapid change YOU are pushing on US.

Sincerlely  
Marcia P Hart  
[marciahart@cox.net](mailto:marciahart@cox.net)

<https://youtu.be/-AeSoC6la9c> Video discussing a few aspects of concern.

<https://www.truthforhealth.org/2022/05/5g-wireless-radiation-and-health-a-scientific-and-policy-update/> This website covers different aspect of the numerous dangers to human and animal health.

[Still think 5G is harmless? Scientific American issues warnings about the confirmed and UNKNOWN DANGERS of 5G tech](#)

 <https://naturalnews.com/2020-10-20-scientific-american-issues-warnings-dangers-of-5g.html>

Still think 5G is harmless? Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Tuesday, October 20, 2020 by: Cassie B. 5g , badcancer , badhealth , badpollution , cell phones , dangerous tech , EMF , Public Health , radiation , real

science , RFR , scientific american Bypass censorship by sharing this link:

<https://www.distributednews.com/467011.html> Copy URL - (Natural News ) The oldest magazine in ...

## The dark reality of 5G technology: What is the 5G Dragnet?

 <https://naturalnews.com/2020-07-14-dark-reality-of-5g-what-is-the-dragnet.html>

Powell warning that the 5G rollout will essentially irradiate everyone, with young children, pregnant women, the elderly and chronically ill being particularly vulnerable to its *dangers*. 5G poses serious privacy issues However, another dark reality about 5G is also raising concerns : privacy. ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G ...

## Unseen health dangers: 5G is exceptionally harmful to children

 <https://naturalnews.com/2019-06-03-health-dangers-5g-is-harmful-to-children.html>


To learn more about the *dangers* of 5G and other forms of EMF, be sure to check out EMF.news . ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried residents are fighting against 5G rollouts ...

## Ads warning about dangers of 5G BANNED by Great Britain's advertising "authority"

 <https://naturalnews.com/2020-02-02-ads-warning-about-dangers-of-5g-banned-by-advertising-authority.html>


For more related news about the *dangers* of 5G radiation, be sure to check out EMF.news . ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried residents are fighting against 5G rollouts US and ...

## Brussels halts 5G deployment indefinitely: 5G project, says authorities, not compatible with radiation safety standards

 <https://naturalnews.com/2019-08-20-brussels-halts-5g-deployment-indefinitely-radiation-safety-standards.html>

There's much more to 5G radiation than that. Scientists warn about the *dangers* of 5G Dr. ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried residents are fighting against 5G ...

## **5G Apocalypse: The Extinction Event film reveals how 5G is an assault weapon meant to destroy humanity**

 <https://naturalnews.com/2019-05-19-5g-apocalypse-extinction-event-film-destroy-humanity.html>


You can watch 5G Apocalypse: The Extinction Event in its entirety on YouTube . Read more news about the *dangers* of 5G at [5Galert.com](http://5Galert.com) . ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G networks won't solve rural connectivity issues Worried ...

## **Have you ever asked yourself what the possible dangers of 5G could be?**

 <https://naturalnews.com/2018-12-21-possible-dangers-of-5g.html>


Health *dangers* of 5G The electromagnetic radiation emitted from cellphones, base stations and other devices has long been associated with health issues, but 5G is poised to make things even worse. ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G radiation linked to adverse health effects, warn UK researchers Not all it's cracked up to be: 5G ...

## **5G technology: A disaster waiting to happen**

 <https://naturalnews.com/2019-04-05-5g-technology-a-disaster-waiting-to-happen.html>

For more information about the immense *dangers* of 5G EMFs, be sure to check out EMF.news . 5G radiation is exponentially worse than earlier wireless technologies because electromagnetic pulses “re-radiate” inside the body to create new antennas According to author, researcher, and RF (radio-frequency) truth-teller Arthur Firstenberg, there's another very serious issue with 5G technology that almost nobody is talking about, and it has ...

