

Table of Contents

16.01.14 - RULES FOR ADMINISTRATION OF AGRICULTURAL WATER QUALITY PROGRAM IN IDAHO

000. LEGAL AUTHORITY.	2
001. TITLE AND SCOPE.	2
002. POLICY.	2
003. DEFINITIONS AND ABBREVIATIONS.	2
004. -- 099. (RESERVED).	4
100. RESPONSIBILITIES.	4
101. APPLICABILITY.	5
102. -- 199. (RESERVED).	6
200. STATE AGRICULTURAL PROJECT LIST.	6
201. PROJECT PRE-APPLICATIONS AND APPLICATIONS.	6
202. -- 299. (RESERVED).	7
300. GRANT AGREEMENTS.	7
301. SUSPENSION OF GRANT.	7
302. TERMINATION OF GRANT AGREEMENT.	7
303. -- 399. (RESERVED).	8
400. PARTICIPANT CONTRACTS.	8
401. CONTRACTING.	9
402. CONTRACT MODIFICATION.	10
403. CONTRACT VIOLATION AND APPEALS.	11
404. CONTRACT TERMINATION.	12
405. PAYMENT.	12
406. -- 499. (RESERVED).	12
500. QUALITY CONTROL.	12
501. EVALUATION.	12
502. -- 995. (RESERVED).	13
996. ADMINISTRATIVE PROVISIONS.	13
997. CONFIDENTIALITY.	13
998. INCLUSIVE GENDER.	13
999. SEVERABILITY.	13

**IDAPA 16
TITLE 01
Chapter 14**

**16.01.14 - RULES FOR ADMINISTRATION OF
AGRICULTURAL WATER QUALITY PROGRAM IN IDAHO**

000. LEGAL AUTHORITY.

The Idaho State Board of Health and Welfare, pursuant to authority granted in Sections 39-105(2) and 39-3601, Idaho Code, has been granted the authority to adopt the following rules for the administration of an Agricultural Water Quality Program in Idaho. (12-31-91)

001. TITLE AND SCOPE.

01. Title. These rules shall be known and cited as Idaho Department of Health and Welfare Rules, Title 1, Chapter 14, "Rules for Administration of Agricultural Water Quality Program in Idaho." (12-31-91)

02. Scope. The provisions of these rules set forth procedures and requirements for establishing, implementing, and administering a state grant program for providing financial assistance to soil conservation districts for the control and abatement of water pollution from agricultural lands. (11-1-81)

002. POLICY.

It is the policy of the Idaho State Board of Health and Welfare to administer the Agricultural Water Quality Program for the purpose of protecting and enhancing the quality and value of the water resources of the state of Idaho by financially assisting soil conservation districts in the control and abatement of water pollution from agricultural lands. It is also the intent of the Idaho State Board of Health and Welfare, with the approval of the Idaho Soil Conservation Commission, to assign a priority ranking to those projects which will most significantly improve the quality of the waters of the State. (12-31-91)

003. DEFINITIONS AND ABBREVIATIONS.

For the purposes of this chapter the following terms and phrases are used as defined herein: (12-31-91)

01. Administrative Costs. Grant and fund transfer costs, including allowable costs incurred in contract administration. These costs, indirect and direct, include charges for personnel, travel, materials, and supplies. (11-1-81)

02. Average Cost. The constructed cost which is based on actual costs and current cost estimates necessary to carry out a BMP or an identifiable unit thereof. (11-1-81)

03. Best Management Practices. A practice or combination of practices identified in the Idaho Agricultural Pollution Abatement Plan which are determined to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources. (11-22-89)

04. BMP. Best Management Practice. (11-1-81)

05. BMP Cost. The amount actually paid or engaged to be paid by the participant for equipment use, materials, and services for installing a BMP or an identifiable unit thereof, not to exceed the average cost or specified maximum cost as determined by the district and the technical agency. If the participant uses his own forces, the BMP cost is the constructed value of his own labor, his own equipment use, and materials he produced and used. Loss of income cannot be considered as a BMP cost. (11-22-89)

06. Board. The Idaho State Board of Health and Welfare. (12-31-91)

07. Commission. The Idaho Soil Conservation Commission, as defined in Section 22-2718, Idaho Code. (11-1-81)

08. Contract. The legal document executed by the district and the participant. It shall include the water quality plan and shall detail the agreement between parties for installing BMP's on the participant's land. (11-1-81)

