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IDAPA 29 - IDAHO POTATO COMMISSION

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IDAPA 29 - IDAHO POTATO COMMISSION

29.01.01 - RULES OF PROCEDURE OF THE IDAHO POTATO COMMISSION

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Idaho Potato Commission Law, Chapter 12, Title 22, Idaho Code. (11-27-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is IDAPA 29.01.01, "Rules of Procedure of the Idaho Potato Commission." (11-27-93)

02. Scope. This chapter has the following scope: These rules govern all procedure before the Idaho Potato Commission (the Commission). (11-27-93)

03. Rule Citation. The official citation of these rules is IDAPA 29.01.01.000 et seq. For example, this rule is cited as IDAPA 29.01.01.001. In documents submitted to the Commission or issued by the Commission, these rules may be cited as Idaho Potato Commission Rule of Procedure (IPCRP or RP). For example, this rule may be cited as RP 1. (11-27-93)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).
For rulemakings conducted before July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the order of proposed rulemaking and review of comments submitted in the order adopting these rules are maintained in the files of the Secretary of the Idaho Potato Commission and are available from the office of the Commission Secretary. The Commission Secretary may be contacted in writing at the Idaho Potato Commission, P.O. Box 1670 Eagle, Idaho 83616, or may be reached by telephone at (208) 334-2350. For rulemakings conducted after July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative bulletin proposing or adopting the rules. (4-2-08)

003. ADMINISTRATIVE APPEALS (RULE 3).
There are no provisions for administrative appeals within the Commission under these rules of procedure, except that under Rules 253 and 265 a presiding officer may in the presiding officer's discretion refer a ruling on evidence or a motion to the full Commission. (11-27-93)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).
Except as provided by Rules 52 and 233, all materials filed with the Commission pursuant to these rules and all materials issued by the commission pursuant to these rules are public documents subject to inspection, examination and copying. (11-27-93)

005. DEFINITIONS (RULE 5).
Terms of art used throughout these rules are defined within the rules themselves. (11-27-93)

006. -- 008. (RESERVED)

009. RELATIONSHIP TO PAYMENT OF ADVERTISING TAX AND USE OF FEDERALLY REGISTERED TRADEMARKS RULES (RULE 9).
Whenever these rules address the same subject matter as the Commission's "Rules Governing Payment of Advertising Tax and Use of Federally Registered Trademarks," IDAPA 29.01.02.000 et seq., the specific provisions of those rules govern. (11-27-93)

010. THESE RULES SUPERSEDE THE ATTORNEY GENERAL'S RULES OF PROCEDURE (RULE 10).
Except as provided in Rule 401 addressing rulemaking, these rules are affirmatively promulgated to supersede the "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01.000 et seq. The "Idaho Rules of Administrative Procedure of the Attorney General" do not apply to proceedings before the Commission except as provided in rule 401. (11-27-93)

011. PROCEEDINGS GOVERNED (RULE 11).
Rules 11 through 401 govern all procedure before the Idaho Potato Commission (the Commission) in all investigations, contested cases, licensing, rulemaking, and other matters specifically addressed by these rules, unless otherwise directed by the Commission. (11-27-93)

012. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 12).
The principal office of the Commission is in Eagle, Idaho. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-2350. The Commission's FAX number is (208) 334-2274. The Commission's mailing address is: Idaho Potato Commission, Post Office Box 1670 Eagle, Idaho 83616. The street address of the Commission is: 661 S. Rivershore Lane, Suite 230, Eagle, Idaho, 83616. All documents filed in all proceedings must be filed with the Commission at one (1) of these addresses. (4-2-08)

013. LIBERAL CONSTRUCTION (RULE 13).
These rules will be liberally construed to secure just, speedy and economical determination of all issues presented to the Commission. Unless prohibited by statute, the Commission may permit deviation from these rules when it finds compliance with them is impracticable, unnecessary or not in the public interest. (11-27-93)

014. COMMISSION SECRETARY--COMMUNICATIONS WITH COMMISSION (RULE 14).
The Commission Secretary is the custodian of all public files of the Commission and is responsible for service of all orders and notices of the Commission and of all complaints filed with the Commission. Unless otherwise directed by order, the Commission Secretary issues all official notices of the Commission. All written communications and documents that are intended to be part of an official Commission record (other than a hearing record) must be filed with the Commission Secretary. Unless otherwise provided by statutes, these rules, order or notice, documents are considered filed when received by the Commission Secretary, not when mailed or otherwise transmitted. Information concerning proceedings before the Commission or the status of any matter before the Commission is available from the Commission Secretary. (11-27-93)

015. IDENTIFICATION OF COMMUNICATIONS (RULE 15).
Parties' communications addressing or pertaining to a given case or proceeding must be written under that case caption and case number. General communications by other persons should refer to case captions, case numbers, or the like, if this information is known. (11-27-93)

016. SERVICE BY COMMISSION (RULE 16).
The Commission Secretary serves all notices, orders, summonses, and complaints issued by the Commission or by the Secretary. (11-27-93)

01. Service of Orders and Notices. All notices and orders served by the Commission may be served by mail. Unless otherwise provided by Statute, these rules, order or notice, service of orders and notices is complete when a Copy, properly addressed and stamped, is deposited in the United States mail. The Commission Secretary will serve all orders and notices in a proceeding on the representatives of each party designated pursuant to Rule 41 for that proceeding and upon other persons designated by these rules or by the Commission or any Commissioner. (11-27-93)

02. Service of Summonses and Complaints. The Commission Secretary will serve complaints against licensees upon the person who signs the license agreement or who is designated for that purpose by the licensee. All licensees must maintain on file with the Commission Secretary a designation of such a person. Summonses and complaints directed to licensees or other persons may be served by registered or certified mail. Writs of summons or subpoena and warrants of attachments directed to all other persons must be served by a person authorized to serve process by statute or by the Idaho Rules of Civil Procedure. (11-27-93)

017. COMPUTATION OF TIME (RULE 17).
Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is a Saturday, Sunday or legal holiday, the act may be done on the first day following that is not a Saturday, Sunday or legal holiday. (11-27-93)

018. FEES AND REMITTANCES (RULE 18).
Fees and remittances to the Commission must be paid by money order, bank draft or check payable to "Idaho Potato Commission." Remittances in currency or coin are wholly at the risk of the remitter, and the Commission assumes no responsibility for their loss. (11-27-93)

019. -- 020. (RESERVED)

021. INFORMAL PROCEEDINGS DEFINED (RULE 21).
Informal proceedings are proceedings in cases authorized by statute, rule or order of the Commission to be conducted using informal procedures, i.e., procedures without a record to be preserved for later Commission or judicial review, without the necessity of representation according to Rule 43, without formal designation of parties, without the necessity of presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, the Commission may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a case. (11-27-93)

022. INFORMAL PROCEDURE (RULE 22).
These rules encourage the use of informal proceedings to settle or determine minor cases. Unless prohibited by statute, the Commission may provide for the use of informal procedure at any stage of a case. Informal procedure may include individual contacts by or with the Commission staff asking for information, advice or assistance from the Commission staff, or proposing informal resolution of formal disputes. Informal procedures may be conducted in writing, by telephone, or in person. (11-27-93)

023. FURTHER PROCEEDINGS (RULE 23).
Except as provided in Rule 24, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the Commission, at which time the parties may fully develop the record before the Commission. (11-27-93)

024. INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES (RULE 24).
Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceedings are conducted without prejudice to the right of the parties to present the matter formally to the Commission. The Commission Staff will consider and investigate informal inquiries or complaints without prejudice to the right of the interested persons to present the matter formally to the Commission, unless all affected persons agree in writing to be bound by the informal decision. Settlement offers made in the course of informal proceedings are confidential and shall be excluded from the agency record of any later formal proceeding. Informal procedure is recommended and preferred for informal inquiries or complaints. However, the Commission itself may formally consider any informal inquiry or complaint presented to it or to the Staff. (11-27-93)

025. FORMAL PROCEEDINGS (RULE 25).
Formal proceedings, which are governed by rules of procedure other than Rules 21 through 24, must be initiated by a pleading listed in Rules 51 through 58. (11-27-93)

026. INFORMAL FILES MAY BE INVESTIGATIVE RECORDS (RULE 26).
Files created by the Commission and its Staff in response to informal inquiries or complaints are investigatory records within the meaning of Sections 74-101(6) and 74-107(16), Idaho Code, are generally exempt from disclosure according to the standards of Title 74, Chapter 1, Idaho Code, but are available under Section 74-113, Idaho Code, to the customer, applicant, licensee, etc., that are the subjects of the investigation. (11-27-93)

027. -- 030. (RESERVED)

031. PARTIES LISTED (RULE 31).
Parties to proceedings before the Commission are called applicants, petitioners, complainants, respondents, or

intervenors. Applicants, petitioners, complainants, and respondents are original parties. On reconsideration parties are called by their original titles listed above. (11-27-93)

032. APPLICANTS (RULE 32).
Persons who seek any right, license, award, or authority from the Commission are called "applicants." (11-27-93)

033. PETITIONERS (RULE 33).
Persons not applicants who seek to modify, amend or stay existing orders or rules, to clarify their rights or obligations under law administered by the Commission, to ask the Commission to initiate a proceeding (other than an application or a complaint), or to otherwise take action that will result in the issuance of an order or rule, but not seeking a right or authority from the Commission, are called "petitioners." (11-27-93)

034. COMPLAINANTS (RULE 34).
Persons charging other person(s) with any act or omission are called "complainants." In any proceeding which the Commission charges an act or omission, the Commission is called "complainant." (11-27-93)

035. RESPONDENTS (RULE 35).
Persons against whom complaints or petitions are filed or about whom investigations are initiated are called "respondents." (11-27-93)

036. INTERVENORS (RULE 36).
Persons, not original parties to a proceeding, permitted to participate as parties pursuant to Rules 71 through 75, are called "intervenors." (11-27-93)

037. COMMISSION STAFF (RULE 37).
The Commission Staff, without intervention, may appear at any hearing and has all rights of participation as a party to the proceeding. If counsel is desired, an attorney for the Commission represents the Staff. (11-27-93)

038. RIGHTS OF PARTIES AND OF COMMISSION STAFF (RULE 38).
Subject to Rules 249, 251 and 261, all parties and the Commission Staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (11-27-93)

039. PERSONS -- PERSONS NOT PARTIES -- INTERESTED PERSONS (RULE 39).
The term "person" includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in administrative proceedings. Persons other than the persons named in Rules 32 through 37 are not parties for the purpose of any statute or rule addressing rights or obligations of parties. (11-27-93)

040. (RESERVED)

041. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES (RULE 41).