## **Brighteon Films posts new 5G mini-documentary that warns humanity about the imminent danger of 5G cell towers**

 <https://naturalnews.com/2020-01-03-brighteon-films-new-5g-mini-documentary-imminent-danger-of-5g-cell-towers.html>

Titled, “5G: Next Gen Health *Dangers*,” the 22-minute video is available here: <https://www.brighteon.com/aacb48c0-08e0-4041-8acf-9d0584cc28b4> This mini-documentary exposes the health *dangers* of 5G and why this dangerous technology is a new source of “electromagnetic pollution” that endangers human lives. ... Scientific American issues warnings about the confirmed and UNKNOWN *DANGERS* of 5G tech Untested 5G ...

There is insufficient time to write a paper on the above subject. However, I can advise you that there is NOTHING GOOD from this technology and it will, not may, it will harm those

exposed to it.... Marcia Hart

**From:** [Michelle](#)  
**To:** [Barbara Waite](#); [Robert Beachler](#); [Ramon Hobdey-Sanchez](#)  
**Subject:** Recommendation for ITD's Small Wireless Facility Guidelines for Idaho Tuesday,  
**Date:** July 26, 2022 5:04:47 PM

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To Idaho Department of Transportation,

It is concerning to hear that there is a proposal to place 5G towers throughout Idaho. These towers emit radio frequency which are microwave radiation (EMF'S). Installing the them will blanket this great state in dangerous radiation. Numerous scientific studies have shown it is dangerous to all biological life. You need to insure you protect life of all species.

Therefore Hardwire Fiber Broadband networks is the better way forward as it will protect the safety of its citizens and meet the needs of the future. Hardwire fiber is the best choice for the citizens of Idaho, it's 10x Faster, Environmentally Safe, Secure, [Less Expensive to our citizens](#).

I am EHS (electromagnetic hyper sensitive) I am physically impaired and can feel this radiation when near these towers. The more radiation introduced into our environment, other will be come this way too. You need to insure you utilize the suggestions that Idahoans For Safe Technology have outlines to protect life and to allow local areas the power to regulate and protect their citizens. You must incorporate these into the rules for the build out to bring broadband to Idaho's cities and highways.

I support and you need to too, the Recommendations of Idahoans For Safe Technology as delineated here. : <https://idahoansforsafetechnology.org/stop-5g-on-idahos-highways/>

Please put on the record my request.

Sincerely,

Michelle Pabarcus

(Born and raised Idahoan)  
[www.protectthewoodrivervalley.com](http://www.protectthewoodrivervalley.com)

Sent with [Proton Mail](#) secure email.



**Idaho Telecom Alliance**

Post Office Box 1638 • Boise, ID 83701  
208.229.1482 • Fax 208.229.0482 • [www.idahotelecomalliance.org](http://www.idahotelecomalliance.org)

July 27, 2022

VIA EMAIL AND US MAIL

Mr. Robert Beachler  
Broadband Program Manager  
Idaho Transportation Department  
Division of Highways, Planning Services Section  
600 West Prairie Avenue  
Coeur d'Alene, ID 83815  
[robert.beachler@itd.idaho.gov](mailto:robert.beachler@itd.idaho.gov)

Dear Mr. Beachler,

These comments concerning proposed revisions to the Utility Accommodation Policy are submitted to the Department for its consideration in the negotiated rulemaking the Department is undertaking. The comments are submitted on behalf of the Idaho Telecom Alliance (ITA).

ITA is the association of thirteen independent providers of telecommunications and broadband services in rural Idaho. These companies are legacy providers of telephone service, many of whom have been in business for over one hundred years. All are communications providers of last resort in the areas they serve. Nine are regulated public utilities and four are member-owned cooperatives. ITA member companies cover approximately 42,000 square miles of service territory in Idaho. We serve 129 Idaho towns and cities and over 40,000 Idaho customers. Our companies serve more than 130 Idaho schools, 185 rural health facilities, 48 community libraries, and 265 state and local government offices. ITA members have approximately 5,600 route miles of fiber optic cable in the ground in Idaho.

Most ITA member companies are owners and members of Syringa Networks LLC. ITA has reviewed the comments submitted to you by Syringa Networks on July 7, 2022 and endorses all of the suggestions and comments made therein.



