IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS

62.01.01 – Idaho Rules of Administrative Procedure

Who does this rule apply to?
These rules apply to every state agency that hears contested cases (other than the department of water resources or the water resource board) and to those members of the general public involved in a contested case proceeding.

What is the purpose of this rule?
The purpose of these rules is to establish rules of procedure for contested cases for state agencies that conduct such cases, other than the department of water resources or the water resource board.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

Section 67-5206(3), Idaho Code – Promulgation of Rules Implementing Administrative Procedure Act
Section 67-5280(2)(c), Idaho Code – Creation of Office of Administrative Hearings – Powers and Duties

Who do I contact for more information on this rule?

Office of Administrative Hearings
Monday – Friday, 8:00 am – 5:00 pm
350 N. 9th St., Suite 300
Boise, Idaho 83702
Phone: (208) 605-4300
Email: general@oah.idaho.gov
Website: https://oah.idaho.gov

Table of Contents

62.01.01 – Idaho Rules of Administrative Procedure

SUBCHAPTER A – GENERAL PROVISIONS AND DEFINITIONS (RULES 0-99)

000. Legal Authority (Rule 0). 6
001. Title And Scope (Rule 1). 6
002. Definitions (Rule 2). 6
003. Abbreviations (Rule 3). 6
004. Liberal Construction (Rule 4). 6
005. Communications With Agency (Rule 5). 6
006. Identification Of Communications (Rule 6). 7
007. Computation Of Time (Rule 7). 7
008. Fees And Remittances (Rule 8). 7
009. Compliance With Americans With Disabilities Act Requirements (Rule 9). 7
010. Practice Not Covered By Statute Or Rules (Rule 10). 7
011. – 099. (Reserved) 7

SUBCHAPTER B – PROSECUTIONS AND INFORMAL RESOLUTIONS (RULES 100-199)

100. Contrast Between Agency's Prosecutorial / investigative And Adjudicatory Functions (Rule 100). 7
101. Public Inquiries About Or Recommendations For Agency Issuance Of A Petition (Rule 101). 8
102. Agency Procedures After Issuance Of A Petition (Rule 102). 8
103. Assistance With Agency Head's Consideration Of Recommended Or Preliminary Order (Rule 103). 9
104 – 149. (Reserved) 10
150. Informal Dispositions, Generally (Rule 150). 10
151. Alternative Dispute Resolution Of Contested Cases (Rule 151). 10
152. Neutrals (Rule 152). 10
153. Confidentiality Of Settlement Negotiations (Rule 153). 10
154. Procedure For Notice Of Informal Disposition Occurring Prior To A Contested Case Proceeding (Rule 154). 11
155. Stipulations Regarding Facts (Rule 155). 11
156. Consent Orders And Other Settlements (Rule 156). 11
157. Inquiry About Negotiations (Rule 157). 11
158. Burdens Of Proof (Rule 158). 11
159. Consent Orders And Settlements Not Binding (Rule 159). 12
160. Negotiations Do Not Exhaust Administrative Remedies (Rule 160). 12
161. – 199. (Reserved) 12

SUBCHAPTER C – CONTESTED CASE PARTICIPANTS (RULES 200-299)

200. Parties To Contested Cases Listed (Rule 200). 12
201. Petitioners (Rule 201). 12
202. Respondents (Rule 202). 12
203. Intervenors (Rule 203). 12
204. Rights Of Parties And Of Agency Staff (Rule 204). 12

205. Withdrawal And Substitution Of Parties (Rule 205). 12
206. Persons Not Parties – Interested Persons (Rule 206). 12
207. Persons Not Parties – Public Witnesses (Rule 207). 13
208. – 224. (Reserved) 13
225. initial Pleading – Listing Of, And Service Upon, Representatives (Rule 225). 13
226. Taking Of Appearances – Participation By Agency Staff – Use Of Agency Report Or Recommendation (Rule 226). 13
227. Representation Of Parties (Rule 227). 13
228. Attorney Representatives (Rule 228). 13
229. Substitution Of Representative (Rule 229). 13
230. Withdrawal Of Representative (Rule 230). 13
231. Conduct Required – Sanctions For Misconduct (Rule 231). 14
232. – 249. (Reserved) 14
250. Appointment Of Hearing Officers (Rule 250). 14
251. Disqualification (Rule 251). 14
252. Scope Of Authority Of Presiding Officers (Rule 252). 14
253. Challenges To Statutes (Rule 253). 15
254. Challenges To Rules (Rule 254). 15
255. Ex Parte Communications (Rule 255). 15
256. – 299. (Reserved) 15

SUBCHAPTER D – PLEADINGS AND MOTIONS (RULES 300-399)

300. Pleadings – Naming (Rule 300). 15
301. Pleadings – Construction (Rule 301). 15
302. Pleadings – Form And Contents (Rule 302). 15
303. Answers – Specific Requirements (Rule 303). 16
304. Defective, Insufficient, Or Late Pleadings (Rule 304). 17
305. Amendments To Pleadings (Rule 305). 17
306. – 324. (Reserved) 17
325. Motions — Defined — Form And Contents — Time For Filing (Rule 325). 17
326. Special Motions (Rule 326). 18
327. – 349. (Reserved) 18
350. Filing –number Of Copies – Electronic Submission – Facsimile Machine Prohibited (Rule 350). 18
351. Service By Parties (Rule 351). 18
352. Service By Agency Or Presiding Officer (Rule 352). 18
353. When Service Complete (Rule 353). 19
354. Proof Of Service (Rule 354). 19
355. – 399. (Reserved) 19

SUBCHAPTER E – PREHEARING MATTERS (RULES 400-499)

400. Purposes Of The Scheduling Conference (Rule 400). 19
401. Notice Of Scheduling Conference (Rule 401). 19
402. Purposes Of The Prehearing Conference (Rule 402). 19
403. Orders Resulting From Conferences (Rule 403). 19
404. Other Status Conferences Before The Evidentiary Hearing (Rule 404). 20

405. Record Of Conferences (Rule 405). 20
406. – 424. (Reserved) 20
425. Default (Rule 425). 20
426. Continuance In Lieu Of Default (Rule 426). 20
427. – 449. (Reserved) 20
450. Kinds And Scope Of Discovery Listed (Rule 450). 20
451. When Discovery Authorization Not Required (Rule 451). 21
452. Rights To Discovery Reciprocal (Rule 452). 21
453. Subpoenas (Rule 453). 21
454. Filing And Service Of Discovery-related Documents (Rule 454). 21
455. Prepared Testimony And Exhibits (Rule 455). 21
456. Sanctions For Failure To Obey Order Compelling Discovery (Rule 456). 22
457. Protective Orders (Rule 457). 22
458. – 474. (Reserved) 22
475. Rules Of Evidence (Rule 475). 22
476. Evaluation Of Evidence (Rule 476). 22
477. Burden Of Proof (Rule 477). 22
478. Hearsay (Rule 478). 22
479. Official Notice (Rule 479). 22
480. Depositions And Prepared Testimony (Rule 480). 22
481. Other Written Evidence (Rule 481). 22
482. Objections -- Offers Of Proof (Rule 482). 23
483. Exhibits (Rule 483). 23
484. Polygraphs (Rule 484). 23
485. Experts (Rule 485). 23
486. Interpreters (Rule 486). 23
487. – 499. (Reserved) 23

SUBCHAPTER F – HEARINGS (RULES 500-599)

500. Notice Of Hearing (Rule 500). 23
501. how Hearings Held (Rule 501). 24
502. Conduct At Hearings (Rule 502). 24
503. Conference At Hearing (Rule 503). 24
504. Preliminary Procedure At Hearing (Rule 504). 24
505. Consolidation Of Proceedings (Rule 505). 24
506. Order Of Procedure (Rule 506). 25
507. Testimony Under Oath (Rule 507). 25
508. Presiding Officer's Calling Or Examining Of Witnesses (Rule 508). 25
509. Sequestration Of Witnesses (Rule 509). 25
510. Parties And Persons With Similar Interests (Rule 510). 25
511. Continuance Of Hearing (Rule 511). 25
512. Rulings At Hearings (Rule 512). 25
513. Oral Argument (Rule 513). 25
514. Briefs – Proposed Orders – Position Statements (Rule 514). 25
515. – 599. (Reserved) 25

SUBCHAPTER G – POSTHEARING MATTERS (RULES 600-699)
600. Agency Record (Rule 600). 25
601. Recording Or Reporting Of Hearings (Rule 601). 25
602. – 624. (Reserved) 26
625. Recommended Orders (Rule 625). 26
626. Preliminary Orders (Rule 626). 27
627. Final Orders (Rule 627). 28
628. Orders Regarding Costs And/or Fees (Rule 628). 29
629. Order Not Designated (Rule 629). 29
630. Modification Of Orders On Presiding Officer's And Agency Head's Own Motion (Rule 630). 29
631. Clarification Of Orders (Rule 631). 30
632. Stay Of Orders (Rule 632). 30
633. Voiding Of Orders (Rule 633). 30
634. – 649. (Reserved) 31
650. Judicial Review, Generally (Rule 650). 31
651. Petition For Judicial Review (Rule 651). 31
652. – 699. (Reserved) 31
SUBCHAPTER H – SPECIAL PROCEEDINGS (RULES 700-799)
700. Intervention Generally (Rule 700). 31
701. Form And Contents Of Petitions To Intervene (Rule 701). 31
702. Timely Filing Of Petitions To Intervene (Rule 702). 31
703. Opposition To Petitions To Intervene (Rule 703). 31
704. Hearing On Petitions To Intervene (Rule 704). 31
705. Orders On Petitions To Intervene (Rule 705). 31
706. Denial Of Intervention Does Not Preclude Participation (Rule 706). 32
707. – 724. (Reserved) 32
725. Form And Contents Of Petitions For Declaratory Rulings (Rule 725). 32
726. Service And Notice Of Petition For Declaratory Ruling (Rule 726). 32
727. Proceedings (Rule 727). 32
728. Speedy Hearing Permitted (Rule 728). 33
729. Limitations (Rule 729). 33
730. – 749. (Reserved) 33
750. Service Of Emergency Order (Rule 750). 33
751. Hearing On Emergency Order (Rule 751). 33
752. – 799. (Reserved) 34
SUBCHAPTER I – AGENCY-SPECIFIC RULES (RULES 800-899)
800. Other Agency-specific Contested Case Rules (Rule 800). 34
801. – 999. (Reserved) 35

SUBCHAPTER A – GENERAL PROVISIONS AND DEFINITIONS (RULES 0-99)
Rules 0 Through 49 – General Provisions

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Section 67-5206, Idaho Code. (7-1-24)

001. TITLE AND SCOPE (RULE 1).

01. Title. This chapter is titled "Idaho Rules of Administrative Procedure." (7-1-24)

02. Scope. Every state agency that conducts "contested cases" as defined by Section 67-5240, Idaho Code, must use these rules unless otherwise required by governing federal or state statute, rule, regulation, or binding state or federal judicial decisional authority. (7-1-24)

002. DEFINITIONS (RULE 2).
All terms used in this Chapter shall be interpreted in accordance with the definitions set forth in the Idaho Administrative Procedure Act ("APA") within Section 67-5201, Idaho Code, and as otherwise defined below: (7-1-24)

01. Agency. In addition to the definition in Section 67-5201(2), Idaho Code, reference to the "agency" in these rules includes the agency director, board or commission, agency secretary, hearing officer appointed by the agency, hearing officer assigned by the Office of Administrative Hearings, or other such presiding officer, as context requires. In turn, reference to the "agency head" means the agency director, board or commission, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders. (7-1-24)