01. Designation of Representative Required. The initial pleading of each party to a proceeding (be it an application, petition, complaint, motion, or answer) must name the party's representative(s) for service and state the representative's(s') address(es) for purposes of receipt of all official documents. Service of documents on the named representative(s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as a party's representative, the person signing the pleading will be considered the party's representative. (11-27-93)

02. Number of Representatives. No more than two (2) persons may be designated as a party's representatives for purposes of service or receipt of official documents unless otherwise authorized by order. The Commission may condition such an order upon reasonable terms concerning payment of copying costs and mailing costs to additional representatives. (11-27-93)

042. TAKING OF APPEARANCES (RULE 42).
The presiding officer at hearing or prehearing conference will take appearances to identify the representatives of all

parties at the hearing. Parties whose pleadings have not been received by or distributed to all other parties may be required to state their interests at the hearing. (11-27-93)

043. REPRESENTATION OF PARTIES AT HEARING (RULE 43).
Appearances and representation of parties at hearing must be as follows: (11-27-93)

01. Natural Person. Representation of a natural person must represent himself or herself or be represented by a duly authorized employee, an attorney, or a family member. (11-27-93)

02. Partnership. Representation of a partnership must be represented by a partner, duly authorized employee, or an attorney. (11-27-93)

03. Corporation. Representation of a corporation must be represented by an officer, duly authorized employee, or an attorney. (11-27-93)

04. Government Agency. Representation of a municipal corporation, state, federal, tribal or local government agency or entity, unincorporated association, or non-profit organization must be represented by an officer, a duly authorized employee or an attorney. (11-27-93)

044. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS (RULE 44).
From the time a party files its initial pleading in a proceeding, that party must serve and all other parties must serve all future documents listed in Rule 71 upon all other parties' representatives designated pursuant to Rule 41, unless otherwise directed by order or notice or by the presiding officer on the record. The Commission may order parties to serve past documents filed in the case upon those representatives. The Commission may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the Commission. (11-27-93)

045. WITHDRAWAL OF PARTIES (RULE 45).
Any party must move the Commission in writing or at hearing to withdraw from a proceeding. (11-27-93)

046. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE (RULE 46).
A party's representative may be changed and a new representative may be substituted by notice to the Commission and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the Commission must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties. (11-27-93)

047. CONDUCT REQUIRED (RULE 47).
Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (11-27-93)

048. FORMER EMPLOYEES -- RESTRICTION ON REPRESENTATION OF PARTIES (RULE 48).
No former employee of the Commission or member of the Attorney General's staff may appear in a representative capacity or as an expert witness on behalf of other parties in a formal proceeding in which he or she previously took an active part. (11-27-93)

049. NOTICE OF PARTIES (RULE 49).
As reasonably necessary in a proceeding, and in any event, at least once in every proceeding, the Commission Secretary will issue to the parties a notice of parties. The notice of parties will list all parties, their representative(s) under Rule 41, their representative's (s') mailing address(es), exhibit numbers assigned to the parties, and any other information required by the Commission. The Commission Secretary will maintain on file a current list of all parties to a proceeding and issue a revised notice of parties as reasonably necessary to reflect changes in the previous notice of parties. (11-27-93)

050. (RESERVED)

051. PLEADINGS LISTED -- MISCELLANEOUS (RULE 51).

Pleadings before the Commission are called applications, petitions, complaints, motions, answers and consent agreements. Affidavits may be filed in support of any pleading. Initial pleadings must comply with Rule 41. All pleadings must be filed in accordance with Rules 61 through 66. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (11-27-93)

052. APPLICATIONS -- DEFINED -- FORM AND CONTENTS (RULE 52).
All pleadings requesting a right, license, permit, or authority from the Commission are called "applications." (11-27-93)

01. Factual Basis. Applications must fully state the facts upon which they are based. (11-27-93)

02. Legal Authority. Legal authority must refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based. (11-27-93)

03. Relief Requested. Relief requested must pray for the order, authorization, license or permit sought. (11-27-93)

04. Applications. Public Information, unless otherwise exempted from disclosure by statute, information in applications is public information not exempt from disclosure under Section 74-106(1), Idaho Code. (11-27-93)

053. PETITIONS -- DEFINED -- FORM AND CONTENTS (RULE 53).
All pleadings requesting modification, amendment or stay of existing orders or rules; clarification or construction of orders, rules or statute; the initiation of a proceeding not an application or a proceeding that will lead to the issuance of an order; rehearing; or intervention are called petitions. (11-27-93)

01. Factual Basis. Petitions must fully state the facts upon which they are based. (11-27-93)

02. Legal Suitability. Petitions must refer to the particular provisions of statute, rule order or other controlling law upon which they are based. (11-27-93)

03. Relief Requested. Petitions must pray for the relief desired. (11-27-93)

04. Name Party from Whom Relief Requested. Petitions must state the name of the person petitioned against (the respondent), if any. (11-27-93)

054. FORMAL COMPLAINTS -- DEFINED -- FORM AND CONTENTS (RULE 54).
All pleadings charging other person(s) with acts or omissions under law administered by the Commission are called "formal complaints." Formal complaints must: (11-27-93)

01. Formal Complaints -- Written. Formal complaints must be in writing. (11-27-93)

02. Factual Basis. Formal complaints must fully state the acts or things done or omitted to be done by the persons complained against by reciting the facts constituting the acts or omissions and the dates when they occurred. (11-27-93)

03. Legal Authority. Formal complaints must refer to statutes, rules, orders or other controlling law involved. (11-27-93)

04. Relief Requested. Formal complaints must pray for the relief desired. (11-27-93)

05. Name of Party Complained Against. Formal complaints must state the name of the person complained against (the respondent). (11-27-93)

06. Complaint -- Service of. The licensee or other person against whom the formal complaint is directed may be served by the complainant. The Commission Secretary will serve a copy of the formal complaint

upon the Person to which the formal complaint is directed. (11-27-93)

055. INFORMAL INQUIRIES OR COMPLAINTS (RULE 55).
Informal inquiries or complaints are addressed in Rules 21 through 26. (11-27-93)

056. MOTIONS -- AND CONTENTS -- TIME FOR FILING (RULE 56).
All other pleadings requesting the Commission to take any other action, except consent agreements or pleadings specifically answering other pleadings, are called "motions." (11-27-93)

01. Factual Basis. Motions must fully state the facts upon which they are based. (11-27-93)

02. Legal Authority. Motions must refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based. (11-27-93)

03. Relief Requested. Motions must pray for the relief sought. (11-27-93)

04. Oral Argument - Must be Requested. If the moving party desires oral argument or hearing on the motion, the moving party must so state in the motion. Any motion to dismiss, strike or limit a complaint or petition must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be filed at any time upon compliance with Rule 256. The Commission will act on motions as provided in Rule 256. (11-27-93)

057. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING (RULE 57).

01. Answers Defined. All pleadings responding to the allegations or requests of applications, complaints, petitions or motions are called "answers." All pleadings responding to the allegations or prayers of complaints, petitions or motions are called "answers." (11-27-93)

02. Answers to Complaints or Petitions. Answers to complaints or petitions must be filed with the Commission and served on all parties of record within twenty-one (21) days after service of the complaint or petition, unless the Commission modifies the time within which answer may be made or a motion to dismiss is made within twenty-one (21) days. (11-27-93)

a. Answers to complaints or petitions must admit or deny each material allegation of the complaint or petition. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (11-27-93)

b. A party that fails to answer a complaint or petition within the prescribed time will be treated as generally denying the allegations of the complaint or petition and will be precluded, except for good cause shown, from setting up any affirmative defense in the proceeding. In these cases, the Commission may proceed with the matter solely upon the issues set forth in the complaint or petition. The complainant or petitioner must offer evidence of its allegations regardless of whether the complaint or petition is answered or denied. (11-27-93)

03. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to file a motion for additional time to answer. The Commission may act upon a motion under Rule 256. (11-27-93)

058. CONSENT AGREEMENTS -- DEFINED -- FORM AND CONTENTS (RULE 58).
Agreements between a licensee and the Commission Staff, a customer or another licensee in which one or more parties agree prospectively to engage in certain conduct mandated by statute, rule, order, license agreement, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, license agreement or other provision of law, are called "consent agreements." Consent agreements are intended to require compliance with existing law. Settlements of differing positions in ongoing cases under Rules 271 through 277 in the development of new rules, orders, tariffs, etc., are not consent agreements. Consent agreements must: (11-27-93)

01. **Parties Named**. Consent agreements must recite the parties to the agreement. (11-27-93)

02. **Conduct Proscribed or Prescribed**. Consent agreements must fully state the conduct proscribed or prescribed by the consent agreement. (11-27-93)

03. **Consent Agreements**. In addition, consent agreements may: (11-27-93)

a. Consequences for Failure to Follow. Consent agreements may recite the consequences of failure to abide by the consent agreement; (11-27-93)

b. Payment of Fines or Penalties. Consent agreements provide for payment of civil or administrative penalties authorized by law; (11-27-93)

c. Payment of Costs. Consent agreements provide for payment of costs incurred in the investigation, preparation, and hearing of any matter or complaint before the Commission; (11-27-93)

d. Loss of Right or License. Consent agreements provide for loss of rights or licenses; (11-27-93)

e. Consent to Adjustments of License. Consent agreements provide for consent to adjustment of certificates, permits, licenses, or other action as authorized by law; or (11-27-93)

f. Waiver of Rights. Consent agreements provide that parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. (11-27-93)

059. -- 060. (RESERVED)

061. FILING DOCUMENTS WITH THE COMMISSION -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX) (RULE 61).
The following numbers of documents must be filed with the Commission Secretary: (11-27-93)

01. **Application Cases**. In application cases: (11-27-93)

a. Pleadings (applications, petitions, complaints, motions, answers and consent agreements)--an original and one (1) copy. (11-27-93)

b. Briefs, proposed orders, statements of position, exceptions under Rule 312--two (2) copies. (11-27-93)

c. Prepared testimony and exhibits -- three (3) copies (one (1) copy designated as reporter's copy) plus computer disk as required by Rule 231.05. (11-27-93)

d. Discovery-related documents (notice of deposition, production requests, written interrogatories, requests for admission, answers to discovery, explanations in lieu of discovery under Rule 225 and objections to discovery)--two (2) copies except as requested Pursuant to Rule 229. (11-27-93)

02. **License Review or Revocation**. In license review or revocation cases: (11-27-93)

a. Pleadings -- an original and two (2) copies. (11-27-93)

b. Other documents except for discovery-related documents -- five (5) copies. (11-27-93)

c. Discovery-related documents -- two (2) copies. (11-27-93)

03. **FAX Filings**. Pleadings (including supporting affidavits, memoranda, etc.) not exceeding ten pages in length, notice of taking depositions, notices of withdrawal of party or of withdrawal of representative, stipulations, and documents requiring urgent or immediate action by the Commission may be filed with the Commission Secretary by facsimile transmission (FAX). Whenever any such document is filed by FAX, originals must be delivered to the

Commission by overnight mail on the next working day. The use of FAX is prohibited to file prepared testimony and exhibits, requests for or answers to discovery (other than notices of taking deposition), or any other documents except as authorized by this paragraph. (11-27-93)