ITA wishes to express concerns regarding the scope of the role ITD may envision for itself in the use and control of the communication facilities installed in the ROW. We understand your need to be sure that the installation and use of the facilities does not interfere inappropriately with construction or use of the ROW. We are concerned, however, that the draft rules may belie an intent to engage in or limit operation and use of facilities once installed. For example, Rule 7.4 suggests you might limit the use and time of use of such facilities. We believe this goes beyond the statute and is something that was not envisioned by the legislature. We presume that once installed, the facilities may be used by the company that installed them for the entirety of their useful life. Accordingly, we are uncomfortable with the language in section 7.4 that suggests that life might be shortened by ITD. We also are uncomfortable with language in section 7.5 that could be read to require a shared use agreement for facilities installed privately, something the statute does not permit.

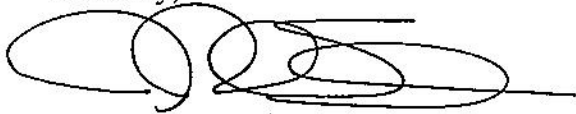
We suggest the Department delete the requirement in section 7.6 that the facilities “be constructed and operational for use by the broadband provider within 180 days after ITD issues a permit.” This language poses two difficulties. First, a permit from ITD likely will not be the only permission a broadband provider may be required to obtain in order to install the facilities. Permission from local authorities for ROW located in their jurisdiction may also be required as may other approvals for environmental and cultural review and the like. Even if these are intended to be included within the ITD permit, that may not always be the case, making the 180 day time frame problematic. (We note that ITD itself has just encountered this problem along the Selway River with cultural reviews causing the delay of rockslide removal and road re-opening.)

Beyond the 180 day requirement, the additional requirement that the facilities be “operational” within that time frame might be even more concerning. Take, for example, a circumstance in which ITD proposes to do construction along a stretch of rural highway such as, possibly, a portion of Highway 95 along the Little Salmon River. If a broadband provider wants to install conduit along that stretch it will not be operational until it is connected at each end. As we believe ITD is aware, the roadway from New Meadows to Riggins, White Bird and Grangeville is an area with either little or no fiber infrastructure installed. Accordingly, there is no way to blow fiber into the conduit and make it operational until it is connected to fiber at the north and south ends of the stretch under construction. Further, it makes no sense to place fiber in an unconnected conduit until a stretch can be lighted for use. One of the things the Legislature wanted to accomplish with the passage of HB640 was to get conduit in the ground piece by piece so it could be connected at a later date. (In our view that is the core reason for a “dig once” policy.) The requirement that a facility be “operational” does not achieve this objective. Additional attention must be paid to avoiding this problem the current language creates.

Finally, we would like to draw the Department’s attention to the second to the last bullet in section 7.3. The last sentence of that bullet says the Department can deny a proposed installation if it “unduly delays or interferes with construction, maintenance, joint trenching projects, or the repair or construction of water, wastewater, electrical or gas line facilities.” A more inclusive term might be appropriate to acknowledge that there could be other facilities in the right of way (such as communications facilities already installed?) that also should be considered. We suggest the term should be broadened to include “other utility facilities in the right of way” or “other underground facilities in the right of way.”

We thank the Department for its attention to these comments and want to express our appreciation for the efforts the Department has taken to solicit and consider comments such as these.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

John Stuart, President



July 28, 2022

**VIA E-MAIL**

Ramón S. Hobdey-Sánchez  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W. State Street  
Boise, Idaho 83707-1129  
ramon.hobdey-sanchez@itd.idaho.gov

**Re: Broadband Utility Accommodation Rulemaking, Docket No. 39-0343-2201**

Dear Mr. Hobdey-Sánchez:

CTIA appreciates the opportunity to submit these further comments on the Idaho Transportation Department's ("Department's") new negotiated rulemaking to implement the Idaho Broadband Dig Once and Right-of-Way Act<sup>1</sup> and to promote the use of Idaho's highway rights-of-way to provide expanded communications services across the state.

The Dig-Once Act declares that "broadband service throughout the entire state is in the overall public interest," and directs the Department "to facilitate the expansion of broadband with the cost-efficient, orderly, and coordinated installation of broadband infrastructure on highway rights-of-way and during roadway construction."<sup>2</sup> That expansion can and should include wireless infrastructure, because wireless is an efficient, cost-effective communications technology – and it is particularly cost-effective in rural areas, where residents may be more likely to lack reliable service than in urban areas. As CTIA explained in previous comments

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<sup>1</sup> House Bill 640, Idaho Broadband Dig Once and Right-of-Way Act (enacted March 24, 2022) ("Dig-Once Act"). The Act amends Chapter 5, Title 40, Idaho Code, to add new Sections 40.515-40.520.

