

Dear Senators CORDER, Werk, Johnson, and  
Representatives LAKE, Collins, Killen:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho Board of Tax Appeals:

IDAPA 36.01.01 - Rules Pertaining To The Idaho Board of Tax Appeals Rules (Docket No.  
36-0101-1201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/15/2012. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/13/2012.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the  
memorandum attached below.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Local Government & Taxation Committee and the House Revenue & Taxation Committee

**FROM:** Division Manager - Mike Nugent

**DATE:** September 25, 2012

**SUBJECT:** Idaho Board of Tax Appeals

IDAPA 36.01.01 - Rules Pertaining To The Idaho Board of Tax Appeals Rules (Docket No. 36-0101-1201)

The Board of Tax Appeals is proposing to promulgate rules regarding its Rules of Practice and Procedure. In the Notice of Rulemaking it indicates that the rules are being "...amended to simplify the Board's procedural rules through a reduction in rule language and by increasing the consistency in rule language and formatting; to delete a public witness rule (BTA Rule 86) and to make general housekeeping changes." The simplification involves about 23 pages of text. A couple of substantive definitions are either changed or added. On page 692 a definition of "De Novo" is revised and to us the new language is much clearer. In the next section a definition of "Ex Parte" is added.

It appears that the proposed rules have been promulgated within the scope of statutory and constitutional authority granted to the Board of Tax Appeals.

cc: Idaho Board of Tax Appeals  
Steve Wallace

# IDAPA 36 - IDAHO BOARD OF TAX APPEALS

## 36.01.01 - IDAHO BOARD OF TAX APPEALS RULES

DOCKET NO. 36-0101-1201

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-3808, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking.

The chapter is amended to simplify the Board's procedural rules through a reduction in rule language and by increasing the consistency in rule language and formatting; to delete a public witness rule (BTA Rule 86); and to make general housekeeping changes.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were of simple nature.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule and how an electronic copy can be obtained or, if otherwise unavailable, where copyrighted or other proprietary materials may be obtained:

No documents have been incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Wallace at (208) 334-3354.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 28<sup>th</sup> day of August, 2012.

Steve Wallace  
Tax Policy Specialist  
Board of Tax Appeals  
P.O. Box 83720  
Boise, ID 83720-0088  
Phone: (208) 334-3354  
Fax: (208) 334-4060

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 36-0101-1201

000. LEGAL AUTHORITY (RULE 0).

~~These rules are promulgated~~ in accordance with Section 63-3808, Idaho Code, ~~the Idaho Board of Tax Appeals shall promulgate rules implementing the provisions of the Idaho Statutes relating to the Board of Tax Appeals, Chapter 38, Title 63, and Chapter 52, Title 67, Idaho Code.~~ (4-5-00)( )

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules shall be cited as IDAPA 36.01.01, "Idaho Board of Tax Appeals Rules." (4-5-00)

02. Scope. These rules shall govern all procedures before the Idaho Board of Tax Appeals (~~hereinafter "Board"~~). (4-5-00)( )

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS (RULE 3).

There is no ~~provision for~~ administrative appeal ~~before the Board under this chapter~~. ~~Board decisions are~~ <sup>is</sup> appealable to the district court as provided by law. (4-5-00)( )

004. ~~(RESERVED)~~ INCORPORATION BY REFERENCE.

~~There are no documents incorporated by reference into this rule.~~ ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESSES AND STREET ADDRESS (RULE 5).

The principal office of the Board shall ~~be at Boise, Idaho and shall~~ be open each day for ~~the transaction of~~ business and filing of documents between ~~the hours of~~ 8 a.m. and 5 p.m., Saturdays, Sundays, and legal holidays excepted. The Board's mailing address, ~~unless otherwise indicated, will be~~ is Idaho Board of Tax Appeals, P.O. Box 83720, Boise, Idaho 83720-0088. The Board's street address is 3380 Americana Terrace Suite 110, Boise, Idaho 83706. The Board's telephone number is 208-334-3354 and its FAX number is 208-334-4060. (2-18-05)( )

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, ~~Chapter 3, Title 9, Chapter 3,~~ Idaho Code. Except as provided by Rule 125, ~~all~~ materials filed with the Board ~~pursuant to these rules~~ and ~~all materials~~ issued by the Board ~~pursuant to these rules~~ are public documents subject to inspection, examination and copying. (2-18-05)( )

007. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

As used in this chapter: (2-18-05)

01. Answer. ~~The R~~esponse to allegations, requests or claims of an appeal. (2-18-05)( )

02. Appellant. A party, ~~person, natural or otherwise, or governmental subdivision or agency~~ filing an appeal ~~ing to~~ with the Idaho Board of Tax Appeals. (2-18-05)( )

03. Board. ~~The~~ Idaho Board of Tax Appeals, board members, presiding officer, or hearing officer as the context may dictate whenever it occurs in this chapter. (2-18-05)( )

04. Case File. ~~The O~~fficial record maintained by the Board regarding an appeal. ~~The case file is a file folder(s) containing the documentary record including submissions from the parties, plus any recordings of hearings.~~

(2-18-05)( )

05. **Comparable Sales.** Recently sold properties that are similar in *important respects* locational and physical characteristics to the property being appraised. “Recently sold property” is property with a sale date prior to the effective date of valuation. (2-18-05)( )

06. **De Novo.** The Board will decide questions of fact and of law based on the evidence and legal arguments presented *in the proceedings* before the Board. A de novo review means the parties must present anew any previously submitted evidence or argument they wish to have considered. New evidence and argument may also be presented. (2-18-05)( )

07. ~~**Findings of Fact and Conclusions of Law.** Concise statements of the determinations made as to contested issues of fact, and statements of the applicable law as determined by the Board which are applicable to the findings of fact.~~ **Ex Parte.** A communication on behalf of one (1) party with the Board where the other side is not present or included. (2-18-05)( )

08. **Intervenor.** ~~Any~~ party voluntarily intervening in an appeal who meets the intervention qualifications ~~and requirements for intervention~~ under Rule 85. (2-18-05)( )

09. **Parcel.** Each separate property ownership as represented by the county assessment rolls. (2-18-05)

10. **Party.** A person, natural or otherwise, or governmental subdivision or agency authorized to appear before the Board in any proceedings of the Board. (2-18-05)

11. **Presiding Officer or Hearing Officer.** A member of the Board, or any other person ~~who is~~ assigned to conduct a conference or hearing by for the Board. ~~The presiding officer shall have authority as provided by Rule 106.~~ (2-18-05)( )

12. **Respondent.** A party answering or otherwise responding to an appeal. (2-18-05)

13. **Subject Property.** The property under discussion. (2-18-05)

14. **Substantive Issue.** An issue where a right, interest or privilege of any party is involved that may be prejudiced as opposed to minor or mere procedural matters ~~dealt with by the Board.~~ (2-18-05)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**012. ORGANIZATION (RULE 12).**

The Chairman of the Board shall serve as the administrative officer. (2-18-05)

01. **Election.** The Chairman shall be elected annually by the board members in consideration of experience with the Board and the member’s availability to serve and support the Board’s administrative duties. (2-18-05)

02. **Power.** The Chairman shall oversee the issuance of acknowledgment letters; and notices ~~of hearing, notices of show cause hearings,~~ and is authorized to perform all other procedural duties such as issuing orders on nonsubstantive rulings without a formal meeting of the Board. ~~The Chairman shall not issue any substantive orders in any case, except upon a roll call vote of the board members where a majority concurs in the result.~~ (2-18-05)( )

013. -- 019. (RESERVED)

**020. PROCEDURE GOVERNED (RULE 20).**

**01. Procedure.** These rules shall govern all practice and procedure before the Board ~~of Tax Appeals, hereinafter referred to in these rules as the Board.~~ Except as provided in Rules 800 through 860, these rules are affirmatively promulgated to supersede IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General". (2-18-05)( )

**02. Purpose.** The purpose for the law providing for the establishment of the Idaho Board of Tax Appeals is to provide an independent, fair, expeditious, and less expensive opportunity for taxpayers and other parties to appeal from most tax related decisions of county boards of equalization and the State Tax Commission. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**022. CITATION (RULE 22).**