062. FORM OF DOCUMENTS (RULE 62).

01. Information to be Listed. All documents listed in Rule 61 submitted by a party and intended to be part of the record must: (11-27-93)

a. Be submitted on white eight and one-half inch (8 1/2") by eleven inch (11") paper copied on one (1) side only; (11-27-93)

b. State the case caption, case number and title of the document; (11-27-93)

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (11-27-93)

d. Have at least one (1) inch left and top margins. (11-27-93)

02. Example. These documents complying with this rule will be in the following form:

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative (for Name of Party)

BEFORE THE IDAHO POTATO COMMISSION

Title of Proceeding	)	
	)	CASE NO. ABC-X-XX-XX
	)	
	)	TITLE OF DOCUMENT
	)	

(11-27-93)

03. Identification of Parties. Every document filed under this rule must identify the party filing it in its title. The party must be identified by both the party's designation as a party (e.g., licensee) and the party's name. For example, the Licensee ABC Company would title its motion to strike as "Motion to Strike of Licensee ABC Company." A short title of the document must appear at the bottom left corner of each page of the document. For example, the short title of the motion above could be: "ABC's Motion to Strike." (11-27-93)

063. SERVICE ON PARTIES AND OTHER PERSONS (RULE 63).
All documents referred to in Rule 61 must be served upon the representatives of every party of record concurrently with filing with the Commission Secretary. When a document has been filed with the Commission Secretary by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The Commission may direct that some or all of these documents be served on interested or affected persons who are not parties. The Commission Secretary's notice of parties (and revisions to it) will list all persons whom the parties must serve and their representatives as of the date of the notice or its revision. (11-27-93)

064. PROOF OF SERVICE (RULE 64).
Every document that is filed with the Commission and intended to be part of the record for decision must be attached to or accompanied by proof of service by the following or similar certificate: (11-27-93)

01. Certificate of Service. I HEREBY CERTIFY (swear or affirm) that I have this ____ day of

_____, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list name(s)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names)).

(Signature) (11-27-93)

02. Service List Requirements. Each certificate of service must individually list the names and addresses of each person served. (11-27-93)

065. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS (RULE 65).
Defective, insufficient or late pleadings may be returned or dismissed. (11-27-93)

066. AMENDMENTS TO PLEADINGS (RULE 66).
The Commission may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. (11-27-93)

067. WITHDRAWAL OF PLEADINGS (RULE 67).
A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading with the Commission and serve all parties with it. Unless otherwise ordered by the Commission, the notice is effective fourteen (14) days after filing. (11-27-93)

068. -- 070. (RESERVED)

071. ORDER GRANTING INTERVENTION NECESSARY (RULE 71).
Persons not original parties to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the Commission granting intervention to become a party. (11-27-93)

072. FORM AND CONTENTS OF PETITIONS TO INTERVENE (RULE 72).
Petitions to intervene must comply with Rules 41, 61, and 62. The petition must set forth the name and address of the petitioner and clearly and concisely state the direct and substantial interest of the petitioner in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (11-27-93)

073. TIMELY FILING OF PETITIONS TO INTERVENE (RULE 73).
Petitions to intervene must be filed at least fourteen (14) days before the date set for hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The Commission may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (11-27-93)

074. GRANTING PETITIONS TO INTERVENE (RULE 74).
If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the Commission or the presiding officer will grant intervention, subject to reasonable conditions. If it later appears that an intervenor has no direct or substantial interest in the proceeding, or that the intervention is not in the public interest, the Commission may dismiss the intervenor from the proceeding. (11-27-93)

075. ORDERS GRANTING INTERVENTION--OPPOSITION (RULE 75).
No order granting a petition to intervene will be acted upon fewer than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene must do so by motion in opposition filed within seven (7) days after receipt of the petition to intervene and served upon all parties of record and upon the person petitioning to intervene. (11-27-93)

076. -- 100. (RESERVED)

101. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS (RULE 101).
Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the

agency must substantially comply with this rule. (11-27-93)

01. **Form**. The petition shall: (11-27-93)

a. Identify the petitioner and state the petitioner's interest in the matter; (11-27-93)

b. State the declaratory ruling that the petitioner seeks; and (11-27-93)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (11-27-93)

02. **Legal Assertions**. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions (11-27-93)

102. NOTICE OF PETITION FOR DECLARATORY RULING (RULE 102).
Notice of petition for declaratory ruling may be issued in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. (11-27-93)

103. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER (RULE 103).

01. **Final Agency Action**. The agency's decision on a petition for declaratory ruling on the applicability of any statute, rule or order administered by the agency is a final agency action decided by order. (11-27-93)

02. **Content**. The order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (11-27-93)

a. This is a final agency action issuing a declaratory ruling. (11-27-93)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this declaratory ruling may appeal to district court by filing a petition in the District Court in the county in which: (11-27-93)

i. A hearing was held; (11-27-93)

ii. The declaratory ruling was issued; (11-27-93)

iii. The party appealing resides; or (11-27-93)

iv. The real property or personal property that was the subject of the declaratory ruling is attached. (11-27-93)

c. This appeal must be filed within twenty-eight (28) days of the service date of this declaratory ruling. See Section 67-5273, Idaho Code. (11-27-93)

104. APPOINTMENT OF HEARING OFFICERS (RULE 104).
A hearing officer is a person other than the agency head appointed to hear contested cases on behalf of the agency. Unless otherwise provided by statute or rule, hearing officers may be employees of the agency or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. The appointment of a hearing officer is a public record available for inspection, examination and copying. (11-27-93)

105. HEARING OFFICERS CONTRASTED WITH AGENCY HEAD (RULE 105).
Agency heads are not hearing officers, even if they are presiding at contested cases. The term "hearing officer" as used in these rules refers only to officers subordinate to the agency head. (11-27-93)

106. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES (RULE 106).
Pursuant to Section 67-5252, Idaho Code, hearing officers are subject to disqualification for bias, prejudice, interest,

substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may promptly petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation by a presiding officer. A hearing officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer's determination. Disqualification of agency heads, if allowed, will be pursuant to Sections 59-704 and 67-5252(4), Idaho Code. (11-27-93)

107. SCOPE OF AUTHORITY OF HEARING OFFICERS (RULE 107).
The scope of hearing officers' authority may be restricted in the appointment by the agency. (11-27-93)

01. Scope of Authority. Unless the agency otherwise provides, hearing officers have the standard scope of authority, which is: (11-27-93)

a. Authority to schedule cases assigned to the hearing officer, including authority to issue notices of prehearing conference and of hearing, as appropriate; (11-27-93)

b. Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency; (11-27-93)

c. Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and (11-27-93)

d. Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer. (11-27-93)

02. Limitation. The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope Rule 107.01.c. (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers can be given authority with regard to the agency's rules as provided in Rule 110. (11-27-93)

108. PRESIDING OFFICER(S) (RULE 108).
One or more members of the agency board, the agency director, or duly appointed hearing officers may preside at hearings as authorized by statute or rule. When more than one officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer. (11-27-93)

109. CHALLENGES TO STATUTES (RULE 109).
A hearing officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority has preempted a state statute or rule, and the hearing officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the hearing officer, then the hearing officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the hearing officer and decide the proceeding before the hearing officer in accordance with the precedent of the court or the preemptive action of the federal authority. (11-27-93)

110. REVIEW OF RULES (RULE 110).
When an order is issued by the agency head in a contested case, the order may consider and decide whether a rule of that agency is within the agency's substantive rule-making authority or whether the rule has been promulgated according to the proper procedure. The agency head may delegate to a hearing officer the authority to recommend a decision on issues of whether a rule is within the agency's substantive rule-making authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (11-27-93)

111. EX PARTE COMMUNICATIONS (RULE 111).
Unless required for the disposition of a matter specifically authorized by statute to be done exparte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate exparte with a party concerning procedural matters (e.g., scheduling). Exparte communications from members of the general public not associated with any party are not required to be reported by this rule. However, when a presiding officer has received a written exparte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not exparte communications. (11-27-93)

112. -- 200. (RESERVED)

201. SCOPE OF MODIFIED PROCEDURE (RULE 201).
The Commission may preliminarily find that the public interest may not require a hearing to consider the issues presented in a proceeding and that the proceeding may be processed under modified procedure, i.e., by written submissions rather than by hearing. (11-27-93)

202. NOTICE OF MODIFIED PROCEDURE (RULE 202).

01. Notice of Modified Procedure. When the Commission finds that it may not be in the public interest to hold a hearing in a matter, notice of modified procedure will be issued. It will: (11-27-93)

a. Describe the issues presented in the proceeding; (11-27-93)

b. Summarize the moving party's justification for the proposed changes and its position; (11-27-93)

c. State that the Commission finds that it may be in the public interest not to hold a hearing in the proceeding and will not do so unless it receives written protests or comments opposing the use of modified procedure and stating reasons why modified procedure should not be used; and (11-27-93)

d. Establish the deadline for filing written protests or comments with the Commission. (11-27-93)

02. Distribution of Notice. Copies of the notice of modified procedure will be mailed to all interested persons located within the territorial scope of the application, petition or complaint whose readers, citizens or members may be affected by the proceedings and to all parties. Unless otherwise provided by the notice of modified procedure, all interested persons will have at least twenty-one (21) days from the date of the notice to file a written protest or comment. (11-27-93)

203. PROTESTS AND COMMENTS (RULE 203).
Any person affected by the proposal of the moving party may file a written protest, support or comment before the deadline of the notice of modified procedure. Protests, supports and comments must contain a statement of the reasons for the protest, support or comment, but need not ask for a hearing. Persons desiring a hearing must specifically request a hearing in their written protests or comments. (11-27-93)

204. ACTION BY COMMISSION (RULE 204).
If no protests, supports or comments are received within the deadline, the Commission may consider the matter and enter its order without a hearing. If protests, supports or comments are filed within the deadline, the Commission will consider them and may set the matter for hearing or may decide the matter and issue its order on the basis of the written positions before it. (11-27-93)

205. -- 210. (RESERVED)

211. PURPOSES OF PREHEARING CONFERENCES (RULE 211).
The Commission may by order or notice issued to all parties and to all interested persons as defined in Rule 39 convene a prehearing conference for the purposes of formulating or simplifying the issues, obtaining concessions of

fact or of identification documents to avoid unnecessary proof, scheduling discovery, arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, scheduling hearings, establishing procedure at the hearings, discussing settlement offers or making settlement offers, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. (11-27-93)

212. NOTICE OF PREHEARING CONFERENCES (RULE 212).
Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the conference, unless the Commission finds by order that the public necessity requires the conference to be held earlier. Notices for prehearing conferences must contain the same information as notices of hearing with regard to the Commission's obligations under the Americans with Disabilities Act. See Rule 242. (11-27-93)