02. Interlocutory Order. Any order issued by a presiding officer or agency head which is neither a preliminary order, a recommended order, nor a final order. (7-1-24)

03. Presiding Officer. One (1) or more members of the agency board or commission, the agency head, or duly appointed hearing officer(s) who are authorized by statute or rule to preside at a contested case hearing. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer. (7-1-24)

04. Service or Serving. The agency's or a party's delivery or distribution of official documents in a legally sufficient manner in a contested case proceeding to the parties to that proceeding and, if applicable, to any other persons required by statute, rule, order, or notice to receive official documents. (7-1-24)

003. ABBREVIATIONS (RULE 3).
These rules use the following abbreviations: (7-1-24)

01. ADA. ADA means the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq. (7-1-24)

02. ADR. ADR means alternative dispute resolution, which includes, but is not limited to, mediation, arbitration, negotiation, conciliation, collaboration, mini-trial, and peacemaking. (7-1-24)

03. APA. APA means the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code. (7-1-24)

04. IRAP. IRAP means these rules, the Idaho Rules of Administrative Procedure. (7-1-24)

004. LIBERAL CONSTRUCTION (RULE 4).
The rules in this chapter will be liberally construed to secure the just, speedy, and inexpensive determination of contested cases proceedings. (7-1-24)

005. COMMUNICATIONS WITH AGENCY (RULE 5).
All communications that are intended to be part of an official record for a decision in a contested case must be filed with the presiding officer. Unless otherwise provided by statute, rule, order, or notice, documents are considered filed when received by the presiding officer, not when mailed or otherwise transmitted. (7-1-24)

006. IDENTIFICATION OF COMMUNICATIONS (RULE 6).
Communications regarding a given proceeding's case caption and case number. (7-1-24)

007. COMPUTATION OF TIME (RULE 7).
In computing any period of time set by these rules, the day of the event from which the period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday. (7-1-24)

008. FEES AND REMITTANCES (RULE 8).
Fees and remittances to the agency, including cost awards, shall be paid in the manner directed by the agency. (7-1-24)

009. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT REQUIREMENTS (RULE 9).
All conferences and hearings must be held by means or in facilities meeting the accessibility requirements of the ADA, and any notice of conference or hearing must inform the parties that the conference or hearing will be conducted in compliance with the accessibility requirements of the ADA. Any notice of conference or hearing must inform the parties and other persons notified that if they require accessibility accommodation pursuant to the ADA, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the conference or hearing that the request must be made. (7-1-24)

010. PRACTICE NOT COVERED BY STATUTE OR RULES (RULE 10).
In cases where no provision is made by statute or by these rules, proceedings in contested cases to which these rules apply shall be in accordance with the practice usually followed in such or similar contested cases, or as may be prescribed by the hearing officer or stipulated to by the parties. (7-1-24)

011. – 099. (RESERVED)

SUBCHAPTER B – PROSECUTIONS AND INFORMAL RESOLUTIONS (RULES 100-199)
Rules 100 Through 149 – Agency As Prosecutor And Advisor

100. CONTRAST BETWEEN AGENCY'S PROSECUTORIAL / INVESTIGATIVE AND ADJUDICATORY FUNCTIONS (RULE 100).
When statute assigns to an agency both (1) the authority to initiate petitions or to investigate petitions made by the public, and (2) the authority to decide the merits of petitions, the agency is required to perform both of those functions and shall follow the following procedures within Rules 100 through 103 applicable to the agency head, agency attorneys, agency staff, and hearing officers in processing these petitions or responding to citizen inquiries. As used within Rules 100 through 103, the term "agency head" shall include any person designated by the agency head to exercise, in whole or in part, the ultimate legal authority vested in the agency. (7-1-24)

01. Prosecutorial/Investigative Function. The prosecutorial/investigative function can be performed exclusively by agency attorneys and agency staff. When required or allowed by statute, the agency head may participate in or supervise investigations preceding the issuance of a petition and may supervise the agency attorneys and agency staff conducting the prosecution of the petition issued by the agency head, but the agency head shall not participate in the prosecution of a formal contested case hearing for a petition issued by the agency unless the agency head does not participate in the adjudicatory function. (7-1-24)

02. Adjudicatory Function. The adjudicatory function is performed by the agency head and/or a hearing officer. The adjudicatory function includes: deciding whether to issue a petition upon the basis of allegations before the agency when the decision to issue the petition is made by an agency head acting in an adjudicatory capacity, i.e., when presented by agency staff in a formal setting with the question whether a petition shall be issued; deciding whether to accept a consent order or other settlement after a petition is issued when the decision to accept a consent order or other settlement is made by an agency head acting in an adjudicatory capacity; and deciding the merits of a petition following presentation of evidence in formal contested case proceedings. (7-1-24)

101. PUBLIC INQUIRIES ABOUT OR RECOMMENDATIONS FOR AGENCY ISSUANCE OF A PETITION (RULE 101).

01. Response to Public Inquiry. When the public contacts an agency head, an agency attorney, or agency staff to inquire whether a petition should be issued by an agency or to recommend that a petition be issued, the agency head may: explain the agency's procedures; explain the agency's jurisdiction or authority (including the statutes or rules administered by the agency); and direct the public to appropriate staff personnel who can provide investigatory assistance or who can advise them how to pursue a petition before the agency. Additionally, response can be provided by specific agency roles as follows: (7-1-24)

a. The Agency Head. When the agency head issues petitions, the agency head may also discuss whether given allegations would, in the agency head's opinion, warrant the issuance of a petition or warrant direction to staff to pursue further investigation. No statement of the agency head in response to a public inquiry constitutes a finding of fact or other decision on the underlying matter. (7-1-24)

b. The Agency Attorney. An agency attorney assigned to a prosecutorial/investigative role may also discuss whether given allegations would, in the attorney's opinion, warrant the issuance of a petition or warrant direction to staff to pursue further investigation. The agency is not bound by the attorney's advice or recommendations, and the attorney should notify the public that the agency is not obligated to follow the attorney's advice or recommendations. (7-1-24)

02. The Agency Staff. Agency staff may also express an opinion whether given allegations would, in the agency staff's opinion, warrant the issuance of a petition or warrant agency staff's further investigation. The agency is not bound by the agency staff's advice or recommendations, and the agency staff should notify the public that the agency is not obligated to follow the agency staff's advice or recommendations. (7-1-24)

03. Presiding Officers. When the public contacts a presiding officer to inquire whether a petition should be issued by an agency or to recommend that a petition be issued, the presiding officer should not discuss the matter, but should refer the member of the public to other agency personnel. (7-1-24)

04. Office of Administrative Hearings. When the public contacts the Office of Administrative Hearings to inquire whether a petition should be issued by an agency or to recommend that a petition be issued, Office of Administrative Hearings staff should not discuss the matter, but should refer the member of the public to other agency personnel. (7-1-24)

102. AGENCY PROCEDURES AFTER ISSUANCE OF A PETITION (RULE 102).

01. The Agency Head. (7-1-24)

a. Prohibited Contacts--Allowable Managerial Reporting. Once a petition has issued, the agency head shall not discuss the substance of the petition ex parte with any representative of any party, agency attorneys or agency staff involved in the prosecution or investigation of the petition, or an assigned hearing officer, unless authorized or required by statute. The agency head may request periodic progress reporting on staff preparation from an executive director or other staff member in charge. As required to perform statutory supervisory duties, the agency head may also approve or disapprove expenditures associated with the prosecution, authorize retention of experts or outside counsel for the prosecution, address policy issues that may affect the prosecution, and otherwise discharge the agency head's statutory management and supervisory duties. (7-1-24)

b. Allowed Contacts. The agency head may discuss the substance of the petition with agency attorneys and agency staff who are not involved in the prosecution or investigation of the petition. When one or more members of the agency head sits as a presiding officer to hear the contested case, any other member of the agency head not participating in the prosecution and not supervising prosecutorial/investigative personnel may discuss the substance of the petition with that presiding officer. (7-1-24)

02. The Agency Attorney. (7-1-24)

a. Prosecutorial/Investigative Attorneys. Except as to allowed contacts with the agency head, no

agency attorney involved in the investigation or prosecution of a petition shall discuss the substance of the petition ex parte with the agency head, the hearing officer assigned to hear the petition, or with any agency attorney assigned to advise or assist the agency head acting as a presiding officer assigned to hear the petition. (7-1-24)

b. Advisory Attorneys. Except as to allowed contacts with the agency head, no agency attorney assigned to advise or assist the agency head shall discuss the substance of the petition ex parte with any representative of any party, agency attorneys or agency staff involved in the prosecution or investigation of the petition, or an assigned hearing officer. An agency attorney assigned to advise or assist the agency head acting as a presiding officer may discuss the substance of the petition with that agency head. (7-1-24)

03. The Agency Staff. (7-1-24)

a. Prosecutorial/Investigative Staff. Except as to allowed contacts with the agency head, no member of the agency staff involved in the investigation or prosecution of the petition shall discuss the substance of the petition ex parte with the agency head, any agency attorney assigned to advise or assist the agency head acting as a presiding officer assigned to hear the petition, or an assigned hearing officer. (7-1-24)

b. Advisory Staff. Except as to allowed contacts with the agency head, no agency staff assigned to advise or assist the agency head shall discuss the substance of the petition ex parte with any representative of any party or with agency attorneys or agency staff involved in the prosecution or investigation of the petition. Agency staff assigned to advise or assist an agency head acting as a presiding officer may discuss the substance of the petition with the agency head. (7-1-24)

04. Presiding Officers. (7-1-24)

a. Agency Heads. Agency heads acting as a presiding officer may discuss the substance of a petition with attorneys of the agency assigned to advise or assist the agency head acting as a presiding officer. (7-1-24)

b. Assigned Presiding Officers. Except as to allowed contacts with the agency head, no assigned presiding officer shall discuss the substance of a petition ex parte with an agency head, any representative of any party, or with agency attorneys or agency staff involved in the prosecution or investigation of a petition. (7-1-24)

c. Communications With Other Hearing Officers. Any presiding officer may discuss the substance of a petition with any other hearing officer not assigned to the matter, including hearing officers within the Office of Administrative Hearings, provided that: (7-1-24)

i. The presiding officer and the other hearing officer make reasonable efforts to avoid discussing factual information that is not a part of the record; and (7-1-24)

ii. The presiding officer does not abrogate their responsibility to personally decide the matter. (7-1-24)

d. Procedural matters. Presiding officers may also discuss, with any other hearing officer not assigned to the matter, including hearing officers within the Office of Administrative Hearings, any procedural matter related to a proceeding, including interpretation and application of the APA and/or the IRAP. (7-1-24)

103. ASSISTANCE WITH AGENCY HEAD'S CONSIDERATION OF RECOMMENDED OR PRELIMINARY ORDER (RULE 103).

01. The Agency Head. In considering a presiding officer's recommended or preliminary order, the agency head issuing a final order may consult with an agency attorney assigned to advise or assist the agency head and with agency staff who did not participate in the investigation or prosecution of the petition. The agency head shall not discuss the substance of the petition ex parte with any representative of any party, agency attorneys or agency staff involved in the prosecution or investigation of the petition, or the presiding officer. (7-1-24)

02. The Agency Attorney. (7-1-24)

a. Prosecutorial/Investigative Attorneys. No agency attorney involved in the investigation or prosecution of a petition shall consult with the agency head issuing a final order considering a presiding officer's recommended or preliminary order. An agency attorney who was involved in the investigation or prosecution of the petition may attend public meetings of the agency head that consider petitions and may respond to questions from the agency head, so long as the meetings have been noticed to all parties and all parties have the same opportunity to respond to questions from the agency head as the agency's prosecutorial/investigative attorneys. (7-1-24)

b. Advisory Attorneys. An agency attorney assigned to advise or assist the agency head in consideration of the petition may consult with the agency head in preparation for or while the agency head is considering a presiding officer's recommended or preliminary order. (7-1-24)