The official citation of this chapter is IDAPA 36.01.01, ~~et seq.~~ ~~For example, this section's citation is IDAPA 36.01.01.022. In documents submitted to the Board or issued by the Board, these rules may be cited as BTA (Board of Tax Appeals) and rule number less leading zeroes. For example, this rule may be cited as BTA Rule 22. A rule section or subsection, such as this one, may be cited in either of the following formats:~~ (2-18-05)( )

**01. IDAPA Format. Section 022.** ( )

**02. BTA Format. Rule 22.** ( )

**023. -- 029. (RESERVED)**

**030. REPRESENTATION AND PRACTICE BEFORE THE BOARD (RULE 30).**

~~To the extent authorized by law~~ the right to appear and practice before the Board shall be limited ~~to the following classes of persons as follows:~~ (4-11-06)( )

**01. Natural Persons.** A natural person may represent himself or herself or be represented by an attorney. (4-11-06)

**02. Corporations.** Duly authorized directors or officers of corporations representing the corporations for which they are, respectively, directors or officers; (4-11-06)

**03. Limited Liability Company (LLC).** ~~A duly authorized member, or a manager of a manager-managed LLC, representing the LLC for which they are, respectively, a member or manager;~~ ( )

**034. Partnerships, Joint Ventures and Trusts.** Duly authorized partners, joint venturers, or trustees representing their respective partnerships, joint ventures or trusts; (4-11-06)

**045. Authorized Attorneys.** Attorneys duly authorized, who are qualified and entitled to practice in the courts of the state of Idaho; (4-5-00)

**056. Public Officers.** Public officers or designated representatives when representing the governmental agency; (4-11-06)

**031. INITIAL PLEADING ~~BY PARTY~~ -- LISTING OF REPRESENTATIVES (RULE 31).**

The initial pleading of each party ~~at the formal stage of a contested case~~ must name the party's qualified representative(s) for service of documents and shall state the representative's(s') address(es) for the purpose of receipt of all documents. ~~Unless authorized by order of the Board, no more than two (2) representatives for service of documents may be listed.~~ Service of documents on the named representative(s) is valid service upon the party for all purposes ~~in that proceeding~~. If no person is explicitly named as ~~the party's~~ representative, the first person signing the initial pleading will be considered the ~~party's~~ representative. ~~The representative shall provide proof of authorization when representing another person, a corporation, partnership, joint venture, trust or governmental agency.~~ (2-18-05)( )

**032. SUBSTITUTION ~~OR WITHDRAWAL~~ OF REPRESENTATIVE (RULE 32).**

A party's representative may be changed ~~and a new representative substituted~~ by notice to the Board and to all other parties when the proceedings are not unreasonably delayed. The presiding officer may permit substitution of a representatives at hearing. ~~Representatives who wish to withdraw, must immediately file a written notice of withdrawal.~~ (2-18-05)(    )

**033. ~~TAKING OF APPEARANCES~~—PARTICIPATION BY TAXING AUTHORITY ~~STAFF~~ (RULE 33).**

In ~~all~~ proceedings ~~in which the~~ where a taxing authority may participate, or in any instance where a report or recommendation of the taxing authority may be considered in reaching a decision, at the timely request of ~~any~~ party; or upon the Board's motion, an informed representative of the taxing authority shall appear at ~~any~~ hearing and be available for ~~cross~~-examination. ~~and~~ When such a representative is summoned, the taxing authority shall further participate in the hearing in the same manner as a party. (2-18-05)(    )

**034. (RESERVED)**

**035. CONDUCT (RULE 35).**

A party ~~to an appeal, or~~ representative or witness shall conduct themselves in all Board proceedings ~~before the Board~~ in an ethical, respectful, and courteous manner. (2-18-05)(    )

**036. ENFORCEMENT (RULE 36).**

The Board and each party to an appeal are responsible for the efficient, just, and speedy conduct of the formal hearing and other proceedings before the Board. Board members or the assigned hearing officer may impose sanctions on a party for delays, the failure to comply with a subpoena, or discovery order, for discovery procedure abuses, and for any other matter regarding conduct of the appeal. In imposing sanctions, the Board shall ~~be allowed to~~ use its discretion and shall may be guided by the court practices ~~of the courts~~ of this state ~~in imposing sanctions for similar offenses~~ in civil proceedings. Board sanctions shall include, but not be limited to, dismissal of an appeal or the granting of default judgment. (2-18-05)(    )

**037. EX PARTE COMMUNICATIONS (RULE 37).**

**01. Prohibited Ex Parte.** Unless ~~required for the fair disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case~~ permitted by law, the Board shall not communicate, ~~directly or indirectly,~~ regarding any substantive issue ~~in the contested case~~ with any party, except upon notice and opportunity for all parties to participate in the communication. (    )

**02. Permitted Ex Parte.** The ~~presiding officer~~ Board may communicate ex parte with a party concerning a procedural or administrative matter~~s~~ (e.g., scheduling). ~~Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. When a presiding officer becomes aware of a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications.~~ (2-18-05)(    )

~~038.—039.~~ (RESERVED)

~~040. PARTIES (RULE 40).~~

~~A party appealing to the Idaho Board of Tax Appeals shall be known as "Appellant." The party or agency answering said appeal shall be known as "Respondent." A party intervening in an appeal shall be known as "Intervenor."~~ (2-18-05)

~~041~~38. -- 044. (RESERVED)

**045. NOTICE OF APPEAL: CONTENTS (RULE 45).**

**01. Basic Contents.** ~~All~~ An appeals ~~shall~~ must be in writing and shall contain clear and concise

statements of the matters that lay a foundation for the relief claim that may be granted by the ~~Idaho~~ Board of Tax Appeals. All An appeals shall allege necessary facts to establish jurisdiction of the Board to hear ~~said~~ the appeal.

~~(4-5-00)~~( )

~~012.~~ Appeals Additional Contents. All The appeals shall further contain:

~~(4-5-00)~~( )

a. Appellant's full name, mailing address and telephone number;

~~(4-5-00)~~( )

~~b.~~ Current mailing address;

~~(4-5-00)~~

~~eb.~~ The tax year(s) being associated with the appealed; and

~~(4-5-00)~~( )

~~dc.~~ The telephone number where the appellant can be reached during normal daytime business hours.

A signed statement by a natural person/appellant or by a qualified representative that the notice of appeal contents are correct.

~~(4-5-00)~~( )

~~023.~~ Appeal Filed by an Attorney or Representative. If any An appeal is filed by ~~an attorney or other~~ qualified representative, the pleading shall contain:

~~(4-5-00)~~( )

a. The ~~attorney's or~~ representative's name, official title, mailing and street addresses, telephone number; and

~~(4-5-00)~~( )

b. If the representative is an attorney, ~~the~~ Idaho State Bar License number ~~for attorneys.~~

~~(4-11-06)~~( )

~~034.~~ Board Must Be Informed of Any Changes in Address or Phone Number. A Parties and party or representatives must keep provide written notice to the Board informed and other parties of any changes in address or telephone number contact information.

~~(4-5-00)~~( )

#### **046. NOTICE OF APPEAL: BOE APPEALS (RULE 46).**

~~01.~~ Separate Notice. The party filing the appeal shall complete an Appeal Form approved by the Board, or a separate notice of appeal. A separate Appeal Form will be completed for eEach parcel assessment of property appealed must use a separate Board Appeal Form or separate notice of appeal. Blank Appeal Forms shall be provided by the Board annually to each county auditor annually by May 1.

~~(2-18-05)~~( )

~~02.~~ Contents BOE Appeals. In the case of An appeals brought under Section 63-511, Idaho Code, the notice of appeal shall contain:

~~(2-18-05)~~( )

a. A legal description of the property on which the appellant is relating to the appealing ~~the valuation~~;

~~(4-5-00)~~( )

b. A copy of the ~~final decision of the~~ county board of equalization's final decision, and when available, the decision's postmarked mailing envelope or any accompanying certificate of service;

~~(2-18-05)~~( )

c. The objections to the findings of the board of equalization and the basis of said objections by the appellant to include For a valuation appeal, a clear declaration of the alleged market value alleged by the appellant, and in the case of a for the subject property. For a property tax exemption claim, the Idaho Code section(s) involved associated with the claim and a summary of the factual basis supporting why exempt status should be granted or denied; and

~~(2-18-05)~~( )

d. A copy of the county's final tax assessment notice for the year in question on the property that is the subject of the assessment appealed; and

~~(2-18-05)~~( )

~~e.~~ A statement that the appellant or qualified representative has read the notice of appeal and believes the contents to be true, followed by the person's signature, or the signature of their attorney or representative.