09. Cost-Share Rate. The percentage of the BMP cost paid to the participant by the district. This rate shall be established by the district with the concurrence of the Commission and shall be consistent with other cost-share rates in the area. The cost-share rate cannot exceed seventy-five percent (75%) of the BMP cost. (11-22-89)
10. Critical Areas or Sources. Those areas or sources of agricultural pollution identified by the district as having the most significant impact on the quality of the receiving waters in the project area. (11-22-89)
11. Department. The Idaho Department of Health and Welfare. (11-1-81)
12. Director. The Director of the Idaho Department of Health and Welfare or his designee. (12-31-91)
13. District. A soil conservation district, as defined in Section 22-2717, Idaho Code. (11-1-81)
14. Eligible Land. Privately owned agricultural land. Land outside the project area that is a contiguous part of a field is eligible if the acreage is one-third (1/3) or less of the total field. (11-22-89)
15. Eligible Project Area. A hydrologically related land area included in the list of high priority segments as identified in the Idaho Agricultural Pollution Abatement Plan. (11-22-89)
16. Idaho Agricultural Pollution Abatement Plan. The plan, developed in response to Section 208 of the 1972 Clean Water Act, addressing the State Agricultural Water Quality Program for managing agricultural pollution. (11-22-89)
17. Identifiable Unit. Part of an eligible BMP that, when carried out, can be clearly identified as a segment in the sequence of implementing the BMP. (11-1-81)
18. Local Matching Share. That portion of the project costs contributed by the district, including in-kind services and/or the participant's share of BMP costs. BMP costs include cost-shared and non cost-shared BMPs. (11-22-89)
19. Minimum Level of Participation. A minimum level of participation is when participants having control of seventy-five percent (75%) of the identified critical areas or sources of pollution in the project area are under contract, unless otherwise approved by the Department and the Commission. This seventy-five percent (75%) is to be achieved within five (5) year of project start-up. Fifty percent (50%) is to be achieved within three (3) years of project start-up. (11-22-89)
20. Nonpoint Source Pollution. Water pollution that comes from many varied, nonspecific and diffused sources and can be categorized by the general land disturbing activity that causes the pollution. (11-1-81)
21. Participant. A landowner or operator in an approved project area who applies for and receives assistance from the district or who applies BMP's on land in the project area. (11-22-89)
22. Plan of Operation. The document prepared by the district setting forth the procedure and schedule for carrying out the project. The plan of operation shall be part of the grant agreement. (11-1-81)
23. Project. The total system of planning, including water quality assessment, BMP cost-sharing, technical assistance, and administrative activities authorized in an approved project area. (10-10-84)
24. Project Costs. Those costs associated with planning, and water quality assessment, BMP cost-sharing, technical assistance, and administrative activities authorized in an approved project area. (10-10-84)
25. Project Life Span. The maximum total life span of a project shall not be greater than fifteen (15) years from the date the project funds are first made available. (11-1-81)
26. Specified Maximum Cost. The maximum amount, applicable to a BMP or an identifiable unit thereof, to which cost-sharing will apply. (11-1-81)

27. State Agricultural Project Priority List. The list of eligible project areas established by the Department and the Commission, with the approval of the Board, from which grants shall be awarded. (11-22-89)

28. State Agricultural Stream Segment Priority List. The list of stream segments identified in the Idaho Pollution Abatement Plan. (11-22-89)

29. Technical Agency. The agency(ies) designated by the District to provide technical assistance and quality control in BMP planning and implementation. (11-22-89)

30. Technical Assistance Costs. Those costs incurred in the preparation of a project plan, the participant's water quality plan; the design and layout of BMP's; the monitoring of water quality; and the development and implementation of public information and education activities in an approved project area. (10-10-84)

31. Water Quality Plan. The plan developed cooperatively by the participant, technical agency and the district which identifies the critical areas and sources of water pollution on the participant's land and sets forth BMP's which will reduce water pollution from these critical areas and sources. (11-22-89)

004. -- 099. (RESERVED).