03. The Agency Staff. (7-1-24)

a. Prosecutorial/Investigative Staff. No member of the agency staff involved in the investigation or prosecution of the petition shall consult with the agency head in their consideration of a presiding officer's recommended order or preliminary order. (7-1-24)

b. Advisory Staff. Any member of the agency staff assigned to advise or assist the agency head may consult with the agency head in its consideration of a presiding officer's recommended order or preliminary order at the agency head's direction. (7-1-24)

c. Presiding Officers. No presiding officer shall consult with any person regarding the agency head's consideration of the presiding officer's recommended or preliminary order. (7-1-24)

104 – 149. (RESERVED)

Rules 150 through 199 – Informal Dispositions

150. INFORMAL DISPOSITIONS, GENERALLY (RULE 150).
Informal dispositions may be conducted in writing, by telephone or video, or in person, and may include individual contacts by or with the agency staff asking for information, advice, or assistance from the agency staff, or proposing informal resolution of formal disputes under the law administered by the agency. At any time following the presentment of an informal disposition to the presiding officer, the presiding officer may, including at the time of hearing, request additional information needed by the presiding officer to determine whether to render a decision in the contested case proceeding. (7-1-24)

151. ALTERNATIVE DISPUTE RESOLUTION OF CONTESTED CASES (RULE 151).
If informal disposition cannot be reached by the parties, the use of ADR at any time before or after a contested case has been initiated is encouraged. A presiding officer may inquire as to the status of ADR or otherwise encourage parties to undertake ADR, but a presiding officer may not order parties to undertake ADR without the agreement of all parties. No party may be penalized or sanctioned for failing or refusing to participate in ADR, except where a party refuses or fails to participate in mandatory or binding ADR that the parties have voluntarily agreed to. (7-1-24)

152. NEUTRALS (RULE 152).
When ADR is used for all or a portion of a contested case, or prior to the initiation of a contested case, an agency may provide a neutral, at the agency's cost, to assist the parties in resolving their disputed issues. The neutral may be any individual agreed upon by the parties, but must be someone with no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. If the parties are unable to agree upon, or identify, a neutral to provide ADR services, the agency shall make a request to the Office of Administrative Hearings for the selection and provision of a neutral by the Chief Administrative Hearing Officer. (7-1-24)

153. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS (RULE 153).
Negotiations regarding a potential consent order or other settlement made prior to or during a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made, and all other aspects of negotiation (except agreements reached) in any such negotiations are not part of the record. (7-1-24)

154. PROCEDURE FOR NOTICE OF INFORMAL DISPOSITION OCCURRING PRIOR TO A CONTESTED CASE PROCEEDING (RULE 154).
The terms of any informal disposition, including, but not limited to, any stipulation regarding agreement as to facts, evidence, or issues in a contested case, which are reached prior to the initiation of a contested case proceeding shall be disclosed by the parties in full to the presiding officer no later than the initial scheduling conference, unless otherwise directed by the presiding officer. (7-1-24)

155. STIPULATIONS REGARDING FACTS (RULE 155).
Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The presiding officer is not bound to adopt a stipulation of the parties, but may do so. If adopted, the presiding officer may regard a stipulation as evidence, or may require additional proof by evidence of the facts stipulated. If the presiding officer rejects a stipulation, they will do so before issuing their order, and will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (7-1-24)

156. CONSENT ORDERS AND OTHER SETTLEMENTS (RULE 156).
This rule sets forth procedures to be followed when a consent order or other settlement is negotiated before or after the initiation of a contested case proceeding. (7-1-24)

01. Negotiations. Persons who participate in negotiations regarding a consent order or other settlement prior to the initiation of a contested case proceeding are not permitted to serve as a presiding officer in any subsequent contested case proceeding regarding the same matter. Once a contested case proceeding has been initiated, no presiding officer may thereafter participate in negotiations regarding a consent order or other settlement. (7-1-24)

02. Presentation of Consent Order or Other Settlement to Agency Head. When the consent order provides, or the persons signing the consent order contemplate, that the consent order must be presented to the agency head for approval, the consent order may be presented to the agency head by representatives of any party, unless the agreement provides to the contrary. Any consent order presented to the agency head must be served on all parties and the presiding officer, if any. The agency head may accept or reject the consent order, indicate how the consent order must be modified to be acceptable, or inform the parties what further information is required for the agency head's consideration of the consent order. When a consent order is rejected, no matter recited in the rejected consent order may be used as an admission against a party in any later proceeding before the agency, and any such matter must be proven by evidence independent of the consent order. (7-1-24)

03. Consideration Of Consent Orders And Other Settlements By Presiding Officers. Consent orders and other settlements must be reviewed under this rule. When a consent order or other settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the agreement to consider the agreement. For example, the presiding officer may summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than 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 persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the agreement and whether acceptance of the agreement is consistent with the agency's charge under the law. (7-1-24)

04. Suspension of Deadlines. Unless otherwise provided by law, the presiding officer may suspend all contested case deadlines, including the hearing date, during the consideration of a proposed consent order or other settlement. (7-1-24)

157. INQUIRY ABOUT NEGOTIATIONS (RULE 157).
Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (7-1-24)

158. BURDENS OF PROOF (RULE 158).

Proponents of a proposed consent order or other settlement agreement carry the burden of showing that the consent order or other settlement agreement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed consent order or other settlement agreement as a condition of accepting or rejecting the consent order or other settlement agreement. (7-1-24)

159. CONSENT ORDERS AND SETTLEMENTS NOT BINDING (RULE 159).
The presiding officer is not bound by consent orders or other settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (7-1-24)

160. NEGOTIATIONS DO NOT EXHAUST ADMINISTRATIVE REMEDIES (RULE 160).
Negotiations regarding potential consent orders or other settlement agreements do not substitute for formal proceedings and do not exhaust administrative remedies, and any such negotiations are conducted without prejudice to the right of the parties to present the matter formally to the agency as a contested case. (7-1-24)

161. – 199. (RESERVED)

SUBCHAPTER C – CONTESTED CASE PARTICIPANTS (RULES 200-299)
Rules 200 Through 224 – Parties

200. PARTIES TO CONTESTED CASES LISTED (RULE 200).
Unless otherwise labeled by statute or by agency practice, parties to contested cases before the agency are called petitioners, respondents, or intervenors. On reconsideration or appeal within the agency, parties are called by their original titles. (7-1-24)

201. PETITIONERS (RULE 201).
Persons who seek to modify, amend, or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case, or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners." (7-1-24)

202. RESPONDENTS (RULE 202).
Persons against whom petitions or complaints are filed or about whom investigations are initiated are called "respondents." (7-1-24)

203. INTERVENORS (RULE 203).
Persons, other than petitioners and respondents, who are permitted to participate as parties are called "intervenors." (7-1-24)

204. RIGHTS OF PARTIES AND OF AGENCY STAFF (RULE 204).
All parties, including agency staff, may appear at any hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments, including submitting any written filings which are required or which are requested by the presiding officer. (7-1-24)

205. WITHDRAWAL AND SUBSTITUTION OF PARTIES (RULE 205).
Any party may withdraw from a proceeding upon notice to the presiding officer in writing or at hearing. Upon withdrawal of a party, the presiding officer shall determine if and how the contested case proceeding will continue. A presiding officer conducting the hearing may default the withdrawing party, may proceed with the hearing on the matter, or may take such other action consistent with law. A presiding officer may, upon motion, permit the substitution of a party as justice requires. (7-1-24)

206. PERSONS NOT PARTIES – INTERESTED PERSONS (RULE 206).
Persons other than the persons named in Rules 200 through 203 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In proceedings in which persons other than a petitioner, respondent, or intervenor would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called "interested persons." Interested persons may become intervenors or public witnesses. The agency must serve notice of such proceedings on all

interested persons. If not previously identified by the agency, the presiding officer may identify and serve potentially interested persons within their discretion or otherwise direct the agency to identify and serve such persons. (7-1-24)

207. PERSONS NOT PARTIES – PUBLIC WITNESSES (RULE 207).
Persons not parties and not called by a party who may be permitted to testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to a presiding officer's determination of hearing procedure and admissibility of evidence, public witnesses have a right to offer evidence at hearing through written or oral statements and exhibits, except that public witnesses offering expert opinions at hearing or detailed analyses or detailed exhibits must comply with these rules and any order of the presiding officer regarding the prehearing disclosure of expert testimony. (7-1-24)

208. – 224. (RESERVED)

Rules 225 through 249 – Party Representatives

225. INITIAL PLEADING – LISTING OF, AND SERVICE UPON, REPRESENTATIVES (RULE 225).
The initial pleading of each party at the formal stage of a contested case must name the party's representative for service and state the representative's e-mail and mailing address for purposes of receipt of all official documents. Unless authorized by order of the agency, no more than two (2) representatives for service of documents may be listed in an initial pleading. Service of documents on the named representative is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the first person signing the pleading will be considered the party's representative. (7-1-24)

226. TAKING OF APPEARANCES – PARTICIPATION BY AGENCY STAFF – USE OF AGENCY REPORT OR RECOMMENDATION (RULE 226).
The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff will be considered or used in reaching a decision, at the timely request of any party, the agency staff must appear at any hearing and be available for cross-examination and participate in the hearing in the same manner as a party. (7-1-24)

227. REPRESENTATION OF PARTIES (RULE 227).
Parties may be represented by an attorney throughout the proceedings in a contested case, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. Persons appearing in contested case proceedings in a representative capacity must conform to the standards of professional conduct required of attorneys before the courts of Idaho. If any representative fails to conform to these standards, the presiding officer may exclude the person from the proceeding. (7-1-24)

228. ATTORNEY REPRESENTATIVES (RULE 228).
Attorneys representing a party in a contested case proceeding must have an active license to practice law in the state of Idaho. Attorneys not licensed in Idaho but who are licensed in one or more other states may request admission to the proceeding on a pro hac vice status by the presiding officer consistent with Idaho State Bar Commission Rule 227(i) "Agency Admission." (7-1-24)

229. SUBSTITUTION OF REPRESENTATIVE (RULE 229).
A party's representative may be changed and a new representative may be substituted by notice to the presiding officer and to all other parties, which substitution will be liberally allowed so long as the proceedings are not unreasonably delayed. The presiding officer may permit substitution of representatives at the time of hearing solely in the presiding officer's discretion. (7-1-24)

230. WITHDRAWAL OF REPRESENTATIVE (RULE 230).
Persons representing a party who wish to withdraw their representation must immediately file in writing a notice of withdrawal of representation to the presiding officer and serve that notice on the party represented and all other parties. If a party's representative withdraws, the presiding officer may reset deadlines and/or the hearing as long as the proceedings are not unreasonably delayed. (7-1-24)

231. CONDUCT REQUIRED – SANCTIONS FOR MISCONDUCT (RULE 231).
Parties and their representatives are expected to conduct themselves in a civil and nondisruptive manner during contested case proceedings. Persons appearing in contested case proceedings in a representative capacity are further expected to conform to the standards of civility in professional conduct expected of attorneys before the courts of Idaho. The presiding officer may, in their discretion, reprimand or exclude from any hearing any person who disrupts the hearing or engages in improper conduct. For disruptive or improper conduct made in the course of a contested case proceeding outside of hearings, the presiding officer may take any action not inconsistent with these rules, the APA, and any other applicable statute or rule to maintain order during the course of a contested case proceeding and to ensure an expeditious, fair, and impartial proceeding. (7-1-24)