213. RECORD OF CONFERENCE (RULE 213).
Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a Commissioner or hearing examiner, according to order or notice. Agreements by the parties to the conference may be recorded by the reporter during formal conferences or may be reduced to writing and filed with the Commission Secretary after formal or informal conferences. (11-27-93)

214. ORDERS RESULTING FROM PREHEARING CONFERENCES (RULE 214).
The Commission may issue a prehearing order or notice based upon the results of the agreements reached at a prehearing conference. The order or notice will bind all persons who could have participated in the prehearing conference, but did not, and all those who later file untimely interventions. A prehearing order will control the course of subsequent proceedings unless modified by the Commission for good cause. (11-27-93)

215. FACTS DISCLOSED (RULE 215).
Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences are privileged and are not part of the record. Except by agreement, facts disclosed cannot be used against participating parties, before the Commission or elsewhere, unless proved by independent evidence. Offers made and other aspects of negotiations or settlement other than a final agreement itself are privileged. (11-27-93)

216. -- 220. (RESERVED)

221. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 221).
The kinds of discovery recognized and authorized by these rules are: (11-27-93)

01. Depositions. The kinds of discovery recognized and authorized by these rules are depositions. (11-27-93)

02. Discovery Requests. The kinds of discovery recognized and authorized by these rules are production requests or written interrogatories. (11-27-93)

03. Requests for Admissions. The kinds of discovery recognized and authorized by these rules are requests for admission. (11-27-93)

04. Subpoenas. The kinds of discovery recognized and authorized by these rules are subpoenas. (11-27-93)

05. Statutory Examination. The kinds of discovery recognized and authorized by these rules are statutory examination and audit. (11-27-93)

06. Discovery -- Applicability of Idaho Code of Civil Procedure. Unless otherwise provided by these rules, order, or notice, the scope and procedure of discovery, other than statutory examination and audit, is governed by the Idaho Rules of Civil Procedure. (See Idaho Rule of Civil Procedure 26(b)). (11-27-93)

222. DISCOVERY AUTHORIZED (RULE 222).
The Commission, individual Commissioners, and all parties to a proceeding have a right of discovery of all other parties to a proceeding. The Commission may by order authorize or compel necessary discovery not listed in these rules. (11-27-93)

223. RIGHTS TO DISCOVERY RECIPROCAL (RULE 223).
All parties to a proceeding and the Commission Staff have a right of discovery of all other parties to the proceeding and the Commission Staff according to these rules. The Commission may by order direct further discovery not provided by these rules. (11-27-93)

224. DEPOSITIONS (RULE 224).
Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, Idaho Rule of Civil Procedure, rule of the Commission, order or notice. Depositions may be taken of expert witnesses notwithstanding contrary provisions of the Idaho Rules of Civil Procedure. Depositions rather than production requests or written interrogatories should be used to obtain statements of opinion or policy not previously written or published. Unless otherwise provided by order or notice or agreed to by the deponent or the deponent's attorney, notice of deposition must be given at least seven (7) days before deposition is taken. (11-27-93)

225. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION (RULE 225).

01. When Requests May Be Used. Production requests or written interrogatories and requests for admission may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, Idaho Rule of Civil Procedure, rule of the Commission, order or notice, except: (11-27-93)

a. Production requests or written interrogatories should not be used to obtain statements of opinion or policy not previously written or published and may be objected to on that ground; and (11-27-93)

b. Requests for admission concerning a matter of opinion or policy or the application of law, order or rule to fact may be denied generally and the reasons for denial required to be discovered by deposition rather than by request for admission, but a request for admission on any matter of opinion or policy or application of law to fact on an uncontested matter must be answered. (11-27-93)

02. Form of Requests. The caption of a production request or written interrogatory and of a request for admission must identify the party making the request or interrogatory, the party to whom the request or interrogatory is directed, and the number of the request or interrogatory to that party. Separate questions within a production request or written interrogatory or within a request for admission must be numbered consecutively within the request or interrogatory and consecutively with earlier production requests or written interrogatories and requests for admission, respectively, from the same party submitting the questions to the same party answering them. For example, if the last question of the Third Production Request of the Commission Staff to XYZ Company is numbered thirty-three (33), the first question of the Fourth Production Request of the Commission Staff to XYZ Company must be numbered thirty-four (34). But, if the Staff's next production request is its first to intervenor ABC Company, that request must begin with question one to that intervenor. (11-27-93)

03. Time for Objection and Answer. Unless otherwise provided by order, notice, or these rules, or pursuant to agreement with or acquiescence of the answering party, parties have at minimum fourteen (14) days to object or explain why a question cannot be answered according to this rule and twenty-eight (28) days to answer. (11-27-93)

04. Numbers of Requests. The number of production requests or written interrogatories and of requests for admission and individual questions or subparts in them may be limited by order, notice or rule of the Commission, but are not limited by the provisions of the Idaho Rules of Civil Procedure. (11-27-93)

226. SUBPOENAS (RULE 226).

01. Issuance of Subpoenas. Upon a motion in writing, or upon a Commissioner's own initiative without motion, any Commissioner or the Commission's Secretary may issue subpoenas: (11-27-93)

a. Requiring the attendance of a witness from any place in Idaho; (11-27-93)

b. The production of documents from any place in Idaho; or (11-29-93)

c. The production of any books, accounts, papers or records of a licensee kept within or without Idaho to any designated place of deposition, hearing or investigation for the purpose of taking testimony or examining documents before the Commission, a Commissioner or hearing examiner. (11-27-93)

02. Witness or Travel Fees. A party's motion to issue a subpoena must be accompanied by a statement that the party will tender to the subpoenaed person all fees required by statute and rules if the subpoena is issued. (11-27-93)

03. Motions to Quash. The Commission upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may: (11-27-93)

a. Quash the subpoena; or (11-27-93)

b. Condition denial of the motion to quash upon reasonable terms. (11-27-93)

227. STATUTORY EXAMINATION AND AUDIT -- CONTRASTED WITH OTHER DISCOVERY (RULE 227).

Statutory examination and audit refers to the right of the Commission, an individual Commissioner, or an authorized member of the Commission Staff to review and inspect the books, records and premises of licensee pursuant to statute. This right of statutory examination and audit is independent of any right of discovery in formal proceedings and may be exercised whether or not a licensee is party to a formal proceeding before the Commission. Information obtained from statutory examination and audit may be used in formal proceedings or for any other regulatory purpose. The rights of deposition, production request or written interrogatory, request for admission, and subpoenas can be used by parties only in connection with formal proceedings before the Commission. (11-27-93)

228. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION (RULE 228).

01. When Answers Not Filed. Answers to production requests or written interrogatories and to requests for admission need not be filed and served in the following circumstances: (11-27-93)

a. Voluminous answers may be filed in a depository designated and agreed to by the parties or designated by the Commission, and an explanation notifying the parties of the availability of the answers at the depository must be filed and served in their stead. (11-27-93)

b. Answers involving data compiled by computer may be transmitted in computer-readable form (e.g., by magnetic tape or other means) to the party requesting them and to all other parties requesting them in similar computer-readable forms and an explanation notifying the parties of their distribution must be filed and served in their stead. (11-27-93)

02. Filing of Answers. Except as provided in Subsection 228.01, answers to production requests or written interrogatories and to requests for admission must restate in full each question asked, then state in full the party's response to the question and the persons who will be able to answer questions about or sponsor the answer at hearing. Answers to production requests or interrogatories need not be separately answered under oath by each person preparing the party's response to the question or each witness who will be able to answer questions about or sponsor the answer, but instead can be generally subscribed by the party's representative. The restatement of the question and its accompanying answer must begin on a new page whenever the preceding answer refers to other documents or whenever the preceding question in the particular production request or written interrogatory is not answered in full in that document. (11-27-93)

229. FILING AND SERVICE OF DISCOVERY AND RELATED DOCUMENTS (RULE 229).

Two (2) legible copies of notices of deposition, production requests or written interrogatories, requests for admission, answers to production requests or written interrogatories, answers to requests for admission, explanations in lieu of answers under Rule 228.01, and objections to discovery must be filed with the Commission Secretary and copies served on all parties according to Rules 61, 62, 63, and 64, except that the Staff by letter to the parties may request that additional copies be filed. (11-27-93)

230. EXHIBIT NUMBERS -- PREPARED TESTIMONY AND EXHIBITS (RULE 230).
The Commission Secretary assigns exhibit numbers to each party. Applicants, petitioners, or complainants are assigned exhibit nos. 1-100. If the Commission is complainant, the Staff is assigned exhibit nos. 1-100. In all other cases, the Staff is assigned exhibit nos. 101-200. Respondents and intervenors are assigned exhibit nos. 201-300, 301-400, etc., as they make their first pleading, but the lower series are reserved first for respondents, then for intervenors. These assigned numbers should be used in all prepared testimony. (11-27-93)

231. PREPARED TESTIMONY AND EXHIBITS (RULE 231).

01. Prepared Testimony May Be Required. Order, notice or rule may require a party or parties to submit prepared testimony and exhibits to be presented at hearing. (11-27-93)

02. Format for Prepared Testimony. (11-27-93)

a. Prepared testimony and exhibits must be accompanied by a cover sheet showing the case caption and case title, the person testifying, the party for whom the testimony is offered, and the nature of the testimony (direct, rebuttal, etc.). (11-27-93)

b. The first page of prepared testimony should contain testimony only (i.e., it should begin with the first question to the witness and not repeat the information on the cover page). (11-27-93)

c. Prepared testimony must be submitted on white eight and one-half inch by eleven (8-1/2 x 11) inch paper, be double-spaced (except for quoted material and tables or other collections of numerical data), and contain no more than ten (10) characters per inch and no more than twenty-five (25) lines of double-spaced testimony per page. (11-27-93)

d. Each line of prepared testimony must be numbered at the left margin (except single spaced quotations or tables of numerical data, which may be numbered at the left margin as though they were double spaced). Each page of testimony must have a one and one-half (1 1/2) inch left margin that will allow the page to be bound on its left side without obscuring the printed material. Indentations for paragraphing and for "Q" and "A" must be seven (7) spaces. (11-27-93)

e. Each page of prepared testimony must be numbered at the lower right corner and must be blank in the center of the bottom margin to allow the reporter to insert transcript page numbers there. Each page of prepared testimony must have at least a one-inch top and bottom margin. (11-27-93)

f. Each page of prepared testimony must contain the witness's surname followed by the designation "Di" (signifying direct testimony) or "Di-Reb" (signifying direct testimony on rebuttal) and the name of the party sponsoring the testimony printed in the lower right margin. For example, the marginal notation on page 5 of the testimony of the witness Lynn Accountant of ABC Company would be: (11-27-93)

5

Accountant, Di; ABC Company (11-27-93)