100. RESPONSIBILITIES.

01. Department. The Department shall: (12-31-91)

a. As funds are available, make grants of up to seventy-five percent (75%) of project costs to any soil conservation district to assist in the application of BMP's in an approved project area; (10-10-84)

b. Administer the funds granted by the State; (11-1-81)

c. Establish and update with the Commission the state agricultural project priority list; (11-22-89)

d. Provide, to the extent feasible, water quality monitoring in project areas; (11-1-81)

e. Evaluate, on an ongoing basis, the effectiveness of each project and the overall program in reducing agricultural pollution; (11-22-89)

f. Approve BMP's used in each project area; (11-1-81)

g. Provide technical assistance concerning water quality in each project area; and (11-1-81)

h. Develop, with the assistance of the Commission, a procedure for submitting project applications. (11-1-81)

i. Approve, jointly with the Commission, districts' plans of operation for eligible projects. (11-22-89)

02. Commission. The Idaho Soil Conservation Commission shall, if required by the Department: (10-10-84)

a. Establish and update with the Department the State agricultural project priority list; (11-22-89)

b. Assist districts in determining cost-share rates for BMP's; (11-1-81)

c. Assist districts in establishing methods for project administration and for providing technical assistance to participants; (11-1-81)

d. Approve, jointly with the Department, districts' plans of operation for eligible projects; (11-22-89)

- e. Approve contracts developed between districts and participants; (11-1-81)
- f. Assist the Department in evaluating, on an ongoing basis, the effectiveness of each project and the overall program in reducing agricultural nonpoint source pollution; (11-1-81)
- g. Assist the Department in developing a procedure for submitting project applications; and (11-1-81)
- h. Monitor project administration and district financial management as required by Section 22-2718, Idaho Code. (11-1-81)
- 03. District. The Soil Conservation District shall during the life of an eligible project, if required by the Department: (10-10-84)
 - a. Develop a plan of operation for the project and submit such plan to the Department and the Commission; (11-22-89)
 - b. Develop, with the assistance of the technical agency, water quality plans and contracts for participants in the project area and provide cost-share payments to participants for installation of BMP's; (11-22-89)
 - c. Determine in conjunction with the Commission cost-share rates for installation of BMP's; (11-1-81)
 - d. Establish in conjunction with the Commission methods for project administration and for providing technical assistance to participants; (11-1-81)
 - e. Ensure that the local matching share of the cost of the project is provided; (11-1-81)
 - f. Assure a minimum level of landowner participation and application of BMP's to ensure that water quality goals are met; (11-22-89)
 - g. Coordinate the program with the activities of other appropriate cost-share programs in the project area; (11-22-89)
 - h. Adopt with the concurrence of the Department and the Commission the local SCS Field Office Technical Guide used for BMP planning and implementation in the District; and (11-22-89)
 - i. Review and render decisions on all contract modifications and violations in an approved project area. (11-1-81)

101. APPLICABILITY.

- 01. Availability of Funds. The provisions of the program are subject to: (11-1-81)
 - a. The availability of unobligated funds in the State Water Pollution Control Account; and (11-1-81)
 - b. The appropriation of funds by the Legislature to the Department. (11-1-81)
- 02. Obligation of State Funds. The obligation of state funds to the districts is to be made on the basis of total project costs. (11-1-81)
- 03. Relation to Other Cost-Share Programs. The cost-share payments made under this program: (11-1-81)
 - a. Shall be in addition to and not in lieu of other federal, state and local programs for cost-sharing of conservation practices and/or BMP's; and (11-1-81)
 - b. May be used in conjunction with other federal, state, and local programs for cost-sharing of

conservation practices and/or BMP's, as long as the total cost-share rate for any BMP does not exceed the rate established for that BMP by the district. (11-1-81)

102. -- 199. (RESERVED).

200. STATE AGRICULTURAL PROJECT LIST.

01. Purpose. The purpose of the state agricultural project priority list is to rate and rank projects on the basis of the stream segment classification; water quality effects and benefits; project costs; population affected; and other sources of funding in the project area. (11-22-89)

02. Establishment. The project priority list shall be established by the Department and the Commission, with the approval of the Board, through the following procedure: (11-22-89)

a. Pre-applications and/or applications will be solicited from districts encompassing priority stream segments as identified in the Idaho Agricultural Pollution Abatement Plan. (11-22-89)

b. The applying district shall submit to the Department and the Commission a completed pre-application and/or application in a form prescribed by the Department. (11-22-89)

c. Each pre-application and/or application will be reviewed and evaluated by the Department, the Commission and the technical agency on the basis of the following criteria: (11-22-89)

i. Beneficial uses impacted; and (11-22-89)

ii. Relative ability of proposed projects to protect and/or improve beneficial uses; and (11-22-89)

iii. Population affected; and (11-1-81)

iv. Readiness to proceed; and (11-1-81)

v. Other funding sources in the project area; and (11-1-81)

vi. Availability of technical assistance. (11-22-89)

d. Those projects of highest ranking as determined by the project priority ranking or Board action will receive highest consideration for funding. (11-22-89)