232. – 249. (RESERVED)

Rules 250 through 299 – Hearing Officers and Presiding Officers

250. APPOINTMENT OF HEARING OFFICERS (RULE 250).
A hearing officer is a presiding officer, other than the agency head, in a contested case proceeding. Subject to governing statutes and rules, a hearing officer may be appointed by an agency head. (7-1-24)

01. Office of Administrative Hearings. Where required by statute or rule, or where an agency head otherwise requests a hearing officer as permitted by statute or rule, an agency head will refer a hearing officer appointment to the Office of Administrative Hearings. Upon receipt and acceptance of the referral, the Chief Administrative Hearing Officer or their designee shall appoint a hearing officer of their own selection by issuing a Notice of Appointment to all parties to the contested case proceeding. (7-1-24)

02. Other Hearing Officers. Hearing officers not appointed through the Office of Administrative Hearings may be employees of the agency or independent contractors, and may (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. (7-1-24)

251. DISQUALIFICATION (RULE 251).

01. Petitions – Determination. Upon any petition to disqualify a presiding officer, the presiding officer may request additional briefing or argument from any party to the contested case proceeding, or may otherwise immediately rule upon the petition on its face without additional briefing or argument. (7-1-24)

02. Voluntary Disqualification. A presiding officer in a contested case may make a voluntary disqualification without stating any reason therefor. (7-1-24)

252. SCOPE OF AUTHORITY OF PRESIDING OFFICERS (RULE 252).

01. Standard Scope of Authority. Unless otherwise limited by statute, rule, or in the appointment by the agency, presiding officers have the following standard scope of authority: (7-1-24)

a. Authority to schedule cases assigned to the presiding officer, including authority to issue notices of prehearing conference and of hearing, as appropriate; (7-1-24)

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; (7-1-24)

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 (7-1-24)

d. Authority to issue a written decision of the presiding officer, including a narrative of the proceedings before the presiding officer and findings of fact, conclusions of law, and recommended or preliminary orders by the presiding officer. (7-1-24)

02. Change in Scope of Authority. Except as prohibited by statute or rule, at any time prior to hearing,

a presiding officer's scope of authority in a proceeding may be increased or limited by written directive of the agency head. Such change in the scope of authority shall be made on the agency head's initiative alone, and no motion to the presiding officer requesting a change in the scope of their authority will be permitted. (7-1-24)

253. CHALLENGES TO STATUTES (RULE 253).
A presiding officer in a contested case has no authority to declare a statute unconstitutional. (7-1-24)

254. CHALLENGES TO RULES (RULE 254).
An agency head, acting either as a presiding officer or in issuing a final order, may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. A presiding officer, other than an agency head, does not have the authority to consider and decide such issues except upon express written grant of authority by the agency head. (7-1-24)

255. EX PARTE COMMUNICATIONS (RULE 255).

01. Substantive Communications. When a presiding officer receives or participates in an ex parte communication regarding any substantive issue from a party or party representative during a contested case, the presiding officer shall place a copy of the communication, or a detailed summary thereof, in the file for the case. Additionally, the copy or summary of the communication shall also be distributed to all parties of record. Upon request of any party or upon the presiding officer's own motion, the presiding officer shall permit either a hearing or written response by any party not involved in the communication, to allow those parties an opportunity to participate in the communication. Substantive communications are part of the agency record. (7-1-24)

02. Procedural Communications. The presiding officer may communicate ex parte, orally or in writing, with a party concerning procedural matters (e.g., scheduling). When reasonably feasible, a written confirmation of such communication should be sent to all parties to the proceeding, with a copy placed in the file of the case. Procedural communications are not part of the agency record, except as ordered by the presiding officer in their discretion, either on their own motion or a motion by any party. (7-1-24)

03. Communications With The General Public. Ex parte communications from members of the general public who are neither parties, interested persons, nor witnesses are not required to be reported by this rule. However, any communications with such persons shall be disclosed to all parties to the proceeding, in writing with a copy to the file, in the event that those persons become parties, interested persons, or witnesses to the proceeding. Hearing or written response shall be permitted in the same manner as with any other substantive ex parte communication. (7-1-24)

256. – 299. (RESERVED)

SUBCHAPTER D – PLEADINGS AND MOTIONS (RULES 300-399)
Rules 300 Through 324 – Pleadings

300. PLEADINGS – NAMING (RULE 300).
Except as otherwise named by statute, rule, or established agency practice, pleadings initiating contested cases may be called "petitions," "applications," "protests," or "complaints," and responding pleadings may be called "answers." Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party may adopt or join any other party's pleading. (7-1-24)

301. PLEADINGS – CONSTRUCTION (RULE 301).
Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion. An exhibit to a pleading is a part of the pleading for all purposes. (7-1-24)

302. PLEADINGS – FORM AND CONTENTS (RULE 302).

01. Form. All pleadings, except those filed on agency forms, submitted by a party and intended to be part of an agency record must be in writing and be submitted as follows unless otherwise directed by the agency or presiding officer: (7-1-24)

a. Caption. Pleadings must include the case caption, case number, and title of the document. Documents complying with this rule will be in the following form:

Name of Party/Representative
Mailing Address of Party/Representative
Street Address of Party/Representative (if different)
Telephone Number of Representative
E-mail Address of Representative
Attorney/Representative for [Name of Party] (if needed)

BEFORE THE [NAME OF AGENCY]

[Title of Proceeding] CASE NO. [Case number assigned by agency]

[TITLE OF DOCUMENT]

(7-1-24)

b. Party Information. Pleadings must include, in the upper left corner of the first page, the name, mailing and street address, telephone number, and e-mail address of the person filing the document; (7-1-24)

c. Formatting. Text should be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins should be at least one inch on all four sides. (7-1-24)

d. Electronic filings. Pleadings filed electronically should be in a commonly-used format, such as in.PDF or.DOCX. (7-1-24)

e. Paper filings. Pleadings filed in paper form should be on 8 1⁄2 by 11-inch paper, single-sided and numbered. (7-1-24)

02. **Content**. Pleadings should: (7-1-24)

a. Identify the party making the pleading, and the party to whom the pleading is directed; (7-1-24)

b. Fully state all facts, contentions, claims, and defenses in numbered paragraphs, each limited to a single set of circumstances, where practicable; (7-1-24)

c. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based; (7-1-24)

d. State the right, license, award, or authority sought, contested, or at issue; and (7-1-24)

e. The relief sought, if any. (7-1-24)

303. ANSWERS – SPECIFIC REQUIREMENTS (RULE 303).

01. **Time for filing**. An answer to a pleading initiating a contested case must be filed and served on all parties of record within twenty-one (21) days after service of the pleading, unless a different deadline is provided by order or notice. (7-1-24)

02. **Content**. An answer must admit or deny each material allegation of the pleading initiating the contested case. Any material allegation not specifically admitted shall be considered denied. Matters alleged by cross-petition, cross-complaint, or affirmative defense must be separately stated and numbered. (7-1-24)

03. **Motions in Lieu of Answer**. A motion filed in lieu of an answer in response to a pleading initiating a contested case, such as a motion to dismiss, strike, or for clarification, must be made within the time to answer. Any

such motion suspends the party's obligation to file an answer until such time as the presiding officer directs that an answer be filed. (7-1-24)

04. Failure to File an Answer or Motion. If a party fails to file an answer or a motion under this rule in response to a pleading, the presiding officer may issue a notice of default against the respondent pursuant to these rules. (7-1-24)

05. Motions Directed to the Answer. A motion directed to an answer must be filed within fourteen (14) days after service of the answer. (7-1-24)

304. DEFECTIVE, INSUFFICIENT, OR LATE PLEADINGS (RULE 304).
Defective, insufficient, or late pleadings may be returned, dismissed, or rejected. (7-1-24)

305. AMENDMENTS TO PLEADINGS (RULE 305).
The presiding officer may allow any pleading to be amended or corrected, the allowance for which will be liberally granted. (7-1-24)

306. – 324. (RESERVED)

Rules 325 through 349 – Motions

325. MOTIONS — DEFINED — FORM AND CONTENTS — TIME FOR FILING (RULE 325).

01. Motions Defined. All other requests for the presiding officer to take any other action in a contested case are called "motions." (7-1-24)

02. Form and Contents. Motions should: (7-1-24)

a. Be in writing, and comply with the same form requirements as pleadings; (7-1-24)

b. Not exceed twenty-five (25) pages for dispositive motions, or ten (10) pages for any other motion, except as authorized by the presiding officer; (7-1-24)

c. Fully state the facts upon which they are based; (7-1-24)

d. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and (7-1-24)

e. Include any affidavits, declarations, exhibits, and attachments intended to support the motion, which do not count towards any page limitation, except as otherwise directed by the presiding officer; and (7-1-24)

f. State the relief sought. (7-1-24)

03. Oral Argument. If the moving party desires oral argument on the motion, it must state so in the motion, including whether it is requested to be in-person or by remote means. All motions seeking dispositive relief shall be set for oral argument; all other motions may be decided on briefing without further oral argument, in the presiding officer's discretion. (7-1-24)

04. Time for Filing. Except as otherwise directed by statute, rule, or order of the presiding officer, motions may be filed at any time during a contested case proceeding. (7-1-24)

05. Oppositions to Motions. An opposition to a motion may be filed by any party in the proceedings using the same form and content requirements as the motion being opposed. Unless otherwise directed by the presiding officer, any opposition to a motion must be filed within fourteen (14) days after service of the motion. Reply briefs and further briefing on the motion shall be permitted only upon request of the presiding officer. (7-1-24)

06. Determination of Motions. (7-1-24)

a. Dispositive Motions. Any ruling on a dispositive motion shall be in writing. The presiding officer may suspend all deadlines, including the evidentiary hearing date, during the consideration of a dispositive motion. (7-1-24)

b. Other Motions. Except as otherwise directed by statute, rule, or these rules, a ruling on any other motion may be presented orally by the presiding officer. The presiding officer may direct any party to submit a proposed order regarding an oral ruling. (7-1-24)

326. SPECIAL MOTIONS (RULE 326).

01. Interlocutory Motions for Reconsideration. Motions for reconsideration are permitted for any interlocutory order issued by a presiding officer, but any such motion for reconsideration must be filed within fourteen (14) days of the issuance of the order for which reconsideration is sought. The presiding officer may, in their discretion, rule upon a motion for reconsideration with or without additional briefing, and with or without conference. (7-1-24)

02. Motions for Permissive Appeal. Motions for permissive appeal are permitted for any interlocutory order issued by a presiding officer, subject to the deadlines and procedure set forth in Idaho Appellate Rule 12, "Appeal By Permission." (7-1-24)

327. – 349. (RESERVED)

Rules 350 through 374 – Filing and Service of Pleadings and Motions

350. FILING –NUMBER OF COPIES – ELECTRONIC SUBMISSION – FACSIMILE MACHINE PROHIBITED (RULE 350).
An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the presiding officer and any other person designated by the agency to receive filings in the case. If authorized by the presiding officer or the agency, e-mail or other electronic submission of documents will satisfy this requirement. No party shall be required to file, submit, or receive any documents via facsimile machine. (7-1-24)

351. SERVICE BY PARTIES (RULE 351).
All documents submitted by a party and intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the presiding officer and any other person designated by the agency to receive filings in the case. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. The presiding officer may also direct the means of service the parties are to use during a contested case proceeding. (7-1-24)

352. SERVICE BY AGENCY OR PRESIDING OFFICER (RULE 352).

01. Service by the Agency. Unless otherwise required by statute or rule, the officer designated by the agency to serve notices, summonses, complaints, or orders issued by the agency, that initiate or conclude a contested case proceeding, may serve these documents by regular mail, or by certified mail with return receipt requested, to a party's last known mailing address, or by personal service. (7-1-24)

02. Service by a Presiding Officer. Unless otherwise required by statute or rule, if a party has appeared in a contested case, the presiding officer, in their discretion, may determine the governing means of service during the contested case proceeding. Service may be effectuated by personal service, regular mail, certified mail with return receipt requested, or e-mail. Where a party has appeared by e-mail, service by e-mail shall be the preferred means of service. When an item to be served is too large for e-mail, service may be made by other means, with e-mail notice to the party as to how the item is being served. (7-1-24)

03. Proof of Service. Every notice and order that the agency or presiding officer serves in a contested case must be accompanied by proof of service stating the service date, each party or other person who was served, and the method of service. The agency or presiding officer may use a proof of service similar to those used by parties.