<sup>2</sup> *Id.* § 40-516(3).



before the Department,<sup>3</sup> highway rights-of-way are often optimal locations for wireless facilities because of their proximity to travelers that need wireless connectivity. Wireless facilities provide essential service to travelers, construction crews, and fire, police and emergency roadside services.

The Department has recognized the importance of deploying wireless networks to provide those services. It has, for example, adopted a rule that sets reasonable fees for small wireless facilities,<sup>4</sup> and now proposes to add a new section in its Utility Accommodation Policy (“UAP”) that will speed wireless deployment. The Department can accelerate expanded wireless network coverage, and resulting public interest benefits, by making several additional changes to the UAP and related documents governing its procedures for permitting the use of rights-of-way. Specifically, the Department should:

- Clarify that new UAP Section 7, which implements the Dig-Once Act and its provisions to minimize trenching in highway roadbeds, applies to longitudinal deployments of conduit and fiber along highway rights-of-way, not to above-ground structures that hold antennas, or the antennas and associated equipment.
- Adopt a new UAP Section 8,<sup>5</sup> which *will* apply to those antenna structures, and to collocations of antennas and associated equipment.
  - Current Section 7.4, which addresses the new “Non-Exclusive Installation and Occupancy Agreement” between the Department and providers, and Section 7.7, which specifies the time periods for the Department to act on applications for permits for new or collocated wireless facilities, should be moved to the new Section 8.
  - The new Section 8 should include the rules governing small wireless facilities that were previously adopted by the Department, and add a similar section for rules applying to larger wireless facilities. Particularly in rural areas of Idaho, efficiently

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<sup>3</sup> See, e.g., Comments of CTIA, Docket No. 39-0343-2102 (filed July 28, 2021); Further Comments of CTIA, Docket No. 39-0343-2102 (filed Nov. 24, 2021); Comments of CTIA, Docket No. 39-0343-2201 (filed June 11, 2022).

<sup>4</sup> Rule 39.03.43, “Rules Governing Utilities on State Highway Right-of-Way.”

<sup>5</sup> And, accordingly, move “References” to Section 9.



connecting customers to wireless networks will often require a taller structure that would not qualify under the Department's definition of a small wireless facility, but would present no reason to deny access.

- Make limited revisions to the draft of the Non-Exclusive Installation and Occupancy Agreement template for small wireless facilities ("Agreement") to ensure it provides a starting point for negotiations that is consistent with federal law and promotes the efficient deployment of new or collocated facilities and the benefits they will deliver to the public.<sup>6</sup>
- Make several changes to other sections of the UAP and the Guide for Utility Management ("GUM") to align them with federal law and to advance the purpose of the proceeding: to promote expanded communications networks to benefit the public.

**1. Clarify that new UAP Section 7 applies to conduit and fiber deployment and not above-ground wireless facilities.** The Dig-Once Act declares that the Department "shall allow a broadband provider longitudinal use and access to the rights-of-way of a highway for the installation, operation, and maintenance of broadband infrastructure."<sup>7</sup> It defines "longitudinal access" as "access to or use of any part of a right-of-way that extends generally parallel to the right-of-way for a total of one hundred (100) or more linear feet."<sup>8</sup> The Department proposes to implement the Dig-Once Act in new Section 7 of the UAP, entitled "Broadband Infrastructure." It also adds verbatim the Act's definition of longitudinal access to the UAP's definitions in Section 1. Consequently, with the exception of Section 7.7 (discussed below), Section 7 generally specifies procedures for the deployment of conduit and fiber in highway rights-of-way.