~~(2-18-05)~~

~~03. **Time Limit and Filing Place.** Appeals brought under Section 63-511, Idaho Code, must be filed within thirty (30) days after mailing of notice of a decision of the board of county commissioners sitting as a board of equalization or pronouncement of a decision if this is announced at a hearing. Notice of such appeal, must be filed with the county auditor in the county in which the property assessment originated. Appeals filed under Section 63-511, Idaho Code, cannot be perfected by filing them directly with the Idaho Board of Tax Appeals. Appeals not timely filed as provided by statute and Rule 46 shall be dismissed. (2-18-05)( )~~

**047. NOTICE OF APPEAL: STC APPEALS (RULE 47).**

~~01. **Contents STC Appeals.** In An appeals brought under Section 63-3049 or 63-707, Idaho Code, the notice of appeal shall include contain: (2-18-05)( )~~

~~a01. **Attachment.** A copy of the redetermination or final written decision by the State Tax Commission being appealed from; (2-18-05)( )~~

~~b02. **Objections.** The A list of objections of the appellant to the redetermination or final STC's decision; (2-18-05)( )~~

~~e03. **Basis.** The basis for said objections presented in clear and concise statements; (2-18-05)( )~~

~~d04. **Amount in Dispute.** A statement of the amount in dispute shall be included with the notice of appeal if the amount in dispute is different from the redetermination or deficiency determination decision for each applicable tax year or period; and (2-18-05)( )~~

~~e05. **Security Deposit.** When applicable, Proof of compliance with the mandatory deposit requirements as provided in Section 63-3049(b), Idaho Code, in the form of a receipt or documented acknowledgment from the State Tax Commission. (2-18-05)( )~~

~~02. **Perfected Appeal Filing Time.** Appeals brought under Section 63-3049, Idaho Code, must be filed with the Board within ninety one (91) days after the receipt of notice of the decision of the State Tax Commission. (2-18-05)~~

**048. NOTICE OF APPEAL: DEFECTIVE APPEALS ACKNOWLEDGMENT (RULE 48).**

~~01. **Acknowledgment Letter.** An acknowledgment letter will be mailed within fourteen (14) days of the receipt of an appeal in the Board's office. The Board may acknowledge multiple appeals by the same party, when the subject properties are located within a single county, with a single letter. Such acknowledgment does not constitute a formal consolidation of the appeals. ( )~~

~~012. **Amendment or Dismissal Defective Appeal.** Upon the filing of any notice of appeal it will be inspected by the Board and if an appeal is found to be materially defective, untimely, or not substantially in compliance with the requirements of this chapter the Board may dismiss such appeal or require its amendment. After notice from the Board, the appellant shall have fourteen (14) days to amend and perfect such appeal. Failure to perfect the appeal may result in dismissal of the appeal without further notice. (2-18-05)( )~~

~~02. **Jurisdiction.** If a notice of appeal fails to set out allegations alleging jurisdiction of the Board, or if such allegations are disputed, the Board may require a separate hearing and may hear evidence on the questions of the Board's jurisdiction, or the Board may require proof of jurisdiction at the hearing of the appeal on its merits. (2-18-05)~~

**049. NOTICE OF APPEAL: ACKNOWLEDGMENT LETTER (RULE 49). (RESERVED)**

~~The Board will acknowledge receipt of a notice of appeal within fourteen (14) days of receipt of appeal in the Board's office. (2-18-05)~~

**050. NOTICE OF APPEAL: RESPONSE ANSWER TO APPEAL (RULE 50).**

A respondent or intervenor may file with the Board an response/answer to a notice of appeal. ~~If filed, the party filing~~

~~the response~~ **The answer** shall ~~be filed~~ **be filed** ~~the original with the Board~~ at least ~~ten~~ **fifteen** (105) ~~business~~ days prior to hearing ~~and must serve a copy thereof upon all other parties in accordance with the provisions of this chapter.~~  
(4-5-00)( )

**051. ~~NOTICE OF APPEAL: FILING STC APPEALS (RULE 51).~~ (RESERVED)**

~~Notices of appeal to the Board from Idaho State Tax Commission decisions and any other papers required to be filed with the Board shall be deemed filed upon actual receipt by the clerk of the Board or, if mailed, such papers shall be deemed filed as of the federal post office postmark date. Postage meters do not designate the mailing date. (2-18-05)~~

**052. ~~NOTICE OF APPEAL: FILING BOE APPEALS~~ **COUNTY AUDITOR REQUIREMENT (RULE 52).****

~~Papers, including notice of appeal, required to be filed with the county auditor shall be deemed filed upon actual receipt by the county auditor or, if mailed, such notice shall be deemed filed as of the federal post office postmark date. Postage meters do not designate the mailing date. (2-18-05)~~

**01. ~~County Auditor~~ **Contents.**** Upon receiving a notice of appeal to the Board under Section 63-511, Idaho Code, the county auditor ~~in the county where the notice of appeal is filed~~ shall ~~forward~~ **transmit** to the Board:  
(2-18-05)( )

**a.** ~~A copy of~~ **The** notice of appeal including the ~~filing~~ **date of receipt, and if received by mail, a copy of the mailing envelope;**  
(2-18-05)( )

**b.** ~~Any available~~ **The** exhibits or other evidence considered by the BOE;  
(2-18-05)( )

**c.** A copy of the ~~written~~ **initial** appeal to the BOE;  
(2-18-05)( )

**d.** A copy of any decision made or action taken by the BOE ~~together with the mailing date of the notice of decision or other proof of service;~~ **and**  
(2-18-05)( )

**e.** A copy of the ~~certified~~ minutes of the ~~meeting(s)~~ **related BOE proceeding, or a verbatim record of the BOE dealing with said appeal;** **and**  
(2-18-05)( )

**f.** ~~When applicable, a certificate that the BOE failed to act on the appeal in the time required.~~ ( )

**02. Minutes.** The minutes should include at a minimum: (2-18-05)

**a.** The full name of persons appearing before the BOE in the appeal; (2-18-05)

**b.** Clear identification of the parcel(s)/ ~~number associated with the~~ assessment(s) appealed-; **and**  
(4-5-00)( )

**c.** The decision made ~~or action taken~~ by the BOE ~~indicating clearly~~ **specifying** the value ~~determined~~ or exempt status decided for each parcel ~~assessment considered.~~  
(4-5-00)( )

**053. -- 054. (RESERVED)**

**055. CONSOLIDATION — ~~HEARINGS AND DECISIONS~~ (RULE 55).**

**01. ~~Appeals and Hearings.~~** Whenever ~~it shall appear to the Board or presiding officer that~~ two (2) or more ad valorem cases from the same county or different counties involve the same or substantially similar issues ~~as well as~~ **and** the same or similar property ~~classes or subclasses, such as assessment categories,~~ or where the same or similar issues exist in other tax type cases, the Board ~~or presiding officer~~ may issue a written or verbal order consolidating the cases ~~for hearing.~~ There shall be no consolidation of cases where the rights of any party would be prejudiced ~~by such procedure. Two (2) or more parties to appeals~~ **Parties** may also request in writing that cases be consolidated ~~under the same~~ **using this** criteria ~~listed above. The Board or presiding officer in~~ **Prior to** issuing a consolidation order, ~~in ad valorem appeals~~ **the Board** shall consider: whether the parcels are contiguous, any response given to a consolidation request, and any other matters deemed appropriate in ~~determining the disposition of the matter. In a consolidated hearing the presiding officer determines the order of the proceeding~~ **judging whether**

consolidation would likely be beneficial. (4-5-00)( )

~~02. Decisions. The Board may at its discretion issue a written decision in a consolidated format.~~ (4-5-00)

056. -- 059. (RESERVED)

060. FORM OF PLEADINGS (RULE 60).

01. **Form.** All pleadings, except those filed on Board forms, submitted by a party and intended to be part of the record shall be double-spaced throughout the text and must: (2-18-05)( )

a. Be submitted on white eight and one-half inch (8 1/2") by eleven inch (11") paper copied on using one (1) side only and be legibly written; (2-18-05)( )

b. State the title of the pleading and the appeal number, ~~if assigned,~~ at the top of the cover page; (2-18-05)( )

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and if available, the telephone and FAX number(s) of the person(s) filing the document ~~or the person(s) to whom questions about the document can be directed;~~ (2-18-05)( )

d. Have at least one inch (1") left and top margins; and (2-18-05)( )