03. References to Exhibits. All references to exhibits in prepared testimony must refer to the exhibits by their number as assigned by the Commission Secretary. Exhibits accompanying prepared testimony must be consecutively numbered from the first exhibit number assigned to the party by the Commission Secretary if the party has not previously identified exhibits, or from the highest exhibit number previously identified by that party. Exhibits must be filed on eight and one-half inch by eleven inch paper unless it is impractical to make them that size. Exhibits accompanying prepared testimony must comply with Rule 267. (11-27-93)

04. Number of Copies -- Filing and Service. Unless otherwise provided by order, notice or agreement of the parties, three (3) legible copies of prepared testimony and exhibits must be filed with the Commission Secretary and copies filed on all parties pursuant to Rules 61, 62, 63 and 64 at least fourteen (14) days before the hearing at which they will be presented. The original, if there is an original, or one of the copies, if there is not, must

be specifically designated as the reporter's copy by cover sheet, attached note or otherwise, and be included with the copies filed with the Commission Secretary. In special circumstances, notice or order may provide that the reporter's copy of prepared testimony and exhibits be served directly on the reporter rather than the Commission Secretary. (11-27-93)

05. Computer-Readable Copies of Testimony. In addition to the paper copies of prepared testimony, the Commission Secretary may also require some or all of the prepared testimony to be submitted to the secretary or the reporter in computer-readable ASCII format. (11-27-93)

232. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (RULE 232).
The Commission may impose all sanctions recognized by the Potato Commission Law for failure to comply with an order compelling discovery. (11-27-93)

233. ASSERTIONS THAT DISCOVERED MATERIAL IS NOT AVAILABLE FOR PUBLIC INSPECTIONS (RULE 233).
Whenever any party to a request for discovery believes that material otherwise discoverable is protected by statute or rule of law from inspection, examination or copying by the general public, the attorney or other representative of the party designated by Rule 41 for the person asserting the material is protected by law from inspection, examination or copying must state that the answer or some portion of it is protected, citing the specific statute or other legal authority for that position. When an answer contains material, some of which is protected by law from public inspection, examination and copying and some of which is not, the protected material must be specifically identified. The attorney's or other representative's assertion constitutes a representation the representative is familiar with the material claimed not to be available for public inspection, examination and copying and in good faith believes there is a basis in law for that claim. All material for which no assertion of protection against public inspection, examination and copying is made will be placed in files available for public inspection. (11-27-93)

234. ASSERTION OF RIGHT AGAINST SELF-INCRIMINATION AT HEARING -- IMMUNITY (RULE 234).
At hearing or during discovery any person may assert the right not to testify or not to produce documents upon the ground that the testimony or production of documents may tend to incriminate the person. (11-27-93)

235. -- 240. (RESERVED)

241. NOTICE OF HEARING (RULE 241).

01. Timing of Notice. Notice of the place, date and hour of hearing will be served at least fourteen (14) days, or in the case of formal complaints, twenty-one (21) days, before the time set for hearing, unless the Commission finds by order that the public necessity requires the hearing to be held earlier. (11-27-93)

02. Contents of Notice. Notices must comply with Rule 242's requirements. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number, and the name of the hearing officer who will conduct the hearing if the case will not be heard by one or more Commissioners. If no document previously issued by the Commission has listed the legal authority of the Commission to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. (11-27-93)

03. Locations of Hearing. Hearings may be held in Eagle, Idaho, or at other places designated by notice or order. (4-2-08)

242. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS (RULE 242).
All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). All notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the Commission is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the Commission will supply that assistance upon request made seven (7) days before hearing. (11-27-93)

243. HOW HEARINGS ARE HELD (RULE 243).
All hearings conducted by the Commission are open to the public. Hearings may be held in person or by telephone or television or other electronic means, if each participant to the hearing has an opportunity to participate in the entire proceeding while it is taking place. (11-27-93)

244. CONDUCT AT HEARINGS (RULE 244).
All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearings. (11-27-93)

245. CONFERENCE AT HEARING (RULE 245).
In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer will state the results of the conference on the record. (11-27-93)

246. PRELIMINARY PROCEDURE AT HEARING (RULE 246).
Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (11-27-93)

247. CONSOLIDATION OF PROCEEDINGS (RULE 247).
The Commission may consolidate two or more proceedings for hearing when it finds that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the Presiding officer determines the order of the proceeding. (11-27-93)

248. STIPULATIONS (RULE 248).
Parties may stipulate among themselves to any fact at issue by written statement filed with the Commission Secretary or presented at hearing or by oral statement on the hearing record. A stipulation binds all parties agreeing to it only according to its terms. The Commission may regard a stipulation as evidence, but the Commission may require proof by evidence of the facts stipulated. The Commission is not bound to adopt a stipulation of the parties, but may by order do so. If the Commission rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (11-27-93)

249. ORDER OF PROCEDURE (RULE 249).

01. Order of Presentation of Evidence. The parties' evidence will ordinarily be introduced in the following order: (11-27-93)

a. Upon applications: (11-27-93)

i. Applicant; (11-27-93)

ii. Intervenors; (11-27-93)

iii. Commission Staff; and (11-27-93)

iv. Rebuttal by applicant. (11-27-93)

b. Upon formal complaints or petitions (except when the Commission is complainant): (11-27-93)

i. Complainant or petitioner; (11-27-93)

ii. Intervenors; (11-27-93)

iii. Commission Staff; (11-27-93)

iv. Respondents; and (11-27-93)

v. Rebuttal by complainant or petitioner. (11-27-93)

c. Upon complaints by Commission: (11-27-93)

i. Commission Staff; (11-27-93)

ii. Intervenors; (11-27-93)

iii. Respondents; and (11-27-93)

iv. Rebuttal by Commission Staff. (11-27-93)

d. This order of presentation of evidence may be modified by the Commission or presiding officer. Additional evidence may be taken in the discretion of the Commission or presiding officer. Evidence of public witnesses may be taken at any time. (11-27-93)

02. Order of Examination of Witnesses. Witnesses will ordinarily be examined in the following order: (11-27-93)

a. Direct examination by sponsoring party or direct statement of public witness; (11-27-93)

b. Examination by applicants, petitioners or complainants; (11-27-93)

c. Examination by intervenors; (11-27-93)

d. Examination by respondents; (11-27-93)

e. Examination by Commission Staff (except when the Staff acts as complainant); (11-27-93)

f. Examination by Commissioners or hearing examiners; and (11-27-93)

g. Redirect examination or rebuttal statement. (11-27-93)

03. Additional Examinations. The presiding officer may allow additional examination of witnesses or vary the order of examination of witnesses. The presiding officer may vary the order of examination of witnesses to allow parties with interests adverse to the witness to examine the witness after parties with interests similar to the witness. (11-27-93)

250. TESTIMONY UNDER OATH (RULE 250).
All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the Commission is the truth, the whole truth, and nothing but the truth. (11-27-93)

251. PARTIES AND PERSONS WITH SIMILAR INTERESTS (RULE 251).
If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (11-27-93)

252. CONTINUANCE OF HEARING (RULE 252).
The Commission or presiding officer may continue proceedings for further hearing. (11-27-93)

253. RULINGS AT HEARINGS (RULE 253).
The presiding officer rules on motions presented at hearing. The presiding officer's rulings may be reviewed by the

full Commission in determining the matter on its merits. In extraordinary circumstances, the presiding officer may refer or defer these matters to the full Commission for determination. (11-27-93)

254. ORAL ARGUMENT (RULE 254).
The Commission may set and hear oral argument on any matter before it on reasonable notice according to the circumstances. (11-27-93)

255. BRIEFS -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION -- PROPOSED ORDER OF THE COMMISSION (RULE 255).
In any proceeding, any party may move to file briefs, memoranda, proposed orders of the parties or statements of position, and the Commission or presiding officer may request briefs, proposed orders of the parties, or statements of position. The Commission or presiding officer may issue a proposed order and ask the parties for comment upon the proposed order. (11-27-93)

256. PROCEDURE ON MOTIONS (RULE 256).

01. Argument. The Commission may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the Commission must state its grounds for denying the request. (11-27-93)

02. Requirements for Motion for Expeditious Substantive Relief. A motion requesting substantive relief on fewer than fourteen (14) days' notice will not be acted upon on fewer than fourteen (14) days' notice unless it states: (11-27-93)

a. The facts supporting its request to act on shorter notice; and (11-27-93)

b. One (1) that at least one (1) representative of all parties has received actual notice of the motion, by telephone or personal delivery of the motion, or (2) stating the efforts made to reach representatives of those parties not contacted and what efforts will continue to be made to contact them. (11-27-93)

c. Notification. Except as otherwise provided in this paragraph, the Commission will allow at least two (2) days (excluding Saturdays, Sundays and legal holidays) after notification by telephone or actual receipt of the motion for parties to inform the Commission Secretary, either in writing personally delivered to the Secretary or by telephone, whether they support or oppose the motion and whether they desire to be heard on the motion in person, in writing or by telephone. Except in extraordinary circumstances in which the Commission states good cause for ruling on a motion without allowing two (2) days for parties to state their positions or to present their position on the motion either in person, in writing or by telephone, the Commission will not rule on a substantive motion. Whenever an order is issued in such extraordinary circumstances, it will expire in no more than seven (7) days. (11-27-93)

03. Motions for Procedural Relief. A motion requesting procedural relief on fewer than fourteen (14) days' notice is properly filed if it complies with provisions of Rule 256.02.a and 256.02.b. The Commission may act on such a motion without waiting for responses of other parties. (11-27-93)

04. Support or Opposition to Prehearing Motion. When a prehearing motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file their own motions within seven (7) days after receiving the original motion. The party answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond, except as provided in Rule 256.02 and 256.03. (11-27-93)

257. JOINT HEARINGS (RULE 257).
When the Commission participates jointly with a federal regulatory agency, the rules of practice and procedure of the federal agency govern. When the Commission participates jointly with an administrative body of another state or other states, the rules of the state where the hearing is held govern unless otherwise agreed upon by the participating agencies. Any person entitled to appear in a representative capacity for any of the agencies involved in a joint hearing may do so in such joint hearing. (11-27-93)

258. COMMISSIONERS -- HEARING EXAMINERS -- PROCEDURE (RULE 258).

01. Officers Holding Hearings. Hearings are held before one (1) or more Commissioners or one (1) or more hearing examiners appointed by the Commission. The presiding officer is designated by the Commission. Any Commissioner or hearing examiner may administer oaths. (11-27-93)

02. Procedure When Hearing Examiner Holds Hearing. When a hearing examiner hears a proceeding, the examiner must prepare and file recommended findings of fact and conclusions of law with the Commission Secretary and serve copies of them on all parties of record within fourteen (14) days after receipt of the hearing record, unless the examiner's recommended findings are stated on the record at hearing. Unless otherwise provided by order or notice, the Commission will issue its decision based upon its independent review of the record and of the hearing examiner's recommended findings of fact and conclusions of law. (11-27-93)