03. Board Approval. The project priority list shall be submitted annually to the Board for approval. (11-22-89)

04. Project Priority List Modification. The project priority list shall be reviewed periodically throughout the fiscal year and modified as necessary to assure up-to-date status of all projects and consistency with applicable state regulations and requirements. All major project priority list modifications shall be submitted to the Board for review and approval. (11-22-89)

05. Project Bypass. A project that does not or will not meet a schedule that allows for timely utilization of grant funds may be bypassed. The highest ranking project(s) that is ready to proceed would be substituted in its place. (11-1-81)

201. PROJECT PRE-APPLICATIONS AND APPLICATIONS.

01. Submission of Pre-applications and Applications. The applying district must submit to the Department and the Commission completed pre-applications and applications in a form prescribed by the Department. (11-22-89)

02. Acceptance of Pre-applications and Applications. Applications shall be accepted in accordance

with the state agricultural stream segment priority list and no pre-applications and applications inconsistent with that list shall be accepted unless approved by the Board. (11-22-89)

03. Pre-applications and Applications Review and Approval. The Department and the Commission shall jointly review and approve or disapprove all pre-applications and applications. (11-22-89)

04. Notification of Approval and Disapproval. Written notification of approval shall be sent to the applying district. Written notification of disapproval with the reasons for denial shall be sent jointly by the Department and the Commission with concurrence from the technical agency. (11-22-89)

202. -- 299. (RESERVED).

300. GRANT AGREEMENTS.

01. Content and Function. The grant agreement shall detail the working arrangements among the district, the Department, and the Commission. This agreement is the fund obligating document. (11-1-81)

02. Conditions. The Department may place conditions on the grant to enhance effectiveness of the project. (11-1-81)

03. Amendment. A grant agreement may be amended by mutual consent of the parties to the agreement. (11-1-81)

301. SUSPENSION OF GRANT.

01. Order to Suspend. Work on a project or a portion or phase of a project may be suspended by written order of the Department to the district. The Director shall not give less than ten (10) days notice to the district (certified mail, return receipt requested) of the order to suspend. (11-1-81)

02. Existing Contracts. Suspension does not affect contracts existing at the time the suspension order is issued, or the district's responsibility to make payments under such contracts unless specifically provided for in the order to suspend. (11-1-81)

03. Cause of Suspension. Suspension may be required for good cause, such as default by the district, failure to comply with the terms and conditions of the grant, realignment of the program, or failure to meet the BMP standards and specifications adopted by the district at the time the grant agreement was approved, or may be ordered as the result of advancements in the state-of-the-art, subject to negotiation with the district. (3-19-82)L

04. Compliance with Order. Upon receipt of a suspension order, the district shall promptly comply with its terms and take all reasonable steps to minimize costs allocable to the work covered by the order. (11-1-81)

302. TERMINATION OF GRANT AGREEMENT.

01. Termination of Grant. The Director may, based on evidence of failure to comply with the terms of the grant agreement, issue a notice of intent to terminate the grant agreement. The Director shall not give less than ten (10) days written notice to the district (certified mail, return receipt requested) of intent to terminate the grant in whole or in part. (11-1-81)

02. Board Authorization. After the district has been afforded an opportunity for consultation, the Director may request authorization from the Board to terminate the grant in whole or in part. (11-1-81)

03. Termination Notice. Termination of all or part of the grant agreement may be carried out by issuance of a grant termination notice by the Board. The notice shall establish the effective date of termination of the grant, the basis for settlement of grant termination costs, and the amount and date of payment of any sums due either party. (11-1-81)