~~e. The Board may require a response from the opposing party in order to clarify the issues raised on appeal. Parties may also file a response whenever they feel such is necessary to clarify the issues raised on appeal, whether required by the Board or not; and~~ (2-18-05)

~~f. Must be~~ signed by the ~~appropriate authorized~~ party if a natural person or by any qualified representative of record submitting the same. (2-18-05)( )

02. **Example.** Documents complying with this rule will be in the following form: (2-18-05)

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

BEFORE THE IDAHO BOARD OF TAX APPEALS

~~(Title of Proceeding) APPEAL NO.~~  
~~( ) (TITLE OF DOCUMENT)~~

	)	
	)	<u>Appeal No(s).</u>
<u>Appellant(s).</u>	)	
	)	<u>DOCUMENT TITLE</u>
	)	
<u>vs.</u>	)	
	)	

\_\_\_\_\_) )  
Respondent(s). )

(2-18-05)(\_\_\_\_)

**061. SERVICE OF DOCUMENTS (RULE 61).**

**01. Service.** ~~All notices, motion or other pleadings, exhibits, papers, orders, decisions, and all other documents of any kind submitted to the Board shall be served upon all other parties, counsel, or parties' representatives of record. Service by regular mail of such documents will be considered adequate service. If service is made by mail the papers shall be deposited in the post office properly addressed to the person to whom they are being served, with postage prepaid. Proof of such service must be filed with the Board. An affidavit or certificate of service, or acknowledgment of service will be considered adequate proof of service. Decisions or A Board notice, orders, of the Board or final decision shall be served upon both the party and a party's counsel or representative of record, if any. When a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer Board may direct that some or all of these documents be served on interested or affected other persons who are not parties.~~ (2-18-05)(\_\_\_\_)

**02. Proof of Service.** Every document filed with ~~and intended to be part of~~ the Board ~~record~~ must be ~~attached to or~~ accompanied by ~~proof a certificate~~ of service. ~~by the following or similar certificate:~~ The following is an example:

*I HEREBY CERTIFY (swear or affirm) that I have this day of \_\_, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid or facsimile or hand delivery to: (list names)).*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of \_\_\_\_\_, 20XX I caused to be served a true copy of the foregoing attached document by the method indicated below and addressed to each of the following:

(representative's name)

U.S. Mail, Postage Prepaid

(mailing address)

Hand Delivered

Overnight Mail

Certified Mail

(Signature)

(printed name of person signing)

(2-18-05)(\_\_\_\_)

**062. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS (RULE 62).**

~~A~~ Defective, insufficient, or ~~late~~ untimely pleadings may be returned or dismissed.

(2-18-05)(\_\_\_\_)

~~063. AMENDMENTS TO PLEADINGS — WITHDRAWAL OF PLEADINGS (RULE 63).~~

~~The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective ten (10) days after filing. (2-18-05)~~

**063. -- 064. (RESERVED)**

**065. COMPUTATION OF TIME (RULE 65).**

In computing any period of time prescribed or allowed by these rules ~~or by any applicable statute, except where contrary to other applicable statutes~~, the day ~~of the act, event or default~~ from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included in the count unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the ~~end of the~~ next day that is not a Saturday, Sunday, or legal holiday. (2-18-05)( )

**066. FILING ~~OF DOCUMENTS~~ (RULE 66).**

**01. Document Filing Place.** ~~All documents~~ filed with the Board shall be filed with the Clerk of the Board at the Board's mailing address or street address. (2-18-05)( )

**02. Number of Copies.** Unless otherwise indicated by the Board, one (1) copy shall be filed. (2-18-05)

**03. Fax Filing.** A filing by facsimile (fax) transmission is permitted for a notice of withdrawal or settlement, and for a notice or motion requiring an immediate response by the Board. With the exception of a notice of withdrawal, an original must be mailed to the Board and served on all other parties the same day. ( )

**a.** A filing made under Rule 66.03 cannot exceed five (5) pages in length. The transmission must be legible and received in its entirety during the office hours set forth in Rule 5 for it to be considered filed on the transmission date. ( )

**b.** When making a filing by fax, if another party to the case is equipped with fax facilities, the service on that party must include fax service. ( )

**c.** The originating party shall assume the risk in fax filing and retain proof of filing by fax. ( )

**067. -- 069. (RESERVED)**

**070. PREHEARING CONFERENCES (RULE 70).**

**01. Subject of Conferences.** The Board may direct ~~the appellant, respondent, and any intervenor parties~~ to appear before it to consider: (4-5-00)( )

**a.** Any and all matters that can be agreed upon. (7-1-93)

**b.** Formulating or simplifying the issues. (4-5-00)

**c.** Stipulations which will avoid unnecessary proof. (7-1-93)

**d.** Preliminary motions to be made prior to the hearing. (7-1-93)

**e.** Requiring respondent and appellant to furnish to each other and the Board a list of all witnesses to be called by the parties at the hearing. (4-5-00)

**f.** The limitation of the number of expert or lay witnesses and the disclosure of the identity of persons having knowledge of relevant facts and who may be called as a witness. (4-5-00)

**g.** The scheduling of discovery, hearings, or other time sensitive matters. (4-5-00)

- h.** Discussing settlement. (4-5-00)
- i.** Fair hearing procedures. (4-5-00)
- j.** Such other matters that may expedite orderly and speedy conduct as will aid in the disposition of the controversy. (4-5-00)

**02. Notice of Prehearing Conference.** Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the prehearing conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference must contain the same information as notices of hearing with regard the Board's obligations under the American with Disabilities Act. (2-18-05)

**03. Failure to Appear.** Failure of either party to appear at the time and place appointed by the Board under Rule 70 may result in a dismissal of ~~that party's~~ the appeal or the granting of said appeal ~~as the case may be.~~ (2-18-05)(    )

**04. Prehearing Order.** The Board or its designate may prepare or require the preparation of an order reciting the findings and action taken at such conference. ~~Such order shall supersede the pleadings and control the subsequent course of the proceeding, unless modified by the Board to prevent manifest injustice.~~ A prehearing order will control the course of subsequent proceedings unless modified by the ~~presiding officer~~ Board for good cause. (2-18-05)(    )

**05. Determination Upon Results of Conference.** If, after the prehearing conference provided for in Rule 70, and after appropriate notice to the parties, the Board determines that there is sufficient evidence and stipulation upon which it can make a decision, it may ~~vacate the hearing previously set and~~ determine the appeal ~~upon such evidence and stipulations~~ without conducting a hearing. (2-18-05)(    )

**071. (RESERVED)**

**072. MOTIONS (RULE 72).**

- 01. Form and Contents.** A motion shall: (2-18-05)
  - a.** Fully state the facts upon which it is based; (2-18-05)
  - b.** Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which it is based; and (2-18-05)
  - c.** State the relief sought. (2-18-05)

**02. Oral Argument—~~Time for Filing.~~** If the moving party desires oral argument or hearing on the motion it must state so in the motion. ~~Any motion to dismiss, strike or limit an appeal must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within ten (10) days after filing of the answer. Other motions may be filed at any time upon compliance with Subsection 72.03.~~ (2-18-05)(    )

**03. Prehearing Motions.** ~~All~~ Unless otherwise provided in these rules, a prehearing motions must be filed at least fifteen (15) days prior to a scheduled hearing to be considered by the Board. (2-18-05)(    )

~~**073. ANSWERS (RULE 73).**~~

~~**01. Answers to Pleadings Other Than Motions.** Answers to pleadings, or appeals must be filed and served on all parties of record within ten (10) days after filing of the pleading being answered, unless order or notice modifies the time within which answer may be made. When an answer is not timely filed under this rule the presiding officer may issue a notice of default. Answers to appeals must admit or deny each material allegation of the appeal.~~

~~Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (2-18-05)~~

~~**024. Answer to Motion.** An answers to a motions may be filed by persons or parties involved in the appeal. In no event is any party entitled to more than fourteen within ten (14) days to respond to a motion after the filing of the motion, or within the same period, a move for additional time to respond to a motion may be filed. (2-18-05)(    )~~

**073. (RESERVED)**

**074. BRIEFS (RULE 74).**

The Board ~~or presiding officer~~ may request order briefs from the parties ~~either~~ prior to the hearing of the evidence or after said hearing. (2-18-05)(    )