(7-1-24)

353. WHEN SERVICE COMPLETE (RULE 353).
Unless otherwise provided by statute, rule, order, or notice, service is complete when a copy is deposited in the United States mail, Statehouse mail, or with a third-party commercial overnight service; when personal service is made; or when there is an electronic verification that an e-mail has been sent. (7-1-24)

354. PROOF OF SERVICE (RULE 354).
Every document that a party or interested person files and intends to be part of the agency record must be accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have on
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 names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names and addresses)).
(by e-mail to: (list names and e-mail addresses))
(Signature) (7-1-24)

355. – 399. (RESERVED)

SUBCHAPTER E – PREHEARING MATTERS (RULES 400-499)
Rules 400 Through 424 – Prehearing Conferences

400. PURPOSES OF THE SCHEDULING CONFERENCE (RULE 400).
The presiding officer may, by order or notice issued to all parties and to all interested persons, convene a scheduling conference in a contested case for the purposes of: identifying or simplifying the issues; identifying stipulations of fact or evidence to avoid unnecessary discovery; scheduling discovery when discovery is authorized before the agency, as well as identifying the allowed types of discovery and limitations thereon; arranging for the exchange of proposed exhibits and witness lists; discussing the potential for, or status of, ADR; scheduling of the prehearing conference, evidentiary hearing, and other hearings; establishing anticipated procedures at the evidentiary hearing and other hearings; determining the format and/or location of the evidentiary hearing; determining any transcription or additional recording request by any party; identifying facts and materials for which official notice may be had; resolving any accommodation requests, including, but not limited to, ADA or interpreter requests; and addressing other matters that may aid in the just, speedy, and inexpensive disposition of the proceeding. (7-1-24)

401. NOTICE OF SCHEDULING CONFERENCE (RULE 401).
Except where differently required by statute or rule, notice of the place, date, and hour of a scheduling conference should be served within seven (7) days of appointment of the presiding officer, and the scheduling conference should, when feasible, be held within fourteen (14) days of appointment of the presiding officer. The place, date, or hour of a scheduling conference may also be set or reset by agreement of the parties, subject to approval by the presiding officer, or by the presiding officer on their own initiative, if the presiding officer finds it necessary and appropriate. (7-1-24)

402. PURPOSES OF THE PREHEARING CONFERENCE (RULE 402).
Except where otherwise required by statute or rule, or where the presiding officer determines a prehearing conference is not necessary based upon the needs of the case, the presiding officer should convene a prehearing conference in a contested case no less than seven (7) days prior to the evidentiary hearing, except where the presiding officer determines that the needs of the case require otherwise. The purposes of the prehearing conference shall include: identifying or simplifying the issues; identifying stipulations of fact or evidence to avoid unnecessary proof; disposition of pending motions; confirming compliance with all prehearing deadlines; discussing the potential for, or status of, ADR; avoidance of unnecessary proof and of cumulative evidence; establishing procedures at the evidentiary hearing and other hearings; addressing proposed stipulations between the parties regarding any facts or evidence; and addressing other matters that may aid in the just, speedy, and inexpensive disposition of the proceeding. (7-1-24)

403. ORDERS RESULTING FROM CONFERENCES (RULE 403).

The presiding officer should issue a written order based upon the results of, agreements reached at, and rulings made at any scheduling or prehearing conference. Orders issued regarding the results of conferences will control the course of subsequent proceedings, unless modified by the presiding officer for good cause. Any such order issued shall be served upon all parties and to all interested persons to the proceeding. (7-1-24)

404. OTHER STATUS CONFERENCES BEFORE THE EVIDENTIARY HEARING (RULE 404).
Upon approved request by any party to the presiding officer or on the presiding officer's own initiative, a status conference may be set at any time prior to the evidentiary hearing to address any matter that may aid in the just, speedy, and inexpensive disposition of the proceeding. (7-1-24)

405. RECORD OF CONFERENCES (RULE 405).
Prehearing conferences must be held formally before the presiding officer. All other conferences may be held formally (on the record) or informally (off the record) before the presiding officer. Agreements by the parties may be put on the record during formal conferences, or may be reduced to writing and filed after the conference. The results of any informal conference, or any agreements reached therein, must be later put on the record, either verbally in subsequent conference or filed in writing, to be considered part of the agency record. (7-1-24)

406. – 424. (RESERVED)

Rules 425 through 449 – Defaults

425. DEFAULT (RULE 425).
A presiding officer may enter a default order against any party pursuant to the provisions of Section 67-5242, Idaho Code. (7-1-24)

01. Procedure if No Petition to Vacate is Filed. If no timely petition to vacate is filed by the party subject to a proposed default order, the presiding officer should issue or vacate the default no later than three (3) days after the expiration of the time within which the party could have filed the petition, or otherwise as promptly as possible, except where a shorter period is directed by law. (7-1-24)

02. Procedure Upon Filing of a Petition to Vacate. Upon the timely filing of a petition to vacate by a party subject to a proposed default order, the presiding officer may request additional briefing from the parties, and may also set a conference for argument regarding the proposed default order. Whether additional briefing and/or argument is accepted, the presiding officer should issue or vacate the default no later than fourteen (14) days after the petition to vacate is filed, except where a shorter period is directed by law. (7-1-24)

03. Procedure After Default. Upon the issuance of a default order, the presiding officer shall set a conference with the non-defaulting party to determine which remaining proceedings, if any, are still needed to complete the adjudication. Such conference should be held as soon as practicable after the issuance of the default order. (7-1-24)

04. Notices to Defaulting Party. While the defaulting party shall not participate in any remaining proceedings, the presiding officer shall direct that all subsequent filings, including all orders issued in the contested case proceeding, continue to be served on the defaulting party by the most appropriate means, as determined by the presiding officer. (7-1-24)

426. CONTINUANCE IN LIEU OF DEFAULT (RULE 426).
A presiding officer may, in the interest of due process and on their own motion, decline to issue a notice of a proposed default order, and instead make a reasonable continuance of the proceedings. If the same party subsequently fails to attend any stage of the continued proceedings, a notice of a proposed default order must be issued. (7-1-24)

427. – 449. (RESERVED)

Rules 450 through 474 – Discovery

450. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 450).

01. Discovery, Generally. Parties are encouraged to informally exchange information and documentation which will aid in the just, speedy, and inexpensive disposition of the proceeding. Except where prohibited by statute or rule, discovery may be conducted as agreed between the parties or where ordered by the presiding officer on their own initiative. The presiding officer may, in their discretion, limit any discovery on the grounds that it: (7-1-24)

a. Does not appear relevant; (7-1-24)

b. Appears unduly repetitious; (7-1-24)

c. Violates any constitutional, statutory, or regulatory provisions; (7-1-24)

d. Violates any privilege provided by statute or recognized by the courts of Idaho; (7-1-24)

e. Appears to be made in bad faith; (7-1-24)

f. Is not proportional to the needs of the proceeding; and/or (7-1-24)

g. Otherwise exceeds the permitted scope of discovery as defined in these rules. (7-1-24)

02. Kinds and Scope - Rules of Civil Procedure. Unless otherwise provided by statute, rule, order, or notice, when discovery is authorized before the agency, the kinds and scope of discovery is governed by the Idaho Rules of Civil Procedure, subject to any limitations established by the presiding officer. (7-1-24)

451. WHEN DISCOVERY AUTHORIZATION NOT REQUIRED (RULE 451).
The agency or agency staff may conduct any inspection, examination, or investigation authorized by statute or rule at any time without making a discovery request or filing a motion to compel discovery. This rule recognizes, but does not enlarge or restrict, an agency's statutory and/or regulatory right of inspection, examination (including mental or physical examination), or investigation which is independent of, and cumulative to, any right of discovery in contested case proceedings, and may be exercised by the agency whether or not a person is party to a contested case proceeding before the agency. Information obtained from any such statutory or regulatory inspection, examination, or investigation may be used in any contested case proceeding or for any other purpose, except as restricted by statute or rule. The presiding officer may, by order and upon request by the agency, authorize or compel any such inspection, examination, or investigation authorized by statute or rule. (7-1-24)

452. RIGHTS TO DISCOVERY RECIPROCAL (RULE 452).
Where permitted, all parties to a proceeding have a right of discovery of all other parties to a proceeding, subject to any limitations set by the presiding officer. (7-1-24)

453. SUBPOENAS (RULE 453).
The presiding officer may issue subpoenas, as authorized by statute or rule, upon a party's motion or upon the presiding officer's own initiative. A subpoena may command the person to whom it is directed to appear to give testimony at an evidentiary hearing, any other hearing, or a deposition at a specified time and place. A subpoena that commands a person to produce or to permit inspection and copying of documents, electronically stored information or tangible things, or to permit inspection of premises, may be joined with a command to appear at an evidentiary hearing, any other hearing, or a deposition, or may be issued separately. Any party, or person upon whom the subpoena has been served, may move to quash a subpoena prior to the deadline for compliance with the subpoena. (7-1-24)

454. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS (RULE 454).
Notices of deposition, cover letters stating that production requests, written interrogatories, or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection, and objections to discovery must be filed and served in the same fashion as other pleadings and motions in the proceeding. (7-1-24)

455. PREPARED TESTIMONY AND EXHIBITS (RULE 455).

Order, notice, or rule may require a party or parties to file before hearing, and to serve on all other parties, prepared expert testimony and exhibits to be presented at hearing. Assigned exhibit numbers should be used for all prepared testimony. (7-1-24)

456. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (RULE 456).
The presiding officer may impose all sanctions recognized by statute or rule, including the rules of civil procedure, for failure to comply with an order compelling discovery or a duly-issued subpoena. (7-1-24)

457. PROTECTIVE ORDERS (RULE 457).
The presiding officer may issue protective orders recognized by statute or rule, including the rules of civil procedure, limiting access to information and documents. (7-1-24)

458. – 474. (RESERVED)

Rules 475 through 499 – Evidence

475. RULES OF EVIDENCE (RULE 475).
Evidence is admissible, and excludable, as provided in Section 67-5251, Idaho Code. The presiding officer may exclude inadmissible evidence with or without motion. Evidence should be taken by the presiding officer to assist the parties' development of the record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence, except as to rules governing evidentiary privileges, or where otherwise required by statute or rule. (7-1-24)

476. EVALUATION OF EVIDENCE (RULE 476).
A presiding officer is entitled to weigh the quality of evidence presented, including the credibility of witnesses. While a presiding officer is not bound by the Idaho Rules of Evidence, except as provided in Rule 475, the presiding officer may assign less weight to evidence that would otherwise be inadmissible under the Idaho Rules of Evidence. (7-1-24)

477. BURDEN OF PROOF (RULE 477).
Except as otherwise provided by statute, rule, regulation, or binding state or federal judicial decisional authority, the burden of proof is on the party requesting or challenging an agency action or order, or who is otherwise the proponent of an order or position. Absent an allegation of fraud, or a statute, rule, regulation, or binding state or federal judicial decisional authority requiring a higher standard, a preponderance of evidence standard applies. (7-1-24)