While dig-once policies are appropriate for conduit and fiber because they minimize the need to repeatedly dig trenches along the same roadbed, they are inapplicable to wireless antennas and associated equipment, which are installed *above the ground* on poles and other structures, not longitudinally in the roadbed. Section 7 therefore should not address the deployment of wireless antennas or their supporting structures. CTIA recommends that the Department clarify that

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<sup>6</sup> CTIA notes that its suggested edits to the Agreement should not imply an endorsement as a one-size-fits-all agreement. CTIA expects that the Department shall treat the Agreement as a starting point for negotiation of salient business issues with its members.

<sup>7</sup> Dig-Once Act § 40-520(1).

<sup>8</sup> *Id.* § 40-517(7).



Section 7 applies only to conduit and fiber installation by adding the following sentence at the end of subsection 7.1: “The provisions in this Section 7 do not apply to wireless facilities that are installed on above-ground structures. Those facilities are separately addressed in Section 8 below.”

**2. Adopt new UAP Section 8 for deploying wireless facilities.** Through its adoption of Rule 39.03.43 limiting fees for small wireless facilities, and proposed new UAP Section 7.7 which would set time periods for acting on wireless permit applications, the Department acknowledges that it should authorize the installation or modification of structures holding wireless structures. The Department should address such wireless facilities in a new Section 8. It can include a preamble similar to that currently found in proposed subsection 7.1: “To expand stable, reliable wireless infrastructure for Idaho communities to attract business and enhance quality of life for Idahoans, the Idaho Transportation department will authorize the deployment of wireless facilities along highway rights-of-way pursuant to the procedures set forth below.”

New Section 8 would then indicate that wireless providers should enter into a Non-Exclusive Installation and Occupancy Agreement and the Permit Encroachment Permit for Small Wireless Facilities, as the Department proposes in current Section 7.4 (and as discussed further below). Section 8 should also include the time periods for acting on permit applications that would be moved from Section 7.7 because they are not relevant to longitudinal installations of conduit and fiber, only to wireless facilities. Those time periods align with the periods the Federal Communications Commission (“FCC”) has adopted for states and localities to act on small wireless facility applications.<sup>9</sup>

However, new Section 8 should apply to *all* wireless facilities – not just small wireless facilities. As CTIA explained in previous comments to the Department, wireless service relies on both small and larger facilities depending on the coverage or capacity that is needed in a particular area, the radio frequencies used, and the characteristics of the terrain. Particularly along highways in rural or mountainous areas, which are common across Idaho, taller facilities are often needed to provide reliable service. A structure that exceeds the height limits in the definition of small wireless facilities should not be prohibited merely because of its height.

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<sup>9</sup> See *In re: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling, Report and Order, 33 FCC Rcd 9088 (Sep. 27, 2018).





The Department can address both types of facilities by adding a subsection onto the new Section 8. Thus, for example, one subsection of Section 8 would incorporate the time periods for acting on permits for small wireless facilities that will be moved from draft Section 7.7;<sup>10</sup> a separate subsection would incorporate the federally-mandated time periods for acting on permits for larger wireless facilities (90 days for acting on an application to collocate an antenna on an existing structure, and 150 days for an application for a new structure).<sup>11</sup>

**3. Make targeted revisions to the draft Non-Exclusive Installation and Occupancy Agreement template.** The Department proposes that companies seeking to deploy small wireless facilities first enter into a Non-Exclusive Installation and Occupancy Agreement (“Agreement”) covering all such facilities they may plan to deploy, and after that agreement is executed, apply for an Encroachment Permit for Small Wireless Facilities on Form ITD-2118 (“Encroachment Permit”) for each such facility. Once the Department grants the Encroachment Permit, installation can occur. While CTIA expects that the template Agreement provided by the Department will represent a starting point for negotiations with applicants and allow for applicants to address pertinent business issues they may have, the Department should nonetheless make the following revisions to the Agreement template to help ensure that it does not deter new small wireless facilities and the benefits they will deliver to the public, and that it is consistent with federal law:

- Section 2.1 of the Agreement states that “Interstate rights-of-way shall not be eligible for installation of Small Wireless Facilities.” However, it does not explain the basis for such a blanket prohibition, nor is CTIA aware of any. To the contrary, the prohibition is inconsistent with federal law. The 2018 MOBILE NOW Act directed the U.S. Department of Transportation to adopt rules to ensure that state departments of transportation take actions to promote broadband deployment along *all* highways that receive federal

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<sup>10</sup> Draft Subsection 7.7 uses the term “review” applications. However, the federally-mandated timeframes pertain to *action* on applications, not simply “review.” The UAP should indicate that applications will be “acted on” within the relevant timeframes. In addition, draft Subsection 7.7 uses the term “Company” to refer to an applicant for a permit, but “Company” is not a defined term. When moving this provision to new Section 8, the Department should simply use the term “applicant.”