**075. DISCOVERY (RULE 75).**

~~**01. Discovery—Written Permission.** Parties A party to a pending appeal may engage in discovery if they obtain prior limited to a single discovery request upon the written permission from order of the presiding officer Board. The following procedures shall will govern discovery: (2-18-05)(    )~~

~~**a.** The motion for discovery must be filed within twenty (20) days of the mailing date of the Board's notice of appeal acknowledgment letter. Only one (1) discovery motion may be filed by a party. (2-18-05)(    )~~

~~**b.** The motion shall must contain a short plain statement of covering in particularity the reasons the discovery is useful to the preparation of the appeal. (2-18-05)(    )~~

~~**c.** The motion shall must be accompanied by the a complete copy of the discovery request. The presiding officer shall deny discovery motions which do not include the complete discovery request. (2-18-05)(    )~~

~~**d.** Discovery shall must be completed at least ten (10) days prior to the scheduled hearing, unless otherwise ordered by the presiding officer Board. (2-18-05)(    )~~

~~**e.** Service upon other parties is required at the same time as filing with the Board in accordance The Board may deny a discovery motion that does not fully comply with the requirements of this chapter. (2-18-05)(    )~~

~~**f.** Discovery responses shall be served simultaneously to on all other parties ~~and the Board. Supplementation of responses shall be in accordance with the Idaho Rules of Civil Procedure. At the same time, the responding party shall file with the Board a notice stating when and on whom the response was served. The actual contents of discovery responses will not be filed with the Board unless the order so directs. Discovery responses shall be signed by a qualified representative, and in the instance of interrogatory answers, the response shall also be signed by the person answering. Such signatures constitute a certification that the signer has reviewed the responses or answers and attests to their completeness and accuracy.~~ (2-18-05)(    )~~

~~**g.** The order compelling discovery may provide that voluminous answers need not be served so long as the documents are made available for inspection and copying under reasonable terms. (2-18-05)~~

~~**h.** The motion shall be signed by an authorized representative or a party to the appeal. (2-18-05)~~

~~**02. Scope and Method of Discovery: BOE Appeals.** The method of discovery is limited to Production requests and written interrogatories may be submitted in accordance with the rule or order of the Board. Only The scope of discovery must pertain to the subject property or any comparable sale or comparable rental, the following may be subject to discovery unless otherwise ordered by the presiding officer: (2-18-05)(    )~~

~~**a.** Information or records concerning appraisal and assessment of the subject property and comparable properties, financial statements and related schedules with respect to the subject property and comparable properties, sale agreements or contracts with respect to the subject property, comparable sales documents and lease agreements with respect to the subject property, completed studies or reports with respect to the~~

~~subject property and comparable properties. For an exemption appeal, information or documents relating to the exemption.~~ The scope of discovery also includes the following: (2-18-05)( )

i. Information or records concerning an appraisal or assessment, a financial statement or related schedule, a completed study or report, and contracts including a sale agreement; ( )

ii. The identity of individuals who will be called to testify as witnesses and a summary of their expected testimony; and ( )

iii. For an exemption appeal, any information or a document relating to the exemption claimed is discoverable. ( )

b. In a valuation case the request for production of documents or written interrogatories concerning the matters set forth above are limited to information from the last three (3) years preceding the assessment date unless otherwise specified by the Board. (2-18-05)( )

c. The request for production of documents shall specifically identify each document requested. The request for inspection of land or other property shall be in accordance with the Idaho Rules of Civil Procedure. (2-18-05)

d. The Board may limit or expand the scope and method of discovery provided by this rule when it deems such action is appropriate in a particular case. ( )

**03. Scope and Method of Discovery: STC Appeals.** (2-18-05)( )

a. Production requests, requests for admissions and written interrogatories ~~may be submitted in accordance with the rule or order of the Board~~ are permissible methods of discovery. The Board may limit the scope and method of discovery when it deems such action appropriate in a particular case. (2-18-05)( )

b. A Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or ~~rule or~~ order of the Board. (2-18-05)( )

**04. Supplementation of Response.** The party responding to a discovery order is under a continuing duty to promptly supplement an earlier response upon the availability of new information. ( )

**05. Reciprocity – Special Case.** The Board may order additional discovery not provided by this rule. ( )

**046. Sanctions.** Failure to substantially comply with Board ordered discovery; in a good faith attempt at full compliance, may result in one or more sanctions up to and including a dismissal or default judgment of the appeal(s.) (2-18-05)( )

~~076. – 079.~~ (RESERVED)

~~080. DISCOVERY WITHOUT BOARD AUTHORIZATION (RULE 80).~~  
~~Parties may agree among themselves to provide for discovery without reference to the Board's statutes, rules of procedure, or orders.~~ (2-18-05)

~~081-76.~~ -- 084. (RESERVED)

**085. INTERVENTION (RULE 85).**

**01. Intervention of Right.** Upon timely written application ~~made in writing no later than~~ received fifteen (15) days prior to the hearing of an appeal, anyone shall be permitted to intervene in an appeal when: (2-18-05)( )

a. When a **A** statute confers an unconditional right to intervene; and (7-1-93)( )

b. ~~When~~ The applicant ~~claims~~ demonstrates in writing an interest relating to the property or transaction which is the subject of the action ~~and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest~~ that is not adequately represented by existing parties. (4-5-00)( )

c. ~~In any appeal in which it is not a party~~ The Idaho State Tax Commission may intervene as a matter of right. (7-1-93)( )

**02. Permissive Intervention.** Upon timely written application ~~made in writing no later than received~~ at least fifteen (15) days prior to the ~~date set for~~ hearing of an appeal ~~anyone~~ a person natural or otherwise may be permitted to intervene ~~in an action~~. (2-18-05)( )

~~a. 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, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenor who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (2-18-05)~~

~~b.a.~~ When a statute confers a conditional right to intervene; ~~or~~ (7-1-93)( )

~~b.b.~~ In an appeal~~s~~ brought under Section 63-511, Idaho Code, when an applicant can show in writing that he is a person aggrieved by the BOE decision ~~or that he is a taxpayer of the county in which said appeal was brought; or~~ (4-5-00)( )

~~b.c.~~ When an applicant's claim or defense and the main action have a question of law or fact in common; ~~or~~ ( )

~~d.~~ When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or a state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency, ~~upon timely application in writing,~~ may be permitted to intervene in the action. ~~In exercising this discretion the Board shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties. (4-5-00)( )~~

~~e. The Board may deny or conditionally grant a petition to intervene for untimely filing that fails to state good cause for the late filing, to prevent disruption or undue delay, due to prejudice to existing parties or undue broadening of the issues, or for other reasons. An intervener who does not file a timely petition is bound by orders and notices earlier entered as a condition of granting the untimely petition. ( )~~

~~086. PUBLIC WITNESSES (RULE 86).~~

~~Persons not parties and not called by a party who 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 Rules 106 and 107, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits. (2-18-05)~~

~~087.~~ -- 089. (RESERVED)

**090. CONSENT AGREEMENT -- DEFINED -- FORM AND CONTENTS (RULE 90).**

**01. Consent Agreement Defined.** An Agreements between the taxing authority and another person(s) in which one (1) or more person(s) agree to engage in certain conduct mandated by statute, rule, order, case decision, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, case decision, or other provision of law, ~~are~~ is called a "consent agreement~~s~~." A Consent agreements ~~are~~ is intended to require compliance with existing law. (2-18-05)( )

**02. Requirements.** A consent agreement must: (2-18-05)

- a. Recite the parties to the agreement; ~~and~~ (2-18-05)( )
- b. Fully state the conduct proscribed or prescribed by the consent agreement. (2-18-05)
- 03. **Additional.** In addition, a consent agreement may: (2-18-05)
  - a. Recite the consequences of failure to abide by the agreement; (2-18-05)
  - b. Provide for payment of civil or administrative penalties authorized by law; (2-18-05)
  - c. Provide for loss of rights, licenses, awards or authority; (2-18-05)
  - d. Provide for other consequences as agreed to by the parties; and (2-18-05)
  - e. Provide that the parties waive all further procedural rights, ~~(including hearing, and consultation with counsel, etc.)~~ with regard to enforcement of the consent agreement. (2-18-05)( )

**091. -- 099. (RESERVED)**

**100. FAIR HEARING (RULE 100).**

**01. Hearing Opportunity.** In any case appealed to the Board, all parties shall be afforded an opportunity for a fair hearing after notice of hearing is provided. Opportunity shall be afforded all parties to present evidence and argument. (4-5-00)