478. HEARSAY (RULE 478).
The presiding officer may admit, weigh, and consider hearsay evidence. In evaluating hearsay, including hearsay which has been admitted without objection, the presiding officer should determine whether it is supported by circumstantial guarantees of trustworthiness, such as other corroborating evidence. A factual finding cannot be based solely on hearsay unless permitted by statute or where no objection has been made to the admission of the hearsay. (7-1-24)

479. OFFICIAL NOTICE (RULE 479).
Official notice of facts may be taken as provided in Section 67-5251, Idaho Code. Any notice that official notice will be taken, or that official notice is requested, should be made in writing prior to any hearing in which the facts or material will be offered, and shall include either a copy of the facts or materials for which official notice may be taken, or citation to a readily-accessible source. If official notice of facts or materials is made at a hearing, for which official notice of such facts or materials had not been made prior to the hearing, the presiding officer may provide such recess or continuance sufficient to allow any party to contest and rebut the facts or material so noticed. (7-1-24)

480. DEPOSITIONS AND PREPARED TESTIMONY (RULE 480).
Depositions and other prepared testimony, or parts thereof, may be offered into evidence and included in the record of hearing, with or without reading. Where only part of a deposition or prepared testimony is offered, a presiding officer may, upon motion or their own initiative, order that other parts of the deposition or prepared testimony be admitted. (7-1-24)

481. OTHER WRITTEN EVIDENCE (RULE 481).

If a presiding officer determines that a part of the evidence in a contested case may be received in written form to expedite the case without substantially prejudicing the interests of any party, the presiding officer will allow any party to make objection thereto. (7-1-24)

482. OBJECTIONS -- OFFERS OF PROOF (RULE 482).
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. When a party objects to the admission of evidence, the presiding officer will rule on the objection, or may receive the evidence subject to later ruling. For exhibits offered at hearing, the presiding officer should determine whether any party objects to the admission of the exhibit. Exhibits to which no objection is made are deemed admitted into evidence without the need for any additional action by the offering party. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken, but offers of proof regarding excluded evidence are permitted. (7-1-24)

483. EXHIBITS (RULE 483).
Exhibit numbers may be assigned to the parties by the presiding officer before hearing. Except where permitted by the presiding officer to be presented in digital form, exhibits prepared for hearing should ordinarily be printed on eight and one-half inch (8 1/2") by eleven inch (11") 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 and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Neither motion pictures, slides, opaque projections, videotapes, audiotapes, nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without advance approval of the presiding officer. (7-1-24)

484. POLYGRAPHS (RULE 484).
Except where required by statute or rule, results of polygraph examinations, and expert or lay opinion testimony based thereon, are not admissible unless all parties stipulate to admissibility. (7-1-24)

485. EXPERTS (RULE 485).
A presiding officer may admit, weigh, and consider expert opinions, whether presented in writing or through testimony. Expert opinions are generally admissible if the proffering party demonstrates the relevancy of the expert opinions, as well as demonstrates the general reliability of the expert opinions, both as to methodology and qualifications of the expert. Expert testimony that is conclusory, offers legal opinions, or which is based solely upon hearsay, is inadmissible. Expert opinions may be offered in writing, and may be either set forth formally, as in an expert report, or informally, as in a letter, e-mail, records, or other similar writings. (7-1-24)

486. INTERPRETERS (RULE 486).

01. Appointment. If an agency or presiding officer determines that an interpreter is needed for a hearing based upon a party's disability or lack of English language proficiency, the agency or presiding officer shall advise the party that he or she has a right to a qualified interpreter. If then requested, a qualified interpreter shall be appointed. A party needing interpretation may, alternatively, advise the agency or presiding officer that they will provide their own alternate qualified interpreter. (7-1-24)

02. Oath. At the start of the hearing, the interpreter shall be sworn as follows: "Do you solemnly swear or affirm that you will interpret and/or translate accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law?" (7-1-24)

03. Cost. The agency shall pay the cost of an interpreter needed for a hearing. Any alternate qualified interpreter used by the party needing interpretation shall be paid for solely by that party. (7-1-24)

487. – 499. (RESERVED)

SUBCHAPTER F – HEARINGS (RULES 500-599)
Rules 500 Through 599 – Hearings

500. NOTICE OF HEARING (RULE 500).
If not previously set in an order following a scheduling or prehearing conference, notice of the time, place, and nature

of the hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the presiding officer finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the name of the presiding officer who will hear the case, the name, address, and telephone number of the person to whom inquiries about scheduling or hearing facilities should be directed, and the names of persons with whom the pleadings or other documents in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has provided a statement of the legal authority under which the hearing is to be held and/or a short and plain statement of the matters asserted or the issues involved, the notice of hearing must do so. (7-1-24)

501. HOW HEARINGS HELD (RULE 501).
Hearings may be held in person, by telephone, or by other remote technology, as agreed by the parties. If the parties are unable to agree how a hearing will be held, the presiding officer shall decide, based upon considerations of: locations of the parties; locations of any witnesses; agreements regarding the admission of prepared testimony or other evidence; complexity of the dispute; limitations in suitability of telephone or remote technology for one or more parties; and any other factor impacting the just, speedy, and inexpensive determination of the proceeding. However a hearing is held, all participants shall be afforded an opportunity to participate in the entire proceeding while it is taking place. (7-1-24)

502. CONDUCT AT HEARINGS (RULE 502).

01. Nondisruptive Conduct. All persons attending a hearing must conduct themselves in a respectful and nondisruptive manner. No person shall interfere with the conduct of, disrupt, or threaten interference with or disruption of the hearing. (7-1-24)

02. Abusive Or Improper Questioning Or Argument. A presiding officer may halt any questioning or argument they deem abusive or improper, with or without prior warning and with or without objection by a party. Continued abusive or improper questioning or argument thereafter by the same party may be deemed disruptive and subject to sanctions. (7-1-24)

03. Audio-Visual Recordings. Except where otherwise not permitted by statute, rule, order, notice, or any other governing policy or procedure, audio-visual equipment, including cameras, microphones, and the like, may be operated in the hearing room by any attendee during the course of a hearing after permission is granted by the presiding officer and then only pursuant to any conditions the presiding officer may impose to avoid disruption of the hearing. At any time during the hearing, should disruption occur, the presiding officer may impose in their discretion any additional conditions upon the use of audio-visual equipment, including the revocation of permission for such use. (7-1-24)

04. Sanctions for Disruptive Conduct. In the event of interference, disruption, or threat by any attendee to the hearing, the presiding officer shall read this rule to those persons causing such interference or disruption and thereafter proceed as deemed appropriate, which may include termination of the hearing or ordering the disruptive person to leave or be removed from the hearing. (7-1-24)

503. CONFERENCE AT HEARING (RULE 503).
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, order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (7-1-24)

504. PRELIMINARY PROCEDURE AT HEARING (RULE 504).
Before taking evidence at a hearing, 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 to explain a party's presentation. (7-1-24)

505. CONSOLIDATION OF PROCEEDINGS (RULE 505).
The agency or the presiding officer may consolidate two (2) or more proceedings for hearing upon finding 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. (7-1-24)

506. ORDER OF PROCEDURE (RULE 506).
The presiding officer may determine the order of presentation of witnesses and examination of witnesses. (7-1-24)

507. TESTIMONY UNDER OATH (RULE 507).
All testimony presented at hearing by any witness will be given under oath. Before testifying, each witness must swear or affirm that the testimony the witness will give before the presiding officer is the truth, the whole truth, and nothing but the truth. (7-1-24)

508. PRESIDING OFFICER'S CALLING OR EXAMINING OF WITNESSES (RULE 508).
A presiding officer may call or examine a witness on their own or at a party's request. All parties are entitled to cross-examine the witness, and any party may make objections during the presiding officer's examination. (7-1-24)

509. SEQUESTRATION OF WITNESSES (RULE 509).
On motion by a party, and upon showing of good cause, a presiding officer may order that any or all testifying witnesses be sequestered during a hearing. However, a named party and/or their designated representative, even if designated as a witness, shall not be sequestered. (7-1-24)

510. PARTIES AND PERSONS WITH SIMILAR INTERESTS (RULE 510).
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. (7-1-24)

511. CONTINUANCE OF HEARING (RULE 511).
The presiding officer may continue a hearing to a later date, either upon motion or on their own initiative. (7-1-24)

512. RULINGS AT HEARINGS (RULE 512).
The presiding officer rules on motions and objections presented at hearing. Rulings by the presiding officer may be made verbally on the record, or addressed by written order after hearing. (7-1-24)

513. ORAL ARGUMENT (RULE 513).
The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (7-1-24)

514. BRIEFS – PROPOSED ORDERS – POSITION STATEMENTS (RULE 514).
In any contested case, the presiding officer may request, and any party or interested person may ask to submit, any briefs, proposed orders, or position statements regarding any issue in the proceeding. (7-1-24)

515. – 599. (RESERVED)

SUBCHAPTER G – POSTHEARING MATTERS (RULES 600-699)
Rules 600 Through 624 – Record For Decisions

600. AGENCY RECORD (RULE 600).

01. Requirement. The agency shall maintain an official record of each contested case as provided for in Section 67-5249, Idaho Code. (7-1-24)

02. Presiding Officers. Presiding officers shall provide the agency with the presiding officer's copy of the agency record within a reasonable time after the expiration of the time for any motion for reconsideration of a recommended or preliminary order, or at such other time as the agency may request. If the presiding officer is one assigned by the Office of Administrative Hearings, the Office of Administrative Hearings shall provide such copy of the agency record to the agency. (7-1-24)

601. RECORDING OR REPORTING OF HEARINGS (RULE 601).

01. In-Person and Telephonic Hearings. All in-person and telephonic hearings shall be recorded at the agency's expense, either by audiotape, digital audio, and/or court reporter, as selected by the presiding officer. Any party requesting a video recording of an in-person or telephonic hearing may do so at their own expense, subject to the presiding officer's determination that the recording does not cause distraction or disruption, which determination may be made at any time before or during the hearing. (7-1-24)

02. Remote Video Hearings. All remote video hearings shall be recorded at the agency's expense, by digital audio, digital video, and/or court reporter, as selected by the presiding officer. (7-1-24)

03. Transcripts. Any party may request an official transcript of any recording of any hearing at their own expense. However, if a party uses an official transcript for any purpose in the contested case proceeding, the full official transcript must be provided to all parties and the presiding officer. If a party is required to provide a copy of an official transcript to all parties and the presiding officer, the presiding officer may, in their discretion, direct all other parties to contribute to the expense of the official transcript. (7-1-24)

04. Presiding Officers. In preparing any order, a presiding officer may rely upon any unofficial transcript of a hearing, including, but not limited to, any transcript automatically generated by computer software. If the presiding officer determines that an unofficial transcript of a hearing is incomplete or insufficient, or otherwise determines that an official transcript is required for any other reason, the presiding officer may direct the creation of an official transcript at the agency's expense. If the agency is not a party to the proceeding, the presiding officer may direct the creation of an official transcript at the parties' shared expense. (7-1-24)

602. – 624. (RESERVED)

Rules 625 through 649 – Orders

625. RECOMMENDED ORDERS (RULE 625).

01. Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (7-1-24)