04. Cause of Termination. A grant may be terminated for good cause, which includes: (11-1-81)

- a. Failure of the district to make satisfactory progress toward achieving an adequate level of participation; or (11-1-81)
 - b. Failure or inability of the district to perform in accordance with the provisions of the grant agreement; or (11-1-81)
 - c. Failure through no fault of the district to achieve an adequate level of participation; or (11-1-81)
 - d. Other evidence that the action planned in the project application will not be achieved; or (11-1-81)
 - e. Continuation will not be of benefit to the State. (11-1-81)
05. District Responsible. In those cases where cause for grant termination is based on the district's failure or inability to perform, upon termination the district must refund to the Department unexpended grant funds paid to the district. (11-1-81)
- a. Funds needed to meet unavoidable commitments may be retained. (11-1-81)
 - b. The district shall not make any new commitments or enter any new contracts. (11-1-81)
 - c. Upon grant termination, the duty for administering existing contracts shall be transferred immediately to the Commission to assure continuity in payments to participants. (11-1-81)
06. Other Causes. In those cases where cause for grant termination is based on failure to achieve planned actions or an adequate level of participation through no fault of the district, the district shall be allowed to fulfill the obligations of its existing contracts. The district shall not enter into any new contracts without Department approval. (11-1-81)

303. -- 399. (RESERVED).

400. PARTICIPANT CONTRACTS.

01. Application for Assistance. The district shall ensure that a procedure exists for applying for cost-share assistance in the project area. Said procedure shall include, but not be limited to: (11-1-81)
- a. A standard application form as provided by the Commission; and (11-1-81)
 - b. A method of determining priorities for assistance among landowners and operators; and (11-1-81)
 - c. A method of approving or disapproving applications for cost-share assistance. (11-1-81)
02. Water Quality Plan. The participant's water quality plan, developed by the participant with technical assistance from the technical agency, shall include the following: (11-22-89)
- a. BMP's which reduce or abate agricultural nonpoint source pollution; and (11-1-81)
 - b. BMP's for all critical areas or pollution sources on the participant's land encompassed in the project area; and (11-1-81)
 - c. A time schedule for implementation of BMP's; and (11-1-81)
 - d. Certification by the technical agency of the technical adequacy of the water quality plan and of subsequent modifications; and (11-22-89)
 - e. Map or drawing showing location of proposed BMP's; and (11-1-81)

- f. Schedule of BMP cost-share payments. (11-1-81)
- 03. Cost-Sharing. (11-22-89)
 - a. The BMP cost-shared rate, not to exceed seventy-five percent (75%) shall be determined by the district with the concurrence of the Commission. (11-22-89)
 - b. A participant signing a contract under this program may not receive more than fifty thousand dollars (\$50,000) in cost-share under this program throughout the life of the project. (11-22-89)
 - c. Cost-sharing is not to be made available for: (11-1-81)
 - i. Measures installed primarily for bringing additional land into crop production; or (11-1-81)
 - ii. Measures installed primarily for increasing production on existing cropland; or (11-1-81)
 - iii. Measures having flood protection as the primary purpose. (11-1-81)
- 04. Relation to Other Cost-Share Programs. Cost-share payments made under this program may be used in conjunction with other federal, state, and local programs for cost-sharing of conservation practices, as long as the total cost-share rate for any BMP does not exceed the rate established for that BMP by the district. (11-1-81)

401. CONTRACTING.

- 01. Board as Beneficiary. The Board shall be specified as an intended beneficiary of all participant contracts and shall be empowered to enforce the terms of such contracts. (11-1-81)
- 02. Participation. To participate, a landowner or operator must enter into a contract in which he agrees to apply his water quality plan. (11-1-81)
- 03. Control of Land. Any person who controls or shares control of the subject farm, ranch, or other land for the contract period must sign the contract. (11-1-81)
- 04. Evidence of Control. The participant must furnish satisfactory evidence of his control of the subject farm, ranch or other land which encompasses the contract period. (11-22-89)
- 05. Contract Approval. Cost-sharing payments cannot be provided for any measure that is initiated before the contract is approved by the district and the Commission. (11-22-89)
- 06. Contract Requirements. The contract shall include, but not be limited to, the following: (11-1-81)
 - a. Basic contract document; and (11-1-81)
 - b. Special provisions as needed; and (11-1-81)
 - c. Water quality plan; and (11-1-81)
 - d. Any other data deemed necessary by the district. (11-1-81)
- 07. BMP Specifications and Standards. A participant shall install BMP's according to the specifications and standards adopted by the district at the time the water quality plan is prepared. (11-1-81)
- 08. Operation and Maintenance. The contract shall require that BMP's are operated and maintained to accomplish the purpose for which they were designed by the participant at no cost to the district. (11-1-81)
- 09. Contract Period. The contract period shall be not less than five (5) and not more than ten (10) years. (11-1-81)

