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**IDAPA 39
TITLE 03
CHAPTER 60**

39.03.60 - RULES GOVERNING OUTDOOR ADVERTISING

000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Section 40-312, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.03.60 "Rules Governing Outdoor Advertising," IDAPA 39, TITLE 03, Chapter 60. (5-3-03)

02. Scope. This rule contains guidelines for the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho pursuant to Chapters 1, 3, and 19, Title 40, Idaho Code. (5-3-03)

002. WRITTEN INTERPRETATIONS.

A written interpretation of this chapter, entitled "Advertising Signs Along Idaho Highways" (ITD-2806M), is available at each of the department district offices listed in Section 005 of this rule. (5-3-03)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (5-3-03)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (5-3-03)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P.O. Box 7129, Boise, ID 83707-1129. (5-3-03)

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m., except Saturday, Sunday and state holidays. (5-3-03)

03. Idaho Transportation Department District Offices are at the following locations: (5-3-03)

a. Idaho Transportation Department District 1
605 Prairie, Coeur d'Alene
Mailing address -- P.O. Box D
Coeur d'Alene, Idaho 83814
Office Hours -- 7 a.m. to 4 p.m., Pacific Time Zone
Right-of-Way Section Phone -- (208) 772-1216 (5-3-03)

b. Idaho Transportation Department District 2
26th and North and South Highway, Lewiston
Mailing address -- P.O. Box 837
Lewiston, Idaho 83501
Office Hours -- 7 a.m. to 4 p.m., Pacific Time Zone
Right-of-Way Section Phone -- (208) 799-4216 (5-3-03)

c. Idaho Transportation Department District 3
8150 Chinden Blvd., Boise
Mailing address -- P.O. Box 8028
Boise, Idaho 83707
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone

Right-of-Way Section Phone -- (208) 334-8344 (5-3-03)

d. Idaho Transportation Department District 4
216 Date Street, Shoshone
Mailing address -- P.O. Box 2-A
Shoshone, Idaho 83352
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone
Right-of-Way Section Phone -- (208) 886-7839 (5-3-03)

e. Idaho Transportation Department District 5
5151 South 5th, Pocatello
Mailing address -- P.O. Box 4700
Pocatello, Idaho 83201
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone
Right-of-Way Section Phone -- (208) 239-3355 (5-3-03)

f. Idaho Transportation Department District 6
206 North Yellowstone, Rigby
Mailing address -- P.O. Box 97
Rigby, Idaho 83442
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone
Right-of-Way Section Phone -- (208) 745-5635 (5-3-03)

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Transportation Department adopts the definitions set forth in Sections 40-101 through 40-127, Idaho Code. In addition, as used in this chapter: (5-3-03)

01. Advertising Structure(s) or Sign(s), or Advertising Display(s). Any outdoor structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended, or used to advertise or inform. These do not include: (12-26-90)

a. Official notices issued by any court or public body or officer. (12-26-90)

b. Notices posted by any public officer in performance of a public duty or by any person giving legal notice. (12-26-90)

c. Directional, warning, or informational structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures. (12-26-90)

d. An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of such city or county, provided the same is maintained wholly at public expense. (12-26-90)

02. Commercial or Industrial Activities. Those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities shall be considered commercial or industrial: (12-26-90)

a. Agricultural, forestry, grazing, farming, and related activities, including but not limited to, wayside fresh produce stands. (12-26-90)

- b.** Transient or temporary activities. (12-26-90)
- c.** Activities not visible from the main traveled way. (12-26-90)
- d.** Activities conducted in a building principally used as a residence. (12-26-90)
- e.** Railroad tracks and minor sidings. (12-26-90)
- f.** Outdoor advertising displays. (12-26-90)
- 03. Transient or Temporary Activity.** An activity shall be considered transient or temporary for the purposes of Chapter 19, Title 40, Idaho Code when: (5-3-03)