02. Content. Except where otherwise provided by statute or rule, every recommended order must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

a. This is a recommended order of the presiding officer. It will not become final without action of the agency head. If you disagree with this recommended order, you may file a "motion for reconsideration" with the presiding officer, or you may file "exceptions" with the agency head. You are allowed to file both. (7-1-24)

b. If you would like to file a motion for reconsideration of this recommended order with the presiding officer, you must do so within fourteen (14) days of the service date of this order. After the presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)

c. If another party has filed a motion for reconsideration of this recommended order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the presiding officer, in their discretion, requests it. (7-1-24)

d. You may also file any exceptions you may have to this recommended order, with a supporting brief, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline. (7-1-24)

e. If another party has filed exceptions to this recommended order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the exceptions. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)

f. If you would like to request oral argument regarding any motion for reconsideration or exceptions, you must state so in your filings. The decision whether to have oral argument is a decision for the presiding officer or the agency head to make, and they may decide to not have oral argument, even if you or any other party has requested it. (7-1-24)

03. Content if Reconsideration is Not Permitted or Feasible. Where statute or rule does not permit a motion for reconsideration, or otherwise renders a motion for reconsideration not feasible (e.g., insufficient time), the recommended order must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

a. This is a recommended order of the presiding officer. It will not become final without action of the agency head. If you disagree with this recommended order, you may file "exceptions" with the agency head. Motions for reconsideration filed with the presiding officer will not be considered. (7-1-24)

b. You may file any exceptions you may have to this recommended order, with a supporting brief, directly with the agency head within [number of days for which the governing statute or rule would sufficiently allow for submission of exceptions and consideration thereof in advance of a final order, as determined by the presiding officer] days from the service date of this recommended order, unless the agency head sets a different deadline. (7-1-24)

c. If another party has filed exceptions to this recommended order with the agency head, you must file any opposition brief within [number of days for which the governing statute or rule would sufficiently allow for submission of responses to exceptions and consideration thereof in advance of a final order, as determined by the presiding officer] days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)

d. Oral arguments will not be allowed unless requested by the agency head. (7-1-24)

04. Service of Recommended Orders. All recommended orders must be served on all parties contemporaneously with the issuance of the recommended order. (7-1-24)

626. PRELIMINARY ORDERS (RULE 626).

01. Definition. Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head or the agency head's designee pursuant to Section 67-5245, Idaho Code. (7-1-24)

02. Content. Except as otherwise provided by statute or rule, every preliminary order must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

a. This is a preliminary order of the presiding officer. It can and will become final without further action of the agency, and without any further notice to you, unless any party requests that either the presiding officer or the agency head review it. If no such request is made within fourteen (14) days of the service of this preliminary order, the order will become final, and you will then have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Idaho Code Sections 67-5270 through 67-5279. (7-1-24)

b. If you disagree with this preliminary order, you may file a "motion for reconsideration" with the presiding officer, or you may file "exceptions" and/or a "petition for review" with the agency head. You are allowed to file all of these. (7-1-24)

c. If you would like to file a motion for reconsideration of this preliminary order with the presiding officer, you must do so within fourteen (14) days of the service date of this order. After the presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)

d. If another party has filed a motion for reconsideration of this preliminary order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the presiding officer, in their discretion, requests it. (7-1-24)

e. You may also file any exceptions you may have to this preliminary order, with a supporting brief, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline. (7-1-24)

f. If another party has filed exceptions to this preliminary order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the exceptions. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)

g. You may also file a petition for review regarding this preliminary order, with a supporting brief which sets forth the basis for review, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline. The agency head may also notify the parties within fourteen (14) days of the service date of this order, that they, by their own choice, are reviewing this preliminary order, which notice will identify the issues the agency head will review. If a motion for reconsideration has been filed with the presiding officer, your petition for review, or the agency head's notice, does not have to be filed until fourteen (14) days after the motion for reconsideration process with the presiding officer is complete. (7-1-24)

h. If another party has filed a petition for review of this preliminary order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the petition for review. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)

i. If you would like to request oral argument regarding any motion for reconsideration, exceptions, or petition for review, you must state so in your filings. The decision whether to have oral argument is a decision for the presiding officer or the agency head to make, and they may decide to not have oral argument, even if you or any other party has requested it. (7-1-24)

j. If an agency head reviews a preliminary order, they have the option of either issuing a final order, remanding the matter back to the presiding officer, or holding additional hearings. You will be notified of the agency head's choice if the preliminary order is reviewed. (7-1-24)

03. Service of Preliminary Orders. All preliminary orders must be served on all parties contemporaneously with the issuance of the preliminary order. (7-1-24)

627. FINAL ORDERS (RULE 627).

01. Definition. Final orders are preliminary orders that have become final under Rule 626 and Section 67-5245, Idaho Code, or orders issued by the agency head, either as the presiding officer or in regards to a recommended order, pursuant to Section 67-5246, Idaho Code. Emergency orders issued under Section 67-5247, Idaho Code, shall be designated as final orders if the agency will not issue further orders or conduct further proceedings in the matter. (7-1-24)

02. Content. Except as otherwise provided by statute or rule, every final order issued by the agency head must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

a. This is a final order of the agency. (7-1-24)

b. If you disagree with this final order, you will then have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Sections 67-5270 through 67-5279, Idaho Code. (7-1-24)

c. Prior to requesting judicial review of this final order, you may also file a "motion for reconsideration" with the agency head. If you do wish to file a motion for reconsideration, you must do so within fourteen (14) days of the service date of this order. After the agency head receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)

d. If another party has filed a motion for reconsideration of this final order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing

by any party, and no oral argument, will be permitted unless the agency head, in their discretion, requests it. (7-1-24)

e. Once an agency head has ruled upon a motion for reconsideration, or if twenty-one (21) days have passed since the motion for reconsideration was filed without a ruling by the agency head, you will have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Sections 67-5270 through 67-5279, Idaho Code. (7-1-24)

03. Service of Final Orders. (7-1-24)

a. Parties. Final orders must be served on all parties contemporaneously with the issuance of the final order. (7-1-24)

b. Presiding officers. Final orders must be served on the presiding officer contemporaneously with the issuance of the final order. (7-1-24)

c. Non-Parties. Where not otherwise directed by statute or order, final orders should, upon request, be made available for public inspection within a reasonable time after the issuance of the final order. The conspicuous posting of the final order on an agency website, by clearly identifying the action and providing an accessible electronic copy of the final order, shall be deemed to satisfy this requirement. (7-1-24)

628. ORDERS REGARDING COSTS AND/OR FEES (RULE 628).

01. Scope of Rule. This rule provides procedures for considering requests for costs and/or fees (including attorneys' fees) when an agency has authority to award costs and/or fees under other provisions of law. This rule is not a source of authority for awarding costs and/or fees. (7-1-24)

02. Filing of Motions for Awards of Costs and/or Fees. Unless otherwise provided by statute, rule, or order: (7-1-24)

a. Procedure. Upon the issuance of a final order, any party seeking an award of costs and/or fees must file a motion within fourteen (14) days of the service date of the final order. The request must state the basis for which fees or costs may be awarded. Any opposition to the motion must be made within fourteen (14) days. Upon the making of such a motion, the agency head may issue an order upon the motion, or assign resolution of the motion to the presiding officer. Any order regarding a request for an award of costs and/or fees shall be final and subject to judicial review pursuant to Sections 67-5270 through 67-5279, Idaho Code. The filing of any motion for an award of costs and/or fees, and any proceedings thereon, do not extend, alter, or stay any other deadlines in the contested case proceeding. (7-1-24)

b. Interlocutory requests. Motions for awards of costs and/or fees made prior to the issuance of a final order will not be ruled upon prior to the issuance of the final order, but will instead be deemed filed as of the date of the final order. (7-1-24)

03. Orders Granting or Denying Costs and/or Fees. Every order granting or denying a request for costs and/or fees must cite the statutes or rules under which the determination of the request for costs and/or fees has been made. (7-1-24)

629. ORDER NOT DESIGNATED (RULE 629).

If an order is not designated as interlocutory, recommended, preliminary, or final at its release, any party may move to designate the order as interlocutory, recommended, preliminary, or final, as appropriate. (7-1-24)

630. MODIFICATION OF ORDERS ON PRESIDING OFFICER'S AND AGENCY HEAD'S OWN MOTION (RULE 630).

01. Recommended and Preliminary Orders. A presiding officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the presiding officer's own motion within fourteen (14) days after issuance by withdrawing the order and issuing an amended recommended or preliminary order. (7-1-24)

02. Final Orders. The agency head may modify or amend a final order at any time before a petition for judicial review to district court has been filed or before the expiration of the time for the filing of a petition for judicial review to district court, whichever is earlier, by withdrawing the earlier final order and issuing an amended final order. (7-1-24)

03. Other Orders. A presiding officer may modify or amend any other order issued by them at any time prior to the issuance of a preliminary or recommended order. An agency head may modify or amend any other order issued by them at any time prior to the issuance of a final order. (7-1-24)

631. CLARIFICATION OF ORDERS (RULE 631).

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 file a motion for reconsideration or appeal of the order. A petition for clarification may be combined with a motion for reconsideration or stated in the alternative as a motion for clarification and/or reconsideration. (7-1-24)

632. STAY OF ORDERS (RULE 632).

Any party or person affected by an order may file a motion to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute or rule. A presiding officer may stay any interlocutory, preliminary, or recommended order on their own motion, and an agency head may stay any final order on their own motion. (7-1-24)

633. VOIDING OF ORDERS (RULE 633).

01. Notice. Any notice to the Chief Administrative Hearing Officer pursuant to Section 67-5283(2)(b), Idaho Code, regarding the alleged failure of an independent contract hearing officer to comply with the requirements of Section 67-5283(2)(a), must be submitted in writing to, and received by, the Chief Administrative Hearing Officer within thirty (30) days of the issuance of the independent contract hearing officer's order, and should state whether the order involves a financial transaction and whether the noticing party requests a stay of the independent contract hearing officer's order. (7-1-24)

02. Stay. If the Chief Administrative Hearing Officer determines that the independent contract hearing officer's order involves, or may involve, a financial transaction, the Chief Administrative Officer may promptly issue a stay of the independent contract hearing officer's order for the duration of the investigation, which shall be served on all parties to the contested case. (7-1-24)

03. Investigation. (7-1-24)

a. An investigation into an independent contract hearing officer's alleged failure to comply with the requirements of Section 67-5283(2)(a), Idaho Code, may be conducted by either the Chief Administrative Hearing Officer or any person contracted by them to conduct such investigation or a portion thereof. (7-1-24)

b. The independent contract hearing officer being investigated shall promptly comply with all information and documentation requests made by the Chief Administrative Hearing Officer or their designee related to the alleged failure to comply. (7-1-24)

04. Determination. Within fourteen (14) days of the notice regarding an alleged failure of an independent contract hearing officer to comply with the requirements of Section 67-5283(2)(a), Idaho Code, the Chief Administrative Hearing Officer shall issue a determination in writing of their findings and conclusions, which shall be served on all parties to the contested case. Upon issuance of a determination, any stay will automatically dissolve. (7-1-24)

05. Voiding of Order. If the Chief Administrative Hearing Officer's written determination finds a failure to comply has occurred, or where an independent contract hearing officer fails to cooperate in an investigation as to whether they failed to comply, the Chief Administrative Hearing Officer shall declare the independent contract hearing officer's order void and of no effect. The Chief Administrative Hearing Officer's investigation, determination, and voiding of an order pursuant to Section 67-5283(2)(b), Idaho Code, does not constitute a contested

case proceeding under the APA, and is not an appealable agency order. (7-1-24)

06. Reassignment. If the Chief Administrative Hearing Officer's written determination finds a failure to comply has occurred, the Chief Administrative Hearing Officer shall promptly reassign the contested case to another hearing officer for completion of the contested case. (7-1-24)

634. – 649. (RESERVED)