10. BMP Installation Prior to Contract Termination. All BMP's shall be installed at least one (1) year prior to contract termination. (11-1-81)
11. Participant's Responsibilities. A participant is responsible for the following: (11-1-81)
- a. Accomplishing the water quality plan; and (11-1-81)
 - b. Keeping the district informed of the participant's current mailing address; and (11-1-81)
 - c. Obtaining and maintaining any required permits necessary to perform the planned work; and (11-1-81)
 - d. Installing, operating, and maintaining BMP's set forth in the water quality plan. (11-1-81)
12. Contract Entry Period. Unless otherwise approved by the Department and the Commission, the district shall not enter into any new contracts after five (5) years of elapsed time from the date when project funds are first made available. (11-1-81)

402. CONTRACT MODIFICATION.

01. Modification Approval. Requirements of a contract may be modified only if such modification is approved by the district and the participant. (11-1-81)
02. Reasons for Modification. Contracts may be modified if it is determined that a BMP has failed to achieve the desired results due to conditions beyond the control of the participant or that a BMP has deteriorated during the contract period to the point of needing repeat application due to conditions beyond the control of the participant. (11-1-81)
03. Land Transfer. If during the contract period, all or part of the right and interest in the land is transferred by sale or other transfer action, the contract is terminated on the land unit that was transferred and the participant having control over such land: (11-1-81)
- a. Forfeits all right to any future cost-share payments on the transferred land unit; and (11-1-81)
 - b. Must refund all cost-share payments that have been made on the transferred land unit unless: (11-1-81)
 - i. The new landowner or operator becomes a party to the contract; or (11-1-81)
 - ii. It is determined by the district that the established BMP's will provide water quality benefits for the design life of the BMP, in which case the payment may be retained. (11-1-81)
04. Transferred Land Under Contract. If the new landowner or operator becomes party to the contract: (11-1-81)
- a. Payment which has been earned but not made to the participant who applied the BMP's and had control prior to the transfer can be made; and (11-1-81)
 - b. Such landowner or operator is to assume all remaining obligations and benefits of the previous participant on the transferred land unit; and (11-22-89)
 - c. The contract with new participant is to remain in effect with the original terms and conditions, unless otherwise approved by the district; and (11-1-81)
 - d. The contract is to be modified in writing to show the changes caused by the transfer. (11-1-81)

403. CONTRACT VIOLATION AND APPEALS.

01. Cause of Violation. A participant shall be in violation of the contract if he: (11-1-81)
- a. Knowingly or negligently destroys or breaks up a BMP in the water quality plan, unless prior written approval is given by the district; or (11-1-81)
 - b. Files a request for payment for BMP's not carried out or for BMP's carried out in a manner which does not meet district specifications. (11-1-81)
02. Forfeiture of Further Cost-Share Payments. The participant shall agree by signing a contract to forfeit all rights to further cost-share payments under the contract and to refund all cost-share payments received thereunder, if the district determines: (11-1-81)
- a. That there has been a violation of the contract; and (11-1-81)
 - b. That the violation is of such a nature as to warrant termination of the contract. (11-1-81)
03. Refund of Cost-Share Payments. The participant shall agree by signing a contract to make refunds of cost-share payments received under the contract or to accept payment adjustments in the contract, if the district determines: (11-1-81)
- a. That there has been a violation of the contract; and (11-1-81)
 - b. That said violation is of such a nature as not to warrant termination of the contract. (11-1-81)
 - c. Payment adjustments may include decreasing the rate of a cost-share or deleting from the contract a cost-share commitment or withholding cost-share payments earned but not paid. (11-1-81)
04. Notice of Violation. (11-1-81)
- a. If the district believes that a violation of a contract has occurred which would call for a forfeiture, refund, payment adjustment, or termination, written notice thereof shall be given to the participant(s) under said contract. (11-1-81)
 - b. The written notice, sent by certified mail, return receipt requested, shall set forth the nature of the alleged violation and shall inform the participant that he will be given an opportunity to appear at a contract violation review before the district if he files a written request for such review with the district no later than thirty (30) days after the issuance of the notice