259. ASSERTION OF RIGHT AGAINST SELF-INCRIMINATION AT HEARING (RULE 259).
At hearing any person may assert the right not to testify or not to produce documents upon the ground that the testimony or production of documents may tend to incriminate the person or subject him to penalty or forfeiture. (11-27-93)

260. (RESERVED)

261. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE (RULE 261).
The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order made, approved or confirmed by the Commission. Rules as to the admissibility of evidence used by the district courts of Idaho in non-jury civil cases are generally followed, but evidence (including hearsay) not admissible in non-jury civil cases may be admitted to determine facts not reasonably susceptible of proof under the Idaho Rules of Evidence. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or inadmissible on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho, and order the presentation of such evidence to stop. All other evidence may be admitted if it is a type generally relied upon by prudent persons in the conduct of their affairs. The Commission's expertise, technical competence and specialized knowledge may be used in the evaluation of the evidence. (11-27-93)

262. DOCUMENTARY EVIDENCE -- INTRODUCTION OF RECORDS IN THE COMMISSION SECRETARY'S OFFICIAL FILE (RULE 262).
Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. When a party offers in evidence any portion of a transcript, exhibit, or other record from any other proceeding before the Commission, the portion offered must be specifically described and, if admitted, will be made an exhibit. The party offering the exhibit must comply with Rule 267. (11-27-93)

263. OFFICIAL NOTICE (RULE 263).

01. Matters That May Be Officially Noticed. The Commission may officially note at hearing and in its orders: (11-27-93)

a. Its own orders, notices, rules, certificates and permits, and those of any other regulatory agency, state or federal; (11-27-93)

b. Matters of common knowledge; technical, financial, or scientific facts established and published in accepted authorities or in the Commission's specialized knowledge; and matters judicially noticeable; and (11-27-93)

c. Data contained in periodic reports of licensees filed with the Commission or federal regulatory agencies. (11-27-93)

02. Procedure for Taking Official Notice. When officially noting on its own motion matters described in Rule 263.01.b and 263.01.c. or adjudicative facts under Rule 263.01.b., the Commission will give the parties appropriate opportunity to respond or refute such matters noticed. Unless otherwise agreed by the parties and approved by the presiding officer, parties requesting the Commission to take official notice of documents must submit

those documents to the Commission in the manner prescribed for documents in Rule 262. (11-27-93)

264. DEPOSITIONS (RULE 264).
Depositions may be offered into evidence as allowed by the Idaho Rules of Civil Procedure. (11-27-93)

265. OBJECTIONS -- OFFERS OF PROOF (RULE 265).
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection or the presiding officer may receive the evidence subject to the later ruling by the full Commission or refer to the matter to the full Commission. (11-27-93)

266. PREPARED TESTIMONY (RULE 266).
The presiding officer may order a witness's prepared testimony previously distributed to all parties to be incorporated in the transcript as if read if timely filed pursuant to an order, notice or rule requiring its filing before hearing. Without objection, the presiding officer may direct other prepared testimony to be incorporated in the transcript as if read. Admissibility of prepared testimony is subject to the Rule 261. (11-27-93)

267. EXHIBITS (RULE 267).

01. Exhibit Numbers. Exhibit numbers are assigned to the parties before hearing according to Rule 230. (11-27-93)

02. Form of Exhibits. Exhibits offered at hearing must ordinarily be typed or printed on eight and one-half inch by eleven (8-1/2 x 11) inch white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present, to the reporter, and to each Commissioner or hearing examiner, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. (11-27-93)

03. Timely Filing of Exhibits. Exhibits offered as part of a party's direct case (except exhibits offered on redirect examination) must be timely filed. Exhibits filed pursuant to any order, notice or rule requiring their filing before hearing are timely filed. Otherwise, exhibits must be distributed or made available to all parties long enough before their introduction into evidence to allow the parties a reasonable opportunity to review them and to prepare to examine their substance, except those exhibits that update exhibits previously timely filed may be filed so long as fair opportunity is afforded other parties to examine the sponsoring witnesses about the updated material. (11-27-93)

04. Objection -- Admission. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. (11-27-93)

05. Labeling of Exhibits. All exhibits accompanying prepared testimony, exhibits introduced during direct examination of a party's witnesses, and, to the extent practicable, all other exhibits introduced at hearing must label the exhibit number, case number, party and witness sponsoring the exhibit, and any subdivisions within the exhibit, such as separate schedules or charts. Examples of labeling required by this rule are: (11-27-93)

a. Exhibit No. 101
Case No. XXX-X-XX-XX
Marketing Director, Staff
Schedule 1, p. 1 of 3 (11-27-93)

b. Exhibit No. 507
Case No. XXX-X-XX-XX
L. Accountant, ABC Company (11-27-93)

c. Exhibits prepared for the proceeding must contain this labelling on each page of the exhibit. Exhibits reproducing previously existing documents may contain a cover page with this labelling, but need not be labelled on each page. (11-27-93)

06. Sources for Exhibits. Exhibits prepared from data in workpapers, answers to discovery, periodicals, reports or other documentable sources of information must contain a statement of sources. Examples of the statements of sources required by this rule are: (11-27-93)

a. Marketing Director, Workpapers to Tab A, pages 1-47. (11-27-93)

b. The Red Book, Section 3, p. 402, 1993 Vol. 1. (11-27-93)

c. Answer of XYZ Company to First Production Request of ABC Company, Question 13. (11-27-93)

d. XYZ Company, Compliance Form 1 (1993). (11-27-93)

e. Exhibits especially prepared for introduction into evidence in a proceeding (i.e., exhibits not otherwise prepared or in existence) should be descriptively titled to show their contents and purpose. (11-27-93)

07. Certain Exhibits Require Presiding Officer's Approval. Neither motion pictures, slides, opaque projections, video tapes, audio tapes nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without prior approval of the presiding officer. Writing, sketching and drawing on blackboards or other similar surfaces by witnesses presenting testimony do not constitute an exhibit or evidence in the proceeding unless the writing, sketching or drawing is reproduced, photographed, or otherwise preserved for the record. (11-27-93)

268. -- 270. (RESERVED)

271. PASSIVE SETTLEMENTS (RULE 271).
Settlements in formal proceedings in which a party agrees to concur in, accept, or not to oppose another party's positions previously on record with the Commission are called passive settlements. Any party may reach a passive settlement with any other party on any issue without prior notification to the Commission or any other party. (11-27-93)

272. PROCEDURES FOR ACTIVE SETTLEMENTS (RULE 272).
Settlements in formal proceedings in which one or more parties negotiate an agreement differing from positions of one or more of the parties previously on record with the Commission are called active settlements. Any party other than the Commission Staff may enter into an active settlement with any party other than the Commission Staff without prior notification to the Commission or other parties. The Commission Staff, however, is precluded from entering into an active settlement without first notifying all other parties that it intends to begin or has begun settlement negotiations. The Commission Staff must give all other parties an opportunity to participate in or be apprised of the course of the settlement negotiations before a final settlement agreement is reached. Settlement negotiations are confidential, unless all participants to the negotiation agree to the contrary. (11-27-93)

273. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS (RULE 273).
Through notice or order or on the record at prehearing conference or hearing, the Commission or an individual Commissioner may inquire of the parties in any proceeding whether settlement negotiations are in progress or contemplated or invite settlement of an entire proceeding or certain issues. In issuing such an invitation for settlement, the Commission or an individual Commissioner may indicate acceptable ranges of settlement, preclude certain issues from settlement, or otherwise inform the parties of his, her or their views on settlement in aid of securing a just, speedy and economical determination of the issues presented to the Commission. Neither the Commission nor individual Commissioners will indicate ex parte their views on the merits of any proposed settlement. (11-27-93)

274. CONSIDERATION OF SETTLEMENTS (RULE 274).
Settlements must be reviewed under this rule. When a settlement, be it active or passive, is presented to the Commission, the Commission will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the Commission may summarily accept settlement of an essentially private dispute that has no significant implications for regulatory law or policy or for other licensees upon the written request of the affected parties. On the other hand, when one or more parties to a proceeding is not party to the settlement or when the

settlement presents issues of significant implication for other licensees, other customers or the public interest, the Commission may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is just, fair, and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. (11-27-93)

275. BURDENS OF PROOF (RULE 275).
Proponents of a proposed settlement carry the burden of showing that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. In any instance in which parties or affected persons oppose the settlement, proponents of the settlement should be prepared to call witnesses and argue in favor of the settlement. Opponents of the settlement should be prepared to examine supporting witnesses, offer their own witnesses, or argue against the settlement. The Commission may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (11-27-93)

276. SETTLEMENT NOT BINDING (RULE 276).
The Commission is not bound by settlements. It will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. When a settlement is presented for decision, the Commission may accept the settlement, reject the settlement, or state additional conditions under which the settlement will be accepted. In the last instance, the parties will have twenty-one (21) days to state their acceptance or rejection of the additional conditions imposed by the Commission. If the Commission rejects the settlement or if the Commission's conditional acceptance of a settlement is rejected by the parties to the settlement, the Commission will notify the parties of procedures to be followed to decide the issues for which settlement was rejected by the Commission. (11-27-93)

277. CONSENT AGREEMENTS NOT SETTLEMENTS (RULE 277).
Consent agreements proscribing or prescribing certain conduct under Rule 58 are not settlements under this rule. (11-27-93)

278. -- 280. (RESERVED)

281. RECORDS FOR DECISION -- RELATIONSHIP TO OFFICIAL FILE (RULE 281).
The Commission bases its decisions and issues its orders on the hearing record (excluding exhibits denied admission), the Commissioners' record and items officially noted. The hearing record and the Commissioners' record are part of the Commission Secretary's official file. (11-27-93)

282. THE COMMISSION SECRETARY'S OFFICIAL FILE (RULE 282).

01. Documents in File. The Commission Secretary's official file for a proceeding is the public file maintained by the Commission Secretary. This file includes all documents filed with regard to a proceeding, whether filed by parties or other persons, and includes (but is not limited to) pleadings, discovery and related materials, briefs, proposed orders, statements of position, correspondence concerning the proceeding directed to the Commission, a Commissioner, or the Commission Secretary (whether by parties or persons not parties), prepared testimony and exhibits, workpapers, transcripts, exhibits presented at hearing, orders, notices, press releases, and other matters pertaining to or related to a proceeding and included in the public files of that proceeding by the Commission Secretary. (11-27-93)

02. Public Records. Except as provided in Rules 26 and 234, which refer to statutory exemptions from disclosure, all material in the Commission Secretary's Official File is subject to inspection, examination and copying under Section 74-102, Idaho Code. In particular, information obtained in an application for a certificate or permit issued by this Commission inquiring into a person's fitness to be granted or to retain a certificate or permit is not exempted from examination or copying under Section 74-106(9), Idaho Code, but may be exempted under other statutes. (11-27-93)