Rules 650 through 699 – Judicial Review

650. JUDICIAL REVIEW, GENERALLY (RULE 650).
Sections 67-5270 through 67-5279, Idaho Code, and the rules of civil procedure govern who may petition for judicial review of a final agency order to district court, where and when such an appeal must be filed, and how the judicial review process will be conducted. (7-1-24)

651. PETITION FOR JUDICIAL REVIEW (RULE 651).
A petition for judicial review filed by any party must be filed with the agency and with the district court, and must be served on all parties and the presiding officer. (7-1-24)

652. – 699. (RESERVED)

SUBCHAPTER H – SPECIAL PROCEEDINGS (RULES 700-799)
Rules 700-724 – Intervention

700. INTERVENTION GENERALLY (RULE 700).
Persons who are not parties to a proceeding but who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. Where an agency participates in the hearing in a neutral capacity, the agency may petition to intervene to become a party. (7-1-24)

701. FORM AND CONTENTS OF PETITIONS TO INTERVENE (RULE 701).
Petitions to intervene must comply with all rules governing form of pleadings. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. The petition must also include a proof of service reflecting service upon all existing parties to the proceeding. (7-1-24)

702. TIMELY FILING OF PETITIONS TO INTERVENE (RULE 702).
Petitions to intervene must be filed at least twenty-one (21) 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 presiding officer 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 or 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. (7-1-24)

703. OPPOSITION TO PETITIONS TO INTERVENE (RULE 703).
No petition to intervene will be ruled upon by a presiding officer earlier than fourteen (14) days after its filing, except during or after a hearing in which any party may be heard. Any party opposing a petition to intervene must file an objection within seven (7) days after receipt of the petition to intervene and serve the objection upon all parties of record and the proposed intervenor(s). (7-1-24)

704. HEARING ON PETITIONS TO INTERVENE (RULE 704).
Where necessary to develop a full record on the question of intervention, the presiding officer shall conduct a hearing on the petition to determine whether intervention will be permitted and to define the scope of intervention and any limitations thereon. All parties to the proceeding will be permitted to participate in such a hearing, and will be permitted to offer testimony and exhibits. (7-1-24)

705. ORDERS ON PETITIONS TO INTERVENE (RULE 705).

If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding, does not unduly broaden the issues, and does not unduly delay or prejudice the original parties, the presiding officer will grant intervention, unless the petitioner's interest is already adequately represented by one or more parties already participating in the case. The order granting intervention may be subject to reasonable conditions as determined by the presiding officer, including limiting the factual or legal issues the intervenor may raise and/or the means an intervenor may use to present and develop those issues, so as to avoid undue delay or prejudice to the original parties. If it otherwise appears that an intervenor has no direct or substantial interest in the proceeding, or that intervention would unduly broaden the issues, or unduly delay or prejudice the original parties, the presiding officer may deny the petition. (7-1-24)

706. DENIAL OF INTERVENTION DOES NOT PRECLUDE PARTICIPATION (RULE 706).
A person whose petition for intervention is denied may still, subject to these rules and the discretion of the presiding officer, participate in the proceeding as an interested person or a public witness. (7-1-24)

707. – 724. (RESERVED)

Rules 725-749 – Declaratory Rulings

725. FORM AND CONTENTS OF PETITIONS FOR DECLARATORY RULINGS (RULE 725).
A petition for declaratory ruling on the applicability of a statute, a rule administered by an agency, or an order issued by an agency is a pleading which initiates a declaratory proceeding. The form and content of a petition for declaratory ruling must substantially comply with this rule, as determined by the presiding officer. (7-1-24)

01. Form. Petitions for declaratory rulings must comply with all rules governing form of pleadings. (7-1-24)

02. Content. Petitions for declaratory rulings shall: (7-1-24)

a. Identify the petitioner and state the petitioner's interest in the matter; (7-1-24)

b. State the declaratory ruling the petitioner seeks; and (7-1-24)

c. Indicate the statute, order, or rule for which a declaratory ruling is requested, and the factual allegations which support the petitioner's request. (7-1-24)

03. Legal Assertions. Legal assertions in the petition may be accompanied by citations to caselaw, statutes, or other authority. (7-1-24)

726. SERVICE AND NOTICE OF PETITION FOR DECLARATORY RULING (RULE 726).
At a minimum, the petitioner must serve a copy of their petition on any person the petitioner knows would be affected by the declaratory relief sought. Further, notice of a petition for declaratory ruling should also be made by the petitioner in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. The presiding officer may direct the petitioner and/or the agency to make, or attempt to make, notice or service to potentially interested persons if those potentially interested persons have not previously been notified of, or served with, the petition. (7-1-24)

727. PROCEEDINGS (RULE 727).

01. Determination Of Need For Hearing. The presiding officer shall have thirty (30) days to determine if a hearing on the petition for declaratory ruling is needed. (7-1-24)

02. No Hearing Needed. If the presiding officer determines that a decision can be rendered on the face of the petition without hearing or further proceedings, the presiding officer shall thereafter render, as soon as practicable, a preliminary or recommended order reflecting the determination that no hearing is needed and the reasons therefor, and the declaratory ruling. If the presiding officer is an agency head, the order reflecting the determination that no hearing is needed and the reasons therefor, and declaratory ruling, shall issue as a final order. (7-1-24)

03. Hearing Needed. If a presiding officer determines that a hearing is needed, the petitioner, the agency, and any other interested persons shall be notified, and a hearing upon the petition shall be held as soon as practicable. A declaratory hearing shall be conducted utilizing the contested case proceeding rules herein, and a preliminary or recommended order setting forth the declaratory ruling shall be issued as soon as practicable after the hearing. If the presiding officer is an agency head, the order reflecting the declaratory ruling shall issue as a final order. (7-1-24)

728. SPEEDY HEARING PERMITTED (RULE 728).
Parties may request, or a presiding officer may order sua sponte, a speedy hearing on a petition for declaratory ruling. In evaluating the need or request for a speedy hearing, a presiding officer should weigh both factors favoring speedy hearing, such as an imminent deadline facing petitioner, and factors disfavoring speedy hearing, such as impairment to notice and/or due process. (7-1-24)

729. LIMITATIONS (RULE 729).

01. Contested Cases. (7-1-24)

a. Petitions for declaratory rulings, or other requests for declaratory relief, are not permitted where the requested declaratory relief addresses the same subject matter or issues of an existing contested case. (7-1-24)

b. Further, in responding to a petition for declaratory relief, an agency may make motion to the presiding officer to dismiss the declaratory proceeding upon a showing that the agency has initiated a contested case to address the same subject matter or issues of the declaratory action. (7-1-24)

02. No Limitation On Other Agency Action. The provisions of these rules regarding petitions for declaratory rulings shall not be construed in any way to preclude: (7-1-24)

a. Any person from requesting an agency to informally interpret a pertinent statute, rule, or order in the routine course of agency business, whether such request is made in-person, by mail, by e-mail, or by telephone; (7-1-24)

b. An agency from providing an informal interpretation in response to any such request; or (7-1-24)

c. An agency from issuing any agency guidance of any kind, as defined in Section 67-5250, Idaho Code. (7-1-24)

730. – 749. (RESERVED)

Rules 750-799 – Emergency Proceedings

750. SERVICE OF EMERGENCY ORDER (RULE 750).
Orders issued as the result of an emergency proceeding under Section 67-5247, Idaho Code, shall be served upon all persons required to comply with the order by both certified mail, return receipt requested, and additionally by e-mail or personal service, where feasible. (7-1-24)

751. HEARING ON EMERGENCY ORDER (RULE 751).

01. Time for Hearing. The hearing upon an emergency order shall be held no later than twenty-eight (28) days after the issuance of the emergency order, except as otherwise provided by statute, rule, or order. (7-1-24)

02. Appointment of Presiding Officer. No later than three (3) days after the issuance of the emergency order, the agency shall assign the matter to the Office of Administrative Hearings, or, where otherwise authorized by statute or rule, appoint a presiding officer. (7-1-24)

03. Notice of Proposed Hearing. As quickly as feasible, the presiding officer shall issue a notice of proposed hearing date. (7-1-24)

a. Service. The notice of hearing shall be served upon all persons required to comply with the order by both certified mail, return receipt requested, and additionally by e-mail or personal service, where feasible. The agency may be served by e-mail or regular mail. (7-1-24)

b. Content. Except as otherwise provided by statute or rule, the notice of proposed hearing date must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

i. You have a right to have an evidentiary hearing before the agency as quickly as feasible if you wish to contest the Emergency Order dated [insert date of order]. Any hearing will be conducted as a contested case hearing pursuant to Chapter 52, Title 67 of the Idaho Code. (7-1-24)

ii. Pursuant to Section 67-5252, Idaho Code, the presiding officer shall, at the time of hearing: (7-1-24)

(1) Regulate the course of the proceedings to assure that there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary, and (7-1-24)

(2) Shall afford all parties the opportunity to respond and present evidence and argument on all issues involved, except as restricted by a limited grant of intervention or a prehearing order. (7-1-24)

iii. The hearing date identified in this notice is a proposed hearing date. If you would like to request a different date, you may contact the presiding officer identified in this notice within seven (7) days of receiving this notice. You may contact the presiding officer to make your request by phone, e-mail, or by formal filing with the presiding officer. If you do not timely request a different date, the hearing will be held on the date proposed in this notice. (7-1-24)

04. Request for Alternative Hearing Date. Within seven (7) days of receipt of the notice of proposed hearing, any party can request an alternative hearing date, for a date sooner or later than proposed. Such request may be made to the presiding officer informally, via e-mail or telephone. The presiding officer shall hold a conference as soon as practicable with all parties to select a new date. (7-1-24)

05. Regular Proceedings Permitted. Although the hearing upon an emergency order shall be treated as an appeal of an agency order, any party participating therein shall be entitled to any discovery, presentation of evidence, or other contested case activities as would have been afforded as if the emergency order had not been issued. (7-1-24)

06. Stay. Motions requesting stay of the emergency order are permitted; however, no stay may be granted by the presiding officer except upon stipulation by the agency to the stay and any terms governing the stay. (7-1-24)

752. – 799. (RESERVED)

SUBCHAPTER I – AGENCY-SPECIFIC RULES (RULES 800-899)
Rules 800 Through 809 Agency-Specific Contested Case Rules

800. OTHER AGENCY-SPECIFIC CONTESTED CASE RULES (RULE 800).

01. Mandatory Application. Some agencies have promulgated their own contested case rules to comply with applicable federal law or specific requirements of Idaho law applicable to the agency or programs it administers. The presiding officer shall adopt and apply any such agency-specific rules, including temporary rules. Agency-specific rules which were promulgated as alternative procedures to the prior Idaho Rules of Administrative Procedure of the Attorney General shall continue to be adopted and applied, except as may conflict with any of these Idaho Rules of Administrative Procedure. Previously-promulgated alternative procedures which conflict with these Idaho Rules of Administrative Procedure, but which are otherwise mandated by federal or state statute, rule, regulation, or binding state or federal judicial decisional authority, shall be adopted and applied notwithstanding these Idaho Rules of Administrative Procedure. (7-1-24)

02. Optional Application. Agency-specific contested case procedures may also be reflected in agency policies, procedures, or other non-rule guidance. Upon request of the agency no later than the initial scheduling conference, the presiding officer may adopt and apply such agency-specific policies, procedures, or other non-rule guidance, provided that such policies, procedures, or other non-rule guidance are publicly-available pursuant to Section 67-5250, Idaho Code; however, any such policies, procedures, or non-rule guidance which are required to comply with applicable federal law shall be adopted and applied. (7-1-24)

801. – 999. (RESERVED)