**02. Purpose of Hearing.** The Board's goal in conducting hearings shall be the acquisition of sufficient, accurate evidence to support a fair and just determination of the issues involved in the appeal. (2-18-05)

**03. Notice of Hearing -- Mailing.** ~~A~~ Notice of ~~place, date, and hour of all~~ hearings shall be mailed at least twenty (20) days before the date set for hearing. (4-5-00)( )

**04. Setting of Hearing Date.** ~~In all instances w~~Where a hearing is deemed necessary by the Board, the Board will schedule a reasonably convenient time and place where each party may appear and offer evidence and arguments in support of ~~his~~ their position. (4-5-00)( )

**05. Telephonic Hearing.** The Board may conduct a telephonic hearing, ~~wherein~~ each participant in the hearing has an opportunity to participate in the entire ~~proceeding while it is taking place~~ hearing. (4-5-00)( )

**06. Notice of Hearing -- Contents.** The notice of hearing shall include: (2-18-05)

- a. A statement of the ~~time, place, and nature~~ date, and time of the hearing; (7-1-93)( )
- b. A statement of the legal authority ~~and jurisdiction~~ under which the hearing is to be held; (7-1-93)( )
- c. A reference to the particular sections of ~~the statutes and or rules involved~~ concerning the ~~Board's legal authority to~~ conduct of the hearing; (4-5-00)( )
- d. The name of the hearing officer who ~~will~~ is scheduled to conduct the hearing; ~~and~~ (4-5-00)( )
- e. A short and simple statement of the matters asserted or the issues involved. ~~If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application a more definite and detailed statement shall be furnished.~~ (4-5-00)( )

**07. Conference at Hearing or Recess.** The presiding officer may convene the parties before hearing or

recess the hearing to discuss formulation of ~~simplification of the~~ issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite an orderly ~~conduct of the~~ hearing. (2-18-05)(\_\_\_\_)

**101. FAILURE TO APPEAR** ~~— DEFAULT OR DISMISSAL — SETTING ASIDE — APPEARANCES~~ (RULE 101).

**01. Default or Dismissal.** Failure of either party to appear at the time and place appointed by the Board may result in a dismissal of that appeal or of the granting of the appeal. (4-5-00)

**02. Setting Aside.** Within ten (10) days after service of a default or dismissal order, the party against whom the order was entered may file a written objection requesting ~~that~~ the order be vacated and stating the specific grounds relied upon. The objection must be served on all other parties ~~to the appeal and their representatives~~ in accordance with the requirements of this chapter. The Board may, for good cause, set aside an entry of dismissal, default, or final order. (2-18-05)(\_\_\_\_)

**03. Waiver of Parties' Appearance.** Upon written stipulation of both parties that no facts are at issue, an appeal may be submitted to the Board with or without oral argument. However, the Board in its discretion may require appearance for argument or presentation of evidence. (2-18-05)(\_\_\_\_)

**102. WITHDRAWAL OF PARTIES (RULE 102).**

Any ~~party~~ appellant may withdraw ~~from~~ the notice of appeal in writing, by fax filing, or on the record at hearing. (2-18-05)(\_\_\_\_)

**103. (RESERVED)**

**104. ALTERNATIVE DISPUTE RESOLUTION (RULE 104).**

**01. Alternative Resolution of Contested Cases.** The Idaho Legislature encourages informal means of alternative dispute resolution (ADR). ~~For contested cases~~ Before the Board, the means of ADR include, but are not limited to, settlement negotiations, mediation, fact-finding, minitrials, and arbitration, or any combination of ~~them~~ these. These alternatives can frequently lead to a more creative, efficient and sensible outcomes than may be attained under formal contested case procedures. The Board may use ADR for the resolution of issues in controversy ~~in a contested case~~ if the Board finds that such a proceeding is appropriate. ~~The Board may find that using ADR is not appropriate if it determines that an authoritative resolution of the matter is needed for precedential value, that formal resolution of the matter is of special importance to avoid variation in individual decisions, that the matter significantly affects persons who are not parties to the proceeding, or that a formal proceeding is in the public interest.~~ (2-18-05)(\_\_\_\_)

**02. Neutrals.** When ADR is used for all or a portion of a contested case, the Board may provide a neutral to assist the parties in resolving their disputed issues. The neutral may be an employee of the Board or any other individual who is acceptable to the parties to the proceeding. A neutral shall have 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. (2-18-05)(\_\_\_\_)

**03. Confidentiality.** Communications in an ADR proceeding shall not be disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or the communication is required by court order, statute or rule to be made public. (2-18-05)

**105. INFORMAL DISPOSITION -- SETTLEMENT (RULE 105).**

Any action may be dismissed by the Board by stipulation, agreed written settlement, consent order, or default. For good cause shown and upon written motion made within ten (10) days of entry of a Board order, the Board may set aside such entry, judgment, or order. (2-18-05)

**01. Formalizing Agreements.** An ~~agreement~~ by the parties may be put on the record or may be reduced to writing and filed with the Board. (2-18-05)(\_\_\_\_)

**02. Confidentiality.** Settlement negotiations in 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 settlement negotiations ~~in a contested case~~ are not part of the record. (2-18-05)( )

**03. Settlement Inquiry.** Through notice or ~~through an~~ order ~~made~~ on the record ~~at prehearing conference or hearing~~, the ~~presiding officer~~ Board 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 a certain issue. (2-18-05)( )

**04. Consideration of Settlements.** ~~A~~ Settlements must be reviewed under this rule. When a settlement is presented ~~to the presiding officer~~, the ~~presiding officer~~ Board will prescribe procedures appropriate to the nature of the settlement to consider the settlement. ~~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~~ The Board may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the Board's charge under the law. (2-18-05)( )

**05. Burden of Proof.** Proponents of a proposed settlement carry the burden of showing that the settlement 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 settlement as a condition of accepting or rejecting the settlement.~~ (2-18-05)( )

**06. Settlement Not Binding.** The ~~presiding officer~~ Board is not bound by 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.~~ (2-18-05)( )

**106. PRESIDING OFFICER (RULE 106).**

Any member(s) of the Board or assigned hearing officer(s) may preside at the hearing and shall have power to: (2-18-05)( )

**01. Oath or Affirmation.** Administer oaths or affirmations, call a party or other person present at hearing as a witness, examine witnesses and receive evidence; (4-5-00)

**02. Depositions.** Take or cause depositions to be taken; (7-1-93)

**03. Hearing.** Regulate the course of the hearing and maintain an orderly proceeding; (4-5-00)

**04. Motions.** Dispose of the procedural requests, motions or similar matters; (7-1-93)

**05. Certification by Board.** Make decisions or proposals for decisions (subject to certification by ~~the entire Board or~~ a majority of the Board); (4-5-00)( )

**06. Official Record.** Develop a full and accurate record and certify the record of said appeal on behalf of the Board; ~~and~~ (2-18-05)( )

**07. Other Action.** Take any other appropriate action reasonable under the circumstances. (4-5-00)

**107. PROCEDURE AND TESTIMONY (RULE 107).**

**01. Preliminary Procedure.** The presiding officer shall call the proceeding for hearing and proceed to take the appearances and act upon any pending motion ~~or motions~~. Parties may then make opening statements ~~as they may desire~~. (7-1-93)( )

**02. Testimony.** All testimony ~~to be considered by the Board in formal hearings~~, except matters noticed officially or entered by stipulation at hearings or prehearing conference, shall be taken only on oath or affirmation. (4-5-00)( )

**03. Order of Procedure.** The appellant shall ~~go forward to~~ present ~~his case~~ first with the respondent and any intervenor then presenting ~~such matters as he deems proper~~. Parties may then make closing statements ~~as they may desire~~ in the same order as the presentation of evidence. The presiding officer may require ~~that the parties submit~~ submission of briefs in addition to, or in lieu of, closing arguments. A maximum of two (2) weeks shall be allowed to submit these briefs. The presiding officer may prescribe a different procedure than herein provided. (2-18-05)( )

**04. Presentation of Evidence.** Evidence may be presented in the following order: (4-5-00)

a. Evidence is presented by appellant. (4-5-00)

b. Evidence is presented by any intervening or opposing party. (4-5-00)

c. Rebuttal evidence is presented by appellant. (4-5-00)

d. Surrebuttal evidence is presented by any intervening or opposing party. (4-5-00)