<sup>11</sup> See *In re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Declaratory Ruling, 24 FCC Rcd 13994 (Nov. 18, 2009).



funding.<sup>12</sup> Aligned with this directive, in December 2021, the Federal Highway Administration published a new rule that applies to all state DOTs and that “aims to facilitate the installation of broadband infrastructure” in the right-of-way of highways that receive federal funding,” including interstate highways.<sup>13</sup> The prohibition on facilities along interstate highways also raises issues under Section 332 of the Communications Act of 1934, as amended, which prohibits states and localities from adopting regulations that have the effect of prohibiting service,<sup>14</sup> because the prohibition would exclude all wireless facilities in the rights-of-way along interstate highways across Idaho. Finally, as a policy matter, interstate highways traverse Idaho, and wireless facilities are needed along those highways to enable travelers – as well as emergency services – to communicate. The Department should delete the prohibition and instead state in Section 2.1 that wireless facilities will be permitted on both state and interstate highways.

- Section 3 of the Agreement states that “IDT reserves the right to adjust fee schedule structures based on governing guidance from the FCC or FHWA, or on an agreement renewal cycle.” The Department should strike this sentence. The Department has already adopted a rule setting the fees for small wireless facilities, IDAPA 39.03.43, and the Agreement appropriately recognizes that this rule governs the fees for these facilities. In the event contrary guidance or rulings are issued in the future, the Department should undertake proceedings to revise the Agreement to bring it into compliance with any such guidance or ruling.
- Section 5.5 of the Agreement allows only 180 days for a small wireless facility to be constructed. In CTIA members’ experience, 180 days may not be sufficient given issues that can arise with procuring and securing the delivery of services and materials and finding sufficient workers. Wireless providers of course want to complete installation as

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<sup>12</sup> Consolidated Appropriations Act, 2018 (Pub. Law 115-141, Division P, Title VII, Sec. 607, codified at 47 U.S.C. § 1504.

<sup>13</sup> Department of Transportation, Federal Highway Administration, Broadband Infrastructure Deployment, 86 Fed. Reg. 68553 (Dec. 3, 2021). The rules are codified at 23 C.F.R. Part 645.

<sup>14</sup> See 47 U.S.C. § 332(c)(7)(B): “The regulating of the placement, construction and modification of personal wireless services facilities by and State or local government or instrumentality thereof ... shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”





quickly as possible. To guard against unanticipated delays jeopardizing the permit, CTIA asks that the construction deadline in Section 5.5 be extended to 270 days.

- Section 5.7(b) of the Agreement, which addresses the content of permit applications, includes a requirement that the application “include an evaluation of Radio Frequency (RF) transmissions impacts on existing communication equipment.” The applicant is also “responsible for identifying all existing facilities that could be impacted and providing documentation that the owner of the facility has reviewed the proposed installation and determined no detrimental effect on their operation.” However, Section 332(c)(7)(B) of the Communications Act preempts states and localities from regulating radio transmissions, granting that authority exclusively to the FCC, including authority regarding radio interference issues.<sup>15</sup> The FCC has in turn set specific limits on the level of permissible radio transmissions consistent with federal safety standards. The FCC’s rules are fully adequate to ensure that interference does not occur in the Department’s rights-of-way, and indeed, do so nationally. The portion of Section 5.7(b) that requires any type of consent or approval of wireless RF “transmissions” or resolution of any resulting interference thus conflicts with federal law and should be removed.

**4. Modify sections of the UAP and the Guide for Utility Management to promote improved wireless service and align those documents with the requirements of federal law.** In its previous comments, CTIA asked the Department to make targeted revisions to several other sections of the UAP and GUM. Those revisions continue to be warranted and CTIA renews its request that they be made.

- UAP Section 2.5. This provision addresses fees, but only for “Small Wireless Facilities.” To best promote wireless deployment throughout Idaho, Section 2.5 should be revised to also set fees for larger wireless facilities. While the FCC did not specify presumptively reasonable fees for larger facilities as it did for small facilities, it held that fees should be based on the state’s or locality’s reasonable costs to administer the permit program and manage wireless facilities in rights-of-way. CTIA thus asks that Section 2.5 provide that up-front and recurring fees for larger facilities shall be based on the Department’s costs.

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<sup>15</sup> See *In re: 960 Radio, Inc.*, Memorandum Opinion and Declaratory Ruling, FCC 85-578, 1985 WL 193883 (Nov. 4, 1985) at para 4-6.



- UAP Section 2.7. The Department previously addressed CTIA's proposal on wireless permit fees by adopting a new rule, Section 39.03.43, that specifies the up-front and recurring fees that it will charge for small wireless facilities. CTIA appreciates the Department's action, which aligns with the FCC's rules and orders and will help to promote wireless service. The Department also revised Section 2.7 of the UAP to reference the new rule. However, Section 2.7 continues to state that fees will be based as well on "Non-Exclusive Installation and Occupancy Agreement terms." Keeping the dual references cannot further clarify, but can create confusion. With fees addressed in the rule, there is no reason to address fees in Agreement, too, and that reference should be removed from Section 2.7.
- UAP Section 5.9. This provision, entitled "Aesthetic Controls," imposes heightened aesthetic review to certain types of locations along State highway rights-of-way. The Department should narrow this section to apply it only to those areas where such review is warranted. Section 5.9 reasonably recognizes that certain environmentally or historically sensitive areas such as scenic strips, overlooks, parks, and historic sites may require aesthetic review. But it also applies the same review to other locations that are not environmentally or historically sensitive, including rest areas and weigh stations. Given that there is no basis to apply heightened aesthetic review to facilities proposed in these locations, they should be removed from Section 5.9.
- UAP Section 5.9 also prohibits deployment in areas that may be environmentally or historically sensitive unless there is no feasible and prudent alternative and several additional requirements are met. This requirement may violate Section 332(c)(7)(B) of the Communications Act because it imposes an exceedingly high standard. In addition, Section 5.9 includes no guidelines for applying these requirements, which leaves entirely unclear whether small wireless facilities may be installed at these locations at all, potentially hindering the public's access to service. CTIA thus urges the Department to remove the "no feasible" language from Section 5.9, and adopt more specific criteria for reviewing applications.
- GUM Section 620.02. In its 2021 negotiated rulemaking proceeding, the Department proposed to add this section to the GUM. As drafted, Section 620.02 addresses permitting procedures for wireless facilities. In previous comments, CTIA raised



concerns about these procedures and asked the Department to modify them.<sup>16</sup> CTIA explained that the modifications would serve the public interest by streamlining approvals of new infrastructure, and would align approval procedures with federal requirements. It is unclear whether the Department intends to take up modifications to the GUM in its current rulemaking proceeding.<sup>17</sup> But Section 620.02 as it is currently drafted is inconsistent with the procedures the Department has proposed to authorize small wireless facilities. CTIA thus asks that Department revise this provision to conform to those procedures.

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CTIA appreciates the Department's actions to ensure that its rules and policies advance the deployment of wireless facilities, which is essential to encouraging deployment of wireless service, including wireless broadband, throughout Idaho. CTIA looks forward to continuing to work collaboratively with the Department.

Sincerely,

/s/ Benjamin Aron

Benjamin Aron

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CTIA

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<sup>16</sup> Comments of CTIA, Docket No. 39-0343-2102 (filed July 28, 2021), at 12-13; Further Comments of CTIA, Docket No. 39-0343-2102 (filed Nov. 24, 2021), at 6-7.

<sup>17</sup> It is also unclear how the GUM will relate to the UAP, because the draft revisions to the UAP delete the reference to the GUM as well as the reference to the UAP as an "Appendix" to the GUM. To provide clear guidance on which policies will apply to highway rights-of-way facilities going forward, the Department should codify the relationship of these documents to each other.