283. THE HEARING RECORD (RULE 283).
The hearing record in a proceeding consists of all transcripts of hearings, conferences, arguments and other proceedings on the record and of all exhibits identified, offered, admitted or denied admission at hearing or prehearing conference. Workpapers, requests for discovery, answers to discovery and other documents filed with the Commission Secretary and served on the parties, whether or not discussed at hearing, are not part of the hearing

records unless introduced as exhibits at hearing. The Commission or an individual Commissioner may add to the hearing record by reference to any document in the Commission Secretary's official file, but only after notifying the parties of that intention and giving them reasonable opportunity to object, review, examine, and rebut or contest the document. (11-27-93)

284. THE COMMISSIONERS' RECORD (RULE 284).

01. Documents in File. The Commissioners' record in a proceeding automatically includes all pleadings, orders, notices, briefs, proposed orders and position papers. The Commission may add documents officially noticed to the Commissioners' record. (11-27-93)

02. Materials Available at Hearing. The Commissioner(s) or hearing examiner(s) conducting a hearing will have the Commissioners' record and all prepared testimony and exhibits available at hearing. Parties desiring to refer to additional documents at hearing should notify the Commission Secretary and all other parties of their intention so that these other documents will be available to the Commissioner(s) or hearing examiner(s) at hearing or should themselves provide copies at hearing to all other parties and to the Commissioner(s) or hearing examiner(s). (11-27-93)

285. THE REPORTER (RULE 285).
The reporter at all hearings, conferences, arguments and other proceedings on the record must transcribe all oral proceedings on the record and collect all exhibits identified at hearing. Except as otherwise directed by the Commission, presiding officer at hearing, or the Commission Secretary, the reporter must file the complete hearing record of transcripts and exhibits With the Commission Secretary within fourteen (14) days of the close of hearing. (11-27-93)

286. TRANSCRIPTS (RULE 286).

01. Form of Transcripts -- Cover Sheet. Transcripts must be prepared on white eight and one-half inch by eleven inch (8 1/2 x 11) paper. The cover page of each volume of transcript must show the title of the proceeding, the case number, the presiding officer, the time and place of hearing, and other information as shown in the following example:

BEFORE THE IDAHO POTATO COMMISSION

(TITLE OF PROCEEDING)
)
) CASE NO. XXX-X-XX-XX
)

(COMMISSIONER Able Baker, Presiding)

(HEARING OFFICER Charlie Dog, Presiding)

(Date, e.g., January 21, 1983)

(Hearing Room, e.g., Commission Hearing Room)
(Address, e.g., 661 S. Rivershore Lane, Suite 230, Eagle, Idaho)

(4-2-08)

02. Volumes of Transcript -- Indices to Volumes. Each day of hearing must be transcribed in a volume or volumes separate from other days of hearing. Each volume of transcript must begin with a list of the parties who appeared that day and their representatives at hearing that day. This list must be followed with a list of all witnesses whose testimony is reported in that volume, showing the pages at which each witness's testimony begins, what party (if any) called the witness, the pages upon which each other party's examination begins, the pages upon

which each Commissioner's or hearing examiner's examination begins, and the pages upon which redirect examination or any party's, Commissioner's or hearing examiner's re-examination begins. These lists must be followed with a list showing all exhibits identified in that volume of transcript (including exhibits accompanying prepared testimony), the pages upon which they are first identified, and, if any exhibits are denied admission, the pages upon which the exhibits are denied admission. (11-27-93)

03. Matters Included in Transcript. The transcript must contain all discussions on the record while the hearing is in order. Unless otherwise directed by the Commission, the presiding officer, or the Commission Secretary, prepared testimony must be included in the transcript without change or retyping. Witness's corrections to prepared testimony should be made by distributing replacement pages to the reporter and describing those corrections on the record and/or distributing an errata sheet; unless otherwise directed, no corrections other than replacement pages will be made in the prepared testimony before it is incorporated in the transcript, except the reporter may make minor corrections by interlineation in the prepared testimony. Witnesses may have seven (7) days after hearing to distribute replacement pages to all parties and to the reporter, unless the Commission, the presiding officer or the Commission Secretary otherwise directs. (11-27-93)

04. Marginal Notes. The testimony of all witnesses reported in the transcript must be designated in the lower right margin by the witness's surname and the party sponsoring the witness's testimony. The type of testimony must be shown following the witness's surname as "Di" (direct or redirect), "X" (examination by any party not sponsoring the witness), or "Com" (examination by a Commissioner or hearing examiner). Examples of the designations required by this Rule follow: (11-27-93)

a. Accountant, Di; ABC Company; (11-27-93)

b. Accountant, Com; ABC Company; (11-27-93)

c. Discussions on the record that are not testimony or examination may be labeled "argument," "decision," "colloquy," etc., to describe what is reported. (11-27-93)

05. Volume Size -- Number of Pages. Transcript volumes should not exceed three hundred (300) pages. Transcript volumes and pages of all proceedings on the record, including prehearing conferences, hearings, arguments, and any other proceedings on the record, must be numbered consecutively. For example, if a prehearing conference on the record preceded a hearing, the transcript volume and page numbers of the hearing would be numbered consecutively with that of the prehearing conference. (11-27-93)

287. -- 300. (RESERVED)

301. FAILURE TO APPEAR AT HEARING -- DEFAULTS (RULE 301).
After an applicant's, petitioner's, complainant's or moving party's failure to appear at the time and place set for hearing, the Commission may dismiss the petition, application, complaint or motion. When a respondent that has been properly served fails to answer or appear at hearing, the Commission may order any relief against the respondent authorized by law. (11-27-93)

302. -- 310. (RESERVED)

311. SUBMISSION FOR DECISIONS (RULE 311).
A proceeding is submitted for decision upon filing of the hearing record with the Commission Secretary, filing of timely briefs, filing of timely orders proposed by the parties and timely written comments or exceptions, oral argument, or receipt of recommended findings of fact of the hearing examiner, whichever is last, but no later than twenty-eight (28) days after hearing is closed when a hearing is held, except when all Commissioners participating in the decision have heard the case themselves, they need not await the filing of the hearing record to consider the case submitted for their decision. The Commission (or a hearing examiner presiding over an uncontested matter) may issue a final decision earlier or rule from the bench, but a bench ruling will be followed by written order. (11-27-93)

312. PROPOSED ORDERS BY COMMISSION (RULE 312).
The Commission may issue a proposed order in any proceeding. Any party may file exceptions and briefs to a proposed order within twenty-one (21) days from its date of service, unless a different time is designated by the

Commission. Any party may file and serve answers and accompanying briefs to the exceptions within seven (7) days after service of the exceptions. The Commission may adopt or revise the proposed order in response and issue a final order accordingly. The proposed order is not an order of the Commission unless it is adopted by order. In that case, the order of adoption is the final order for all purposes. (11-27-93)

313. -- 320. (RESERVED)

321. INTERLOCUTORY ORDERS (RULE 321).

01. Defined. Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the Commission may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains one of the paragraphs set forth in Rule 322 or a paragraph substantially similar, the order is interlocutory. (11-27-93)

02. Certain Orders Always Interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. (11-27-93)

03. Interlocutory Orders -- Review. Interlocutory orders may be reviewed pursuant to Rules 324, 325 and 326. (11-27-93)

322. RECOMMENDED ORDERS (RULE 322).

01. Recommended Orders Defined. Recommended orders are orders issued by a person other than the Commission or Executive Director that will become a final order of the Commission only after review of the Commission or Executive Director pursuant to Section 67-5244, Idaho Code. (11-27-93)

02. Paragraphs Designating Recommended Orders. Every recommended order must contain the following paragraphs or substantially similar paragraphs:

THIS IS A RECOMMENDED ORDER. IT WILL NOT BECOME FINAL WITHOUT ACTION OF THE COMMISSION OR EXECUTIVE DIRECTOR. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code.

WITHIN TWENTY-ONE (21) DAYS AFTER THE SERVICE OF THIS RECOMMENDED ORDER OR THE SERVICE DATE OF A DENIAL OF A PETITION FOR RECONSIDERATION FROM THIS RECOMMENDED ORDER OR THE FAILURE TO GRANT OR DENY A PETITION FOR RECONSIDERATION FROM THIS RECOMMENDED ORDER, ANY PARTY MAY IN WRITING SUPPORT OR TAKE EXCEPTIONS TO ANY PART OF THIS RECOMMENDED ORDER AND FILE BRIEFS IN SUPPORT OF THE PARTY'S POSITION ON ANY ISSUE IN THE PROCEEDING. These written briefs in support of or taking exceptions to the recommended order shall be filed with the Commission or Executive Director. Opposing parties shall have twenty-one (21) days to respond. The Commission or Executive Director may schedule oral argument in the matter before issuing a final order. The Commission or Executive Director will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The Commission or Executive Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (11-27-93)

323. PRELIMINARY ORDERS (RULE 323).

01. Preliminary Orders Defined. Preliminary orders are orders issued by a person other than the Commission or Executive Director that will become a final order of the Commission unless reviewed by the Commission or Executive Director pursuant to Section 67-5245, Idaho Code. (11-27-93)

02. Paragraphs Designating Preliminary Orders. Every preliminary order must contain the following paragraphs or substantially similar paragraphs:

THIS IS A PRELIMINARY ORDER. IT CAN BECOME FINAL WITHOUT ACTION OF THE COMMISSION OR EXECUTIVE DIRECTOR. Any party may file a motion for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code.

WITHIN TWENTY-ONE (21) DAYS AFTER THE SERVICE DATE OF THIS PRELIMINARY ORDER OR THE SERVICE DATE OF THE DENIAL OF A PETITION FOR RECONSIDERATION FROM THIS PRELIMINARY ORDER OR THE FAILURE TO GRANT OR DENY A PETITION FOR RECONSIDERATION FROM THIS PRELIMINARY ORDER, ANY PARTY MAY IN WRITING APPEAL OR TAKE EXCEPTIONS TO ANY PART OF THE PRELIMINARY ORDER AND FILE BRIEFS IN SUPPORT OF THE PARTY'S POSITION ON ANY ISSUE IN THE PROCEEDING. OTHERWISE, THE ORDER WILL BECOME A FINAL ORDER OF THE AGENCY.

Opposing parties shall have twenty-one (21) days to respond to any party's appeal to the Commission or Executive Director. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Commission or Executive Director. The Commission or Executive Director may review the preliminary order on his own motion.

If the Commission or Executive Director grants the petition to review the preliminary order, the Commission or Executive Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The Commission or Executive Director will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The Commission or Executive Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (11-27-93)

03. Preliminary Orders -- Time When Final -- Required Paragraph. When a preliminary order has become final because no party has appealed to the Commission or Executive Director within twenty-one (21) days of the issuance of the preliminary order, the hearing officer shall issue a final order containing the following paragraph or a substantially similar paragraph:

THIS IS A FINAL ORDER CONFIRMING THAT THE PRELIMINARY ORDER DATED _____, 20___, HAS BECOME FINAL BECAUSE NO PARTY APPEALED THE PRELIMINARY ORDER OF THE HEARING OFFICER TO THE COMMISSION OR EXECUTIVE DIRECTOR WITHIN TWENTY-ONE (21) DAYS AFTER SERVICE OF THE ORDER.