**05. Examination of Witnesses.** With regard to any witness who testifies, the following examination may be conducted: (4-5-00)( )

a. Direct examination ~~conducted~~ by the party who called the witness. (4-5-00)( )

b. Cross-examination by any intervening or opposing party. (4-5-00)

c. Redirect examination by the party who called the witness. (4-5-00)

d. Recross-examination by any intervening or opposing party. (4-5-00)

e. Examination by the ~~hearing officer~~ Board. (4-5-00)( )

**108. -- 109. (RESERVED)**

**110. STIPULATIONS (RULE 110).**

With the approval of the presiding officer the parties may stipulate as to any fact at issue, ~~either by written stipulation or introduced in evidence as~~ The stipulation may be filed, or offered through an exhibit or by oral statement shown upon the hearing record. Any such stipulation shall be binding upon all parties so stipulating and may be regarded by the Board as evidence. The Board, however, may require evidence of the facts stipulated, notwithstanding the stipulation ~~of the parties~~. (2-18-05)( )

**111. CONTINUANCE—~~EXTENSIONS OF TIME~~ (RULE 111).**

**01. Continuances.** A continuance may be ordered by the Board upon filing of a timely and written motion containing the stipulated agreement and signature of all parties to the appeal. For a scheduled hearing, timely shall mean at least fifteen (15) days prior to hearing. The ~~request~~ motion shall clearly and convincingly show good cause and contain the specific time extension requested. (2-18-05)( )

**02. Consideration.** Continuances shall be generally disfavored by the Board. The Board shall grant, or require on its own initiative, a continuance only when unusual and highly pressing circumstances are present. In no instance shall an extension cause a delay in proceedings for more than three (3) months. In no instance shall a second continuance be granted. (4-5-00)

**112. -- 114. (RESERVED)**

**115. OFFICIAL NOTICE (RULE 115).**

The Board may take official notice of judicially cognizable facts. In addition, the Board may take notice of general, technical, financial, or scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing, ~~or by reference in preliminary reports or otherwise,~~ of the material noticed. Parties shall be given a reasonable opportunity to object, review, examine, and rebut or contest the information sought to be noticed. (2-18-05)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**117. RULES OF EVIDENCE ~~EVALUATION OF EVIDENCE~~ (RULE 117).**

**01. Evidence, Admissibility and Evaluation.** Evidence should be taken by the Board to assist the parties' development of the record, not excluded to frustrate that development. The presiding officer is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any evidence. The presiding officer, with or without objection, may exclude evidence that is irrelevant, immaterial, unduly repetitious, or inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho. The Board shall give effect to rules of privilege recognized by law. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of serious affairs. When proceedings will be expedited and the interests of the parties will not be substantially prejudiced, any part of the evidence may be received in written form. The Board's experience, technical competence and specialized knowledge may be used in evaluation of the evidence. (2-18-05)

**02. Documentary Evidence.** Upon request, parties shall be given an opportunity to compare the copy with the whole of the original document. Filing of a document does not signify its receipt in evidence, and only those documents which have been received in evidence shall be considered as evidence in the official record of the case. (2-18-05)

**03. Depositions.** A deposition may be offered into evidence. (2-18-05)

**04. Prepared Testimony.** The presiding officer may order a witness's prepared testimony previously distributed to all parties be included in the record of hearing as if read. Admissibility of prepared testimony is subject to the standards expressed in this rule. (2-18-05)

**05. Objections and Exceptions.** Where objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly at the time ~~the evidence is offered~~ of objection and before the start of closing statements. Formal exceptions to rulings are unnecessary and need not be taken. (4-5-00)( )

**06. Evidentiary Rulings.** The presiding officer shall rule on the admissibility of all evidence and may grant exceptions to the requirements of this rule in the interest of justice. Such rulings may be reviewed by the Board in determining the matter on its merits. Any evidence ruling may be deferred to the entire Board by the presiding officer or taken under advisement. The presiding officer may receive evidence subject to a motion to strike at the conclusion of the hearing. (2-18-05)

**07. Offer of Proof.** An Offer of Proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained. In any event where the presiding officer rules evidence inadmissible, the party seeking to introduce such evidence must make an Offer of Proof ~~regarding it in order~~ to have such evidence considered by the Board. (4-5-00)( )

**08. Failure to Produce Evidence -- Adverse Inference.** The Board may draw an adverse inference when a party or witness fails to produce requested evidence which is reasonably in the party or witness's control. (2-18-05)

**09. Post-Hearing Evidence.** Unless allowed by the presiding officer, no post-hearing evidence will be accepted. ( )

**118. EXHIBITS (RULE 118).**

**01. Custody.** The Board shall keep all original exhibits ~~in its care and custody~~ unless otherwise provided by law. (2-18-05)(    )

**02. Marking ~~Exhibits~~.** Exhibits will be marked ~~by the presiding officer indicating~~ to indicate the sponsoring and offering party. (2-18-05)(    )

**03. Form.** ~~An Exhibits~~ prepared for hearing should ~~ordinarily~~ be typed or printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except a maps, charts, photographs ~~and or~~ non-documentary exhibits may be introduced on the size or kind of medium customarily used for them. (2-18-05)(    )

**04. Copies.** 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. Copies must be of good quality. (2-18-05)

**05. Objections.** ~~An Exhibits~~ identified at hearing ~~are is~~ subject to appropriate and timely objection before the ~~close of the hearing~~ start of closing statements. ~~A presented Exhibits~~ to which no objection is made ~~are is~~ automatically admitted into evidence without motion ~~of the sponsoring party~~. (2-18-05)(    )

**119. -- 124. (RESERVED)**

**125. CONFIDENTIALITY -- PROTECTIVE ORDERS (RULE 125).**

The decisions and official records in appeals before the Board are public records and will be disclosed unless otherwise provided by Title 9, Chapter 3, Idaho Code, or ~~in the event when~~ a protective order, consistent with Title 9, Chapter 3, Idaho Code, is issued ~~by the Board requiring that specified parts of the record be kept confidential~~. A party may file a motion for a protective order showing good cause why specific information ~~in the record, or likely to become part of the record through discovery or evidence obtained at hearing~~, should remain confidential. The motion ~~under this rule~~ must ~~also contain~~ include a ~~statement or~~ sworn affidavit as to the truthfulness of the contents. ~~The party requesting a protective order must serve a copy of the request on all other parties and the parties' representatives in accordance with the requirements of this chapter. If any another party opposes the request for a protective order, the that~~ party must file a written opposition objection within ten (10) days ~~of the date of service of the request~~. The motion for protective order must be filed within twenty (20) days of the mailing date of the Board's notice of appeal acknowledgement letter. (2-18-05)(    )

**126. -- 134. (RESERVED)**

**135. SCOPE OF APPEAL IN AD VALOREM APPEALS CASE (RULE 135).**

In ~~all~~ appeals brought under Section 63-511, Idaho Code, ~~in which where~~ the appellant appeals challenges only the value or exempt status ~~established by the board of equalization~~ upon either the land or the improvements on the land, the Board shall have jurisdiction to determine the value or exempt status ~~when one (1) or the other is appealed over the entire property~~. The Board shall have the power to increase or decrease the value of property in a market value ~~appeals regardless of which party appealed~~. If the Board finds that a property classification is in error, it shall determine the correct classification. (2-18-05)(    )

**136. -- 139. (RESERVED)**

**140. DECISIONS AND ORDERS (RULE 140).**

**01. Submission for a Decision.** The proceeding shall stand submitted for decision by the Board after ~~taking of evidence, the filing of briefs or the presentation of oral arguments~~ the record is closed by the presiding officer or as ~~may have been otherwise~~ prescribed by the Board ~~or the presiding officer unless otherwise specifically provided~~. (4-5-00)(    )

**02. Post Hearing Evidence.** ~~Unless requested by the Board, no posthearing evidence will be accepted.~~ (2-18-05)

~~032.~~ **Proposed Orders.** Prior to a final decision on the merits the Board may, ~~in its discretion,~~ request proposed findings of fact and conclusions of law from each party. (2-18-05)( )

~~043.~~ **Decisions Dicta.** ~~Board decisions are binding pursuant to Section 63-3813, Idaho Code. A recommended decision or substantive order shall become final when signed by at least two (2) board members. Any~~ A member who dissents or concurs may state their reasons. (2-18-05)( )