 - a.** The activity lacks any business or privilege license required by the city, county or state. (5-3-03)
 - b.** The activity on the property has not been conducted for at least six (6) months at the time of application for a sign permit. (5-3-03)
 - c.** The activity lacks utilities (water, power, telephone, etc.) and which are normally utilized by similar commercial activities. (5-3-03)
 - d.** The activity is not carried on in a permanent building designed, built or modified for its current commercial or industrial use, located within six hundred sixty (660) feet of the nearest edge of the right-of-way. (5-3-03)
 - e.** The property upon which the activity is conducted lacks direct or indirect vehicular access or does not generate vehicular traffic. (5-3-03)
 - f.** The activity does not have employees on-site during normal business hours which is considered normal, usual, and customary. (5-3-03)
 - g.** The activity lacks a frequency of operations which are considered usual, normal and customary for that type of commercial or industrial operation and the activity shall be visible and recognizable as a commercial or industrial activity. (5-3-03)
- 04. Commercial or Industrial Zones.** The provisions of Section 40-1911, Idaho Code, shall not apply to those segments of the interstate and primary system of highways which traverse and abut on commercial, business, or industrial zones within the boundaries of incorporated municipalities, wherein the use of real property adjacent to and abutting on the interstate and primary system of highways is subject to municipal or county regulation or control, or which traverse and abut on other areas where the land use is clearly established by State law or county zoning regulation, as industrial, business, or commercial, or which are located within areas adjacent to the interstate and primary system of highways which are in unzoned commercial or industrial areas as determined by the Department from actual land uses; provided, however, that the Department shall determine the size, lighting, and spacing of signs in such zoned and unzoned industrial, business, or commercial areas. For the purpose of this rule, areas abutting interstate and primary highways of this State which are zoned commercial or industrial by counties and municipalities shall be valid as commercial or industrial zones only as to the portions actually used for commerce or industrial purposes and the land along the highway in urban areas for a distance of six hundred (600) feet immediately abutting to the area of the use, and does not include areas so zoned in anticipation of such uses at some uncertain future date nor does it include areas so zoned for the primary purpose of allowing advertising structures. (5-3-03)
- 05. Customary Maintenance.** Repainting the structure, trim, or sign face, changing poster paper, replacing existing electrical components after failure and replacing damaged structural parts. It does not include the installation of a new sign face nor the initial installation of lighting. Substantial replacement begins when repair and other costs exceed fifty percent (50%) of the sign's reproduction cost. (12-26-90)
- 06. Department.** The Idaho Transportation Department, acting through the Idaho Transportation Board. (12-26-90)

07. Erect. To construct, build, raise, assemble, place, affix, create, paint, draw, or in any other way bring into being or establish, but does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of a sign. (12-26-90)

08. Grandfather Sign. One which was lawfully in existence in a zoned or unzoned commercial or industrial area on the effective date of the State law and which may remain even though it may not comply with the size, lighting, or spacing criteria within this rule. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. (12-26-90)

09. Illegal Sign. One which was erected and/or maintained in violation of State law. (12-26-90)

10. Main Traveled Way. The portion of a roadway for the movement of vehicles, exclusive of shoulders. (12-26-90)

11. Multiple Message Sign (MMS). A sign, display, or device that changes the message or image on the sign electronically by movement or rotation of panels or slats, or electronic billboards that have a programmable display of variable text or symbolic imagery. (5-3-03)

12. Nonconforming Sign. One which was lawfully erected, but does not comply with the provisions of State law or State regulation passed at a later date or which later fails to comply with State law or State regulation due to changed conditions. Illegally erected and/or maintained signs are not nonconforming signs. All signs located within an unzoned area shall become nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of six (6) months. (12-26-90)

13. Sign Face. The overall dimensions or area of that portion or side of an individual sign structure that is designed, intended, and capable of displaying messages. It includes border and trim, but excludes the base or apron, supports and other structural members. (5-3-03)

14. Sign Structure. A construction including the sign face, base or apron, and other structural members. (5-3-03)

15. Unzoned Commercial or Industrial Area. Any area not zoned by State or local law, regulation or ordinance which is occupied by one (1) or more industrial or commercial activities, other than outdoor advertising signs, and the land along the highway for a distance of six hundred (600) feet immediately abutting to the area of the activities. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway. (12-26-90)

16. Urban Areas. Any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to in this Subsection shall be determined by the latest United States census. (12-26-90)

17. Visible. Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity. (12-26-90)

011. -- 099. (RESERVED)

100. GENERAL.

01. Visible Informative Content. This rule applies only to advertising displays whose informative content is visible from the main traveled way of interstate or primary highways. (5-3-03)

02. Responsibilities. Both the owner of a sign and the landowner upon whose property the sign is located will be held responsible for violations of this rule. (12-26-90)

03. Nonconforming Signs. Signs which stand without advertising copy, obsolete advertising matter, or continued need for repairs beyond customary maintenance constitute discontinuance and abandonment after a period

of six (6) months and will be subject to removal. (12-26-90)

04. Signs Visible from the Main Travel-Way. Signs beyond six hundred and sixty (660) feet from the right-of-way will be considered to have been erected with the purpose of their message being read from the main traveled way when: (12-26-90)

a. The sign angle and size is such that the message content is readily visible from the main traveled way; or (12-26-90)

b. The exposure time is long enough at the maximum speed limit for the sign message to be readable and comprehensible. (12-26-90)

05. Permit or License Revocation. The erection or maintenance of signs from the highway right-of-way; or the destruction of trees or shrubs within the highway right-of-way will be cause for permit or license revocation. (12-26-90)

06. Multiple Sign Faces. Criteria which permit multiple sign faces to be considered as one (1) sign structure for spacing purposes are limited to signs which are physically contiguous, or connected by the same structure or cross-bracing. (12-26-90)

07. Edge of Right-of-Way. Distance from the edge of the right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway. (5-3-03)

08. Control Requirement. Where a sign is erected with the purpose of its message being read from two (2) or more highways, one (1) or more of which is a controlled highway, the more stringent of applicable control requirements will apply. (12-26-90)

101. -- 199. (RESERVED)

200. EXEMPTIONS AUTHORIZED BY SECTION 40-1904, IDAHO CODE.

01. Signs Erected by Public Officers or Agencies. Directional and other official signs and notices erected by public officers or agencies will be issued permits at no cost to the owners, as described more fully elsewhere in this rule. (12-26-90)

02. Advertising Sale or Lease of Property. Signs advertising the sale or lease of property upon which they are located. These signs shall not advertise any products, services, or anything unrelated to the selling or leasing of the property. (12-26-90)

03. On-Premise Signs. Signs (on-premise) advertising activities conducted on the property upon which they are located are allowed, subject to the following: Not more than one (1) such sign, visible to traffic proceeding in any one (1) direction and advertising activities being conducted upon the real property where the sign is located may be permitted more than fifty (50) feet from the advertised activity. The criteria for determining the limits of the area of the advertised activity from which the fifty (50) feet measurement can be taken are as follows: (12-26-90)

a. When the advertised activity is a business, commercial, or industrial land use, the distance shall be measured from the regularly used buildings, parking lots, storage, or processing areas, or other structures which are essential and customary to the conduct of the business and within its limits of the real property. It shall not be measured from driveways, fences, or similar facilities. (12-26-90)

b. When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance shall be measured from the major structures on the property. (12-26-90)

c. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is nonbuildable land, such as, but not limited to, swampland, marshland, or other wetland, or which is a common or private roadway, or held by easement or other

lesser interest than the premises where the advertised activity is located. (5-3-03)

201. -- 299. (RESERVED)

300. DISPLAYS LOCATED WITHIN ZONED OR UNZONED INDUSTRIAL, BUSINESS OR COMMERCIAL AREAS.

01. Size of Signs. Within zoned and unzoned commercial, business, or industrial areas, and pursuant to the directive of Section 40-312, Idaho Code, the face of an advertising display shall not exceed the following size limits: (5-3-03)

- a.** Maximum area - one thousand (1000) square feet; (12-26-90)
- b.** Maximum height - thirty (30) feet; (12-26-90)
- c.** Maximum length - fifty (50) feet. (12-26-90)

02. Dimensions. The area of a sign face will include all of the border, trim, cutouts, and extensions. (5-3-03)

03. Spacing of Advertising Displays. Within zoned and unzoned commercial, business, or industrial areas, as defined in Section 010 herein and pursuant to directive of Section 40-1912, Idaho Code, the following spacing regulations shall apply: (12-26-90)

a. Advertising displays on interstate and primary highways may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. (5-3-03)

b. Advertising displays on interstate and primary highways may not be located within five hundred (500) feet of any of the following which are adjacent to the highway: public parks; public forests; public playgrounds; scenic areas designated as such by the Department or other State agencies having and exercising such authority. (5-3-03)

c. In a case where the highway passes beneath a railroad overpass or beneath a highway grade separation structure where no traffic connection between the crossing highways is provided, no advertising display may be located on the road passing beneath the structure within a distance of five hundred (500) feet from the nearest edge of the overhead route. (12-26-90)

d. Measurement between signs or from a sign to another feature shall be made horizontally along the pavement edge nearest the signs, between points directly opposite the signs or other features. The point of the sign nearest to the highway shall be used to determine the measurement point. (12-26-90)

e. Two (2) sign faces will be permitted at a single location, arranged back to back, or in a V-type configuration, but shall only have one (1) sign face visible to one (1) direction of travel and will be considered as one (1) sign for spacing regulation. (5-3-03)

f. Signs erected by public agencies or officers and on-premise signs, as defined in Section 010 of this rule, shall not be counted nor shall measurements be made from them for determining compliance with spacing requirements. (12-26-90)

g. Spacing on interstate highways between advertising displays along each side of the highway shall be a minimum of five hundred (500) feet. The spacing between multiple message signs shall be a minimum of five thousand (5,000) feet. (5-3-03)

h. No advertising display on interstate highways shall be erected or maintained within one thousand (1000) feet of an interchange or rest area with the exception of permitted, existing displays which shall have grandfather rights. The minimum spacing between displays as set forth herein for interstate highways shall govern the

actual location of any sign display permitted and existing within this zone. No advertising display subject to this regulation shall be permitted along any interstate highways within the actual "interchange area," defined as commencing or ending at the beginning or ending of pavement widening at the exit or entrance to the main traveled way of the interstate freeway. (5-3-03)

i. The spacing of signs on primary highways between advertising displays along each side of the highway must be a minimum of one hundred (100) feet in urban areas and a minimum of two hundred and fifty (250) feet outside of urban areas. The spacing between multiple message signs shall be a minimum of one thousand (1,000) feet in urban areas and a minimum of five thousand (5,000) feet outside urban areas. (5-3-03)

j. Where intersections are more than five hundred (500) feet apart, no off-premise advertising display will be permitted within one hundred (100) feet from the right-of-way line of the intersecting road unless buildings or structures control cross vision; then advertising displays may be permitted up to and on top of the intervening structures. (12-26-90)

k. When intersections are five hundred (500) feet or less apart, off-premise advertising displays will be permitted a minimum of fifty (50) feet from the right-of-way line of the intersecting road; however, all advertising displays between fifty (50) feet and one hundred (100) feet from the right-of-way line of the intersecting road must have the lower extremities of the advertising display (excluding posts) not less than fourteen (14) feet above the traveled way of the roads affected by the intersection for visibility under the signs by road users. Advertising displays may be permitted within one hundred (100) feet of the intersecting road's right-of-way when buildings or structures control cross vision; but such displays must not be located so as to cause greater restriction to vision than the existing buildings or structures. (12-26-90)

l. Alleys, undeveloped rights-of-way, private roads and driveways shall not be regarded as intersecting streets, roads or highways. (12-26-90)

m. Advertising structures may not be located within five hundred (500) feet of the point of pavement widening at the entrance or exit to a rest area, weight checking station, port of entry or other State-operated facility for the use of motorists. (12-26-90)

04. Lighting. (12-26-90)

a. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal. (12-26-90)

b. Section 40-1910, Idaho Code, prohibits advertising structures which are visible from any interstate or primary highway and display any red or blinking intermittent light likely to be mistaken for a warning or danger signal. (5-3-03)

c. Section 40-1910, Idaho Code, prohibits advertising displays which include any illumination of such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent interstate and primary highways. (5-3-03)

05. Variable or Multiple Message Signs. (5-3-03)

a. Multiple message signs shall not include any illumination or image which moves continuously, appears to be in motion or has any moving or animated parts or video displays or broadcasts. No multiple message sign may include any illumination which is flashing or moving, except those giving public service information such as date, time, temperature, weather, or other similar information. (5-3-03)

b. If illuminated with beams or rays of such intensity or brilliance that it would cause glare or impair the vision of the driver or interfere with the operation of a motor vehicle, effective shielding must be in place so as to prevent beams or rays of light from being directed at any portion of the traveled way. (5-3-03)

c. If illuminated, illumination must not obscure or interfere with the effectiveness of official traffic sign, device, or signal. (5-3-03)

- d. Multiple message signs must not emit or utilize any sound capable of being detected. (5-3-03)
- e. The message or image on a multiple message sign must remain static for a minimum of eight (8) seconds. (5-3-03)
- f. An automated change of message or image on a multiple message sign must be accomplished within two (2) seconds or less and contain a default design that will freeze the sign face in one (1) position should a malfunction occur. (5-3-03)
- g. If a multiple message sign is in violation of any of the conditions listed in Subsection 300.05.a. through 300.05.g., the permit will be revoked. (5-3-03)

301. -- 399. (RESERVED)

400. LICENSES.

Pursuant to Sections 40-1905, 40-1906 and 40-1907, Idaho Code, no person shall engage in the business of outdoor advertising without first having secured an outdoor advertising license and paid the required license fee. Licenses must be renewed annually; the Department cannot renew licenses for a period longer than one (1) year at a time. License application forms may be secured at the Idaho Transportation Department District Offices, as listed in Section 005 of this rule. (5-3-03)

401. PERMITS.

No person shall place any advertising display within the areas affected by the provisions of Section 40-1907, Idaho Code, without first having secured a written permit from the Department. (12-26-90)

01. Application Forms. Permit application forms may be secured at the Idaho Transportation Department District Offices, as listed in Section 005 of this rule. (5-3-03)

02. Expiration of Annual Permits. Annual permits will expire December 31 each year, but a multi-year permit may be issued as a convenience to the outdoor advertiser. An original annual permit fee of ten dollars (\$10) shall accompany each original permit application. An annual renewal fee of three dollars (\$3) will be assessed for each permit, and the Department will mail a bill to each sign owner annually. Payment for the renewal of a permit must be received at least thirty (30) days prior to the expiration date. Permit fees will not be prorated for a fraction of a year. (5-3-03)

03. Modified Advertising Structures. Whenever an advertising structure is relocated or undergoes substantial replacement beyond customary maintenance, the modified structure will be considered to be a new sign. Therefore, pursuant to Section 40-1906, Idaho Code, an application for a new display must be submitted before such reconstruction is begun. A permit fee of ten dollars (\$10) must accompany the application. Conversion of a sign face to a multiple message sign face will be considered substantial replacement beyond customary maintenance and considered a new sign. (5-3-03)

a. Nonconforming signs which are allowed to be maintained until the State requires their removal cannot be modified so as to increase the reproduction cost. They must remain substantially the same as they were on the effective date of the state law and any subsequent amendments. (12-26-90)

b. The categories of nonconforming signs which may be maintained until they are removed, and nonconforming signs which have been "grandfathered", in commercial and industrial areas cannot include new signs erected in their place or any changes to the existing sign which would be beyond customary maintenance. (12-26-90)

04. Space Requirement Violations. In the event that two (2) or more lawfully erected signs along the interstate and primary highways are in violation of the spacing requirements and the regulations promulgated by the Department, the Department shall accord the interested parties a full opportunity to be heard and shall thereafter make a finding as to the date of erection of each of the signs and award the permit or permits to the applicants whose signs were first erected. (5-3-03)

05. Application. All applications received during the Department's normal office hours during the same mail pickup will be construed to have been received simultaneously. In the case of a tie between applicants and upon notification thereof by the Department, it shall determine by lot which will receive the permit. (12-26-90)

06. Permit Denial. No permit will be issued for a new sign having two (2) or more faces in any one (1) direction. (5-3-03)

07. Physically Connected Signs. Two (2) sign structures which are physically connected will be considered as a single sign for permit purposes. (5-3-03)

08. Standard Permit Application. Owners of displays defined under Sections 40-102(4) and 40-1904, Idaho Code, will be requested to submit a standard permit application for each such display. Identification tags will be issued for such displays at no cost to the owners. No applications will be requested for minor signs, or emergency telephone signs, nor will tags be issued for them. (12-26-90)

09. Lost or Destroyed Identification Tags. Identification tags, except those issued under Subsection 401.08, which are lost or destroyed either before or after being attached to signs will be replaced only upon payment of a three dollar (\$3) fee. Tags issued under Subsection 401.08 will be replaced at no cost if lost or destroyed. (12-26-90)

10. Invalid Permit. A permit will only be issued for a sign that is lawfully erected within one hundred and eighty (180) days of the permit issuance date. The identification tag must be affixed only to the sign for which it was issued and must be so affixed within one hundred and eighty (180) days after being received; otherwise, the permit automatically becomes invalid. (5-3-03)

11. Cancellation of Permit. If the sign for which a permit has been issued is removed, destroyed, or for any reason becomes unusable prior to the expiration date of permit, the permit may be canceled. (12-26-90)

12. Advertising Illegal Activities. Signs advertising activities illegal under Federal, State, or local law are not eligible for permits. (12-26-90)

13. Revoked Permits. When the Department determines a false or misleading statement has been made in the application for a license or permit, said license or permit shall be revoked. (12-26-90)

14. Appeal Process. In the event a permit is denied or revoked, the applicant may obtain instructions for the appeal process at any of the Idaho Transportation Department District Office locations listed in Section 005. (5-3-03)

402. BONDS OF OUT-OF-STATE PERMITTEES AND LICENSEES.

As authorized by Section 40-1908, Idaho Code, a bond in the penal sum of one thousand dollars (\$1000) shall be required of all non-resident or foreign corporation permittees and licensees. (12-26-90)

403. -- 999. (RESERVED)

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