PURSUANT TO SECTIONS 67-5270 AND 67-5272, IDAHO CODE, ANY PARTY AGGRIEVED BY THIS FINAL ORDER OR ORDERS PREVIOUSLY ISSUED IN THIS CASE MAY APPEAL THIS FINAL ORDER AND ALL PREVIOUSLY ISSUED ORDERS IN THIS CASE TO DISTRICT COURT by filing a petition in the district court of the county in which:

(1) A hearing was held,

(2) The final Commission action was taken,

(3) The party seeking review of the order resides, or

(4) The real property or personal property that was the subject of the Commission action is attached.

THIS APPEAL MUST BE FILED WITHIN TWENTY-EIGHT (28) DAYS OF THE SERVICE DATE OF THIS FINAL ORDER. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (11-27-93)

324. FINAL ORDERS (RULE 324).

01. Final Orders Defined. Final orders are preliminary orders that have become final under paragraph b pursuant to Section 67-5245, Idaho Code, or orders issued by the Commission or Executive Director pursuant to Section 67-5246, Idaho Code. (11-27-93)

02. Paragraphs Designating Final Orders. Every final order issued by the Commission or Executive Director must contain the following paragraphs or substantially similar paragraphs:

THIS IS A FINAL ORDER. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Commission or Executive Director will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code.

PURSUANT TO SECTIONS 67-5270 AND 67-5272, IDAHO CODE, ANY PARTY AGGRIEVED BY THIS FINAL ORDER OR ORDERS PREVIOUSLY ISSUED IN THIS CASE MAY APPEAL THIS FINAL ORDER AND ALL PREVIOUSLY ISSUED ORDERS IN THIS CASE TO DISTRICT COURT by filing a petition in the district court of the county in which:

(1) A hearing was held,

(2) The final Commission action was taken,

(3) The party seeking review of the order resides, or

(4) The real property or personal property that was the subject of the Commission action is attached.

THIS APPEAL MUST BE FILED WITHIN TWENTY-EIGHT (28) DAYS OF THE SERVICE DATE OF THIS FINAL ORDER OR TWENTY-EIGHT (28) DAYS OF AN ORDER DENYING PETITION FOR RECONSIDERATION, OR THE FAILURE TO GRANT OR DENY A PETITION FOR RECONSIDERATION, WHICHEVER IS LATER. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (11-27-93)

03. Petition to Designate Order as Final. If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. Whenever a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may petition to designate the order as recommended, preliminary or final, as appropriate. (11-27-93)

04. Review of Final Order. The hearing officer issuing a recommended or preliminary order may modify the recommended or preliminary order on his/her own motion within fourteen days after issuance of the recommended or preliminary order by withdrawing the recommended or preliminary order and issuing a substitute recommended or preliminary order. The Commission or Executive Director may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the Commission or the Executive Director itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it. (11-27-93)

325. STAY OF ORDERS (RULE 325).
Any party or person affected by an order may petition the Commission to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The Commission may stay any interlocutory or final order on its own motion. (11-27-93)

326. CLARIFICATION OF ORDERS (RULE 326).
Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary or final. Petitions for clarification from final orders do not suspend or toll the time to petition for

reconsideration or appeal the order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. The Commission may clarify any order on its own motion before the expiration of the time for appeal of the order. (11-27-93)

327. REVIEW OF INTERLOCUTORY ORDERS (RULE 327).
Any party or person affected by an interlocutory order may petition to review the interlocutory order. The Commission may rescind, alter or amend any interlocutory order on its own motion, but will not on its own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (11-27-93)

328. -- 330. (RESERVED)

331. PETITIONS AND CROSS-PETITIONS FOR RECONSIDERATION (RULE 331).

01. Petition for Reconsideration. Within twenty-one (21) days after the service date of issuance of any final order or rule, any person interested in a final order or rule of the Commission may petition for reconsideration. Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or rule is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted. (11-27-93)

02. Cross-Petition for Reconsideration. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration in response to any issues raised in the petition for reconsideration. Cross-petitions for reconsideration must set forth specifically the ground or grounds why the cross-petitioner contends that the order or rule is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument that the cross-petitioner will offer if reconsideration is granted. (11-27-93)

03. Methods of Reconsideration Requested. The petition or cross-petition must state whether the petitioner or cross-petitioner requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories. (11-27-93)

04. Timely Filing -- Mailbox Rules. A petition for reconsideration is timely if it is actually filed with the Commission or postmarked no later than twenty-one (21) days after the date of service of the final order. Whenever a petition for reconsideration is not personally filed with the Commission Secretary within twenty-one (21) days of the date of service of the final order or is not mailed at least three (3) days before that date, on the day the petition for reconsideration is mailed, the petitioner should notify the Commission Secretary and all other parties by telephone that the petition for reconsideration has been mailed. A cross-petition for reconsideration is timely filed if it is filed with the Commission or postmarked no later than seven (7) days after the petition for reconsideration to which it responds is received in the Office of the Commission Secretary. Whenever a cross-petition for reconsideration is not personally filed with the Commission Secretary within seven (7) days of the date of receipt of the petition for reconsideration by the Commission Secretary or is not mailed at least three (3) days before that date, on the day the cross-petition for reconsideration is mailed, the cross-petitioner should notify the Commission Secretary and all other parties by telephone that the cross-petition for reconsideration has been mailed. (11-27-93)

05. Answers to Petitions for Reconsideration. Answers to petitions for reconsideration (pleadings that disagree with a petition for reconsideration, but do not ask for affirmative relief from the Commission's orders) must be filed according to the procedures for cross-petitions for reconsideration. (11-27-93)

332. PROCEDURE AT RECONSIDERATION (RULE 332).
The Commission may grant reconsideration upon petition of any interested person or upon its own motion. Prehearing conferences may be convened before reconsideration. Reconsiderations by rehearing are conducted in accordance with the procedure at other hearings, except that parties whose petitions are granted are treated as complainants or petitioners under Rule 249. When the order for reconsideration finds that the grounds upon which the petition is granted present only issues of law and not of fact or issues of fact not requiring hearings, the Commission may direct that these grounds be considered on reconsideration by submission of briefs, memoranda, written interrogatories or written statements and not by further submission of evidence at hearing. Grounds for reconsideration or issues on reconsideration that are not supported by specific explanation may be dismissed. Rule

311 determines when a matter that is reconsidered is finally submitted. (11-27-93)

333. EFFECT OF FILING PETITION FOR RECONSIDERATION (RULE 333).
Filing a petition for reconsideration does not excuse compliance with any order nor stay the effectiveness of any order, unless otherwise ordered. Petitions to stay may accompany or precede petitions for reconsideration. (11-27-93)

334. -- 340. (RESERVED)

341. PERSONS WHO MAY APPEAL (RULE 341).

01. Parties Aggrieved by Order Following Petition for Reconsideration. After a petition for reconsideration is denied, or, if the petition is granted, then after the rendition of the decision on reconsideration, the state of Idaho or any party aggrieved may appeal from any such order of the Commission by filing with the Commission Secretary a notice of appeal conforming to the requirements of the Idaho Appellate Rules within the time provided by the Idaho Appellate Rules and the Idaho Administrative Procedures Act. See Title 67, Chapter 52, Idaho Code. (11-27-93)

02. Parties Aggrieved by Denial of Petition for Reconsideration. No person is a party aggrieved by an order denying reconsideration unless the person is a party that petitioned for reconsideration and presented the ground(s) and issue(s) on which it contends it was aggrieved by earlier orders of the Commission as issue(s) on reconsideration pursuant to Rule 331 and the Commission denied reconsideration on some or all of those issues. (11-27-93)

03. Parties Aggrieved Following Reconsideration. No party is aggrieved by an order issued on reconsideration unless: (11-27-93)

a. The party petitioned or cross-petitioned for reconsideration, its petition or cross-petition was granted, and the order issued on reconsideration did not grant the relief requested in the party's petition or cross-petition for reconsideration with regard to some or all of the grounds and issues on reconsideration presented in its petition or cross-petition; or (11-27-93)

b. The party did not petition or cross-petition for reconsideration, but stated on the record, by motion, or by brief that it opposed any alteration or change in the Commission's earlier order(s) on some or all of the grounds associated with issue(s) on reconsideration, and the order issued on reconsideration altered or changed the earlier order(s) with regard to some or all of the grounds or issues on reconsideration that the party opposed. (11-27-93)

04. Failure to Exhaust Remedies. Pursuant to Section 67-5271, Idaho Code, a person is not entitled to judicial review of the Commission action in district court until that person has exhausted all administrative remedies available with the Commission, but a preliminary, procedural, or intermediate Commission action or ruling is immediately reviewable in district court if review of the final Commission action would not provide an adequate remedy. (11-27-93)

342. NOTICE OF APPEAL (RULE 342).

01. Where and to Whom the Notice of Appeal Must Be Served. The notice of appeal must be filed with the Commission and with the district court and served on all parties. Pursuant to Section 67-5272, Idaho Code, appeals may be filed in the District Court of the county in which: (11-27-93)

a. The hearing was held; (11-27-93)

b. The final Commission action was taken; (11-27-93)

c. The party seeking review of the Commission's action resides; or (11-27-93)

d. The real property or personal property that was the subject of the Commission is attached. (11-27-93)

02. When the Notice of Appeal Must Be Served. Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final order in a contested case must be filed within twenty-eight (28) days of the service date of the final order, or, if reconsideration is sought, within twenty-eight (28) days of the denial of the petition for reconsideration, the order issued on reconsideration, or the failure to grant or deny the petition for reconsideration; a petition for judicial review of final Commission action other than a rule or order must be filed within twenty-eight (28) days of the Commission action, unless otherwise provided by law. (11-27-93)

343. PREPARATION OF APPELLATE RECORD (RULE 343).
The Commission by order may correct the title of an appeal to properly designate all parties as appellants, cross-appellants, respondents, or cross-respondents and to omit those designations for parties before the Commission who are not parties on appeal. All requests for a transcript on appeal must be served on the reporter and on the Commission Secretary. Reporter's fees under Idaho Appellate Rule 24(e) should be paid directly to the reporter, not to the Commission Secretary. The Secretary's fees under Idaho Appellate Rule 27(b) for preparation of the agency's record are the same fees provided in that rule for the clerk of the district court to charge for preparation of the clerk's record. (11-27-93)

344. -- 400. (RESERVED)

401. ADOPTION OF ATTORNEY GENERAL'S RULES OF PROCEDURE FOR RULEMAKING (RULE 401).
The Commission hereby adopts the Attorney General's Idaho Rules of Administrative Procedure for rulemaking, IDAPA 04.11.01.800 et seq., as its rules for all procedure regarding rulemaking. (11-27-93)

402. -- 999. (RESERVED)

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