~~054.~~ **Service of Orders Notice.** Parties' representatives shall be notified by mail of any final decision or order. ~~Copies of the decision or order shall be served on all parties and the parties' representatives of record.~~ (4-5-00)( )

~~065.~~ **Public Inspection.** Decisions and orders of the Board shall be open to public inspection. (7-1-93)

~~076.~~ **Decision of Board on the Record.** A decision of the Board will be based on the official record for the case. ~~When no dispute of fact exists, the decision will be based on conclusions of law made by the Board. The Board shall hear and determine appeals as de novo proceedings. Decisions shall contain separately stated findings of fact and conclusions of law upon which the Board's determination is based.~~ (2-18-05)( )

141. -- 144. (RESERVED)

145. **RECONSIDERATIONS -- REHEARINGS (RULE 145).**

**01. Time for Filing and Service.** A party adversely affected by a final decision ~~of the Board~~ may move for reconsideration or rehearing within ten (10) days of the time the decision ~~of the Board~~ is mailed. The petitioner must file a supporting brief making a strong showing of good cause why a reconsideration or a rehearing motion should be granted. ~~In a motion for rehearing w~~here the presentation of additional evidence is sought ~~or anticipated,~~ the motion shall include the reason why such evidence was not presented previously. ~~Filing and service thereof shall conform to the requirements set forth in Rules 60 and 61. If the party requesting rehearing so requests, the matter may be determined by the entire Board. If a rehearing by the entire Board is requested and granted it will be conducted at a regular meeting in Boise or a meeting convened for that purpose at Boise or such other place as may be designated by the chairman of the Board.~~ (2-18-05)( )

**02. Consideration.** Reconsideration or rehearing may be granted or ordered on the Board's own motion if, in reaching the decision, the Board has overlooked or misconceived some material fact or proposition statement of law; misconceived a material question in the case; applied law in the ruling that has subsequently changed; or a party is found to have been denied the opportunity for a fair hearing. (2-18-05)( )

**03. Procedure for Reconsideration.** Reconsideration is based on the record, unless the Board allows additional evidence and argument. (4-5-00)

**04. Procedure ~~at~~ for Rehearing.** Rehearings will be conducted in accordance with the procedure at regular hearings, subject to the discretion of the Board ~~or the presiding officer.~~ (4-5-00)( )

**05. Answer ~~to Motion for Reconsideration or Rehearing~~.** Within ten (10) days after a motion for reconsideration ~~of or~~ rehearing is filed, any other party ~~to the proceeding~~ may file an answer a response in support of or in opposition to said motion. ~~A copy of the answer must be served on other parties and the representatives of record for such parties.~~ (4-5-00)( )

**06. Disposition.** A petition motion for reconsideration or rehearing shall be deemed denied if, within ~~twenty~~ thirty (230) days from the date the petition is received by the Board, no response is made by the Board. (4-5-00)( )

146. -- 150. (RESERVED)

151. **OFFICIAL RECORD (RULE 151).**

- 01. Content.** The record ~~for a contested case~~ shall include: (2-18-05)( )
- a.** All notices of proceedings; (2-18-05)
  - b.** All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; (2-18-05)
  - c.** All intermediate or interlocutory rulings; (2-18-05)
  - d.** All evidence received ~~or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing);~~ (2-18-05)( )
  - e.** All offers of proof, however made; (2-18-05)
  - f.** All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, ~~statements of or~~ support, and ~~exceptions filed by parties or persons not parties~~ **objections, but not discovery responses;** (2-18-05)( )
  - g.** All evidentiary rulings on testimony, exhibits, or offers of proof; (2-18-05)
  - h.** All taxing authority data submitted in connection with the consideration of the proceeding; (2-18-05)
  - i.** A statement of matters officially noticed; (2-18-05)
  - j.** All recommended orders, preliminary orders, final orders, and orders on reconsideration **or rehearing;** (2-18-05)( )
  - k.** Photocopies of all original documents ~~may be substituted for the originals~~ unless specifically objected to by a party to the proceedings; and (2-18-05)( )
  - l.** The **recording or** transcript ~~defined specified~~ in Rule 151.02. (2-18-05)( )

**02. Transcript Verbatim Record.** The official **transcript recording** of the hearing will be taken by means of ~~electronic tape recorder~~ **a digital recorder or other device.** ~~Any party desiring the taking of stenographic notes by a qualified court reporter must request at least fifteen (15) days before the date set for hearing and must submit to the Board or presiding officer the name of the qualified reporter who is available on the date set for hearing. The~~ **A** party requesting ~~the a court~~ reporter shall bear the expense of the reporter's fees, ~~and if~~ the reporter's transcript is deemed by the Board ~~or presiding officer~~ to be the official transcript ~~of the hearing~~, the party requesting the reporter shall furnish the Board a transcript free of charge. (2-18-05)( )

**03. Cost of Transcript.** ~~Uncertified copies of the transcript tape(s)~~ **A certified copy of a recording** will be provided at the cost of ten dollars (\$10) ~~per tape.~~ **A party may receive one (1) copy at no charge.** (2-18-05)( )

**152. -- 154. (RESERVED)**

**155. SUBPOENAS (RULE 155).**

**01. Form and Purpose.** ~~Every subpoena shall be prepared by the requesting party or at the Board's own motion and shall state the name of the Board and the title of the action, and shall command each person to whom it is directed to attend and give testimony and/or produce the books, papers, documents, or tangible things designated therein at the time and place therein specified. A subpoena may be used for the purpose of discovery or for the purpose of presenting evidence at a formal hearing.~~ **Issuance of Subpoena.** Upon a motion in writing, or upon the Board's own initiative without motion, the Board may issue a subpoena requiring: (4-5-00)( )

- a. The attendance of a witness from any place in Idaho;** ( )

b. The production of documents from any place in Idaho; or ( )

c. The production of any book, paper, document, or tangible thing kept within or without Idaho to any designated place of deposition or hearing for the purpose of taking testimony or examining a document before the Board. ( )

02. ~~**Issuance to Parties**~~ **Motion Contents and Timing.** ~~Upon written application of parties, attorneys or other representative authorized to practice before the Board for any party in a proceeding, including~~ The motion shall be in writing and include a showing of relevance and the reasonable scope of the testimony or ~~evidence~~ specific items sought, ~~there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The Board may issue subpoenas to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought. The motion for subpoena shall be filed at least fifteen (15) days before the date and time set forth in the subpoena, exceptions may be granted upon a showing of good cause.~~ (4-5-00)( )

03. **Service.** Service, and the filing of the proof of such service with the Board, shall be the responsibility of the requesting party. ~~Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand the fees for one (1) day's attendance and the mileage allowed by law to a witness in civil cases in the district court.~~ (4-5-00)( )

04. **Fees.** A ~~Witnesses~~ summoned pursuant to subpoena shall be paid by the party at whose instance they appear the same fees and mileage allowed by law to a witness in civil cases in the district court. (7-1-93)( )

~~05. **Proof of Service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the Board.~~ (7-1-93)

~~06. **Motion to Quashing.** The Board, U~~ upon motion to quash made promptly, ~~at or~~ and in any event, made before the time specified in to comply with the subpoena, ~~for compliance, by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the Board may:~~ (7-1-93)( )

a. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or (7-1-93)

b. Condition denial of the motion upon just and reasonable conditions. (7-1-93)( )

~~07. **Enforcement.** If any witness shall fail to properly respond to a subpoena, the Board may petition the district court in and for the county in which the proceeding is pending setting forth the issuance of the subpoena, its proper service and the basis upon which the Board alleges that the witness failed to respond.~~ (7-1-93)

~~08. **Geographical Scope.** Such attendance of witnesses and such production of evidence may be required from any place in the state of Idaho at any designated place of hearing.~~ (7-1-93)

156. -- 164. (RESERVED)

165. **REQUEST FOR ~~WRITTEN~~ TRANSCRIPT (RULE 165).**

~~Upon request of a written transcript, the Board may provide a list of court reporting and transcribing services to the requesting party. The party requesting a transcript shall make the A~~ arrangements for preparation of transcript and payment of the fee ~~will be made between the party requesting the transcript and~~ directly with the transcriber. The original ~~tape recorded~~ hearing transcript recording will remain with the Board until requested by the transcriber, or included ~~in~~ with the official record transmitted to the district court. (2-18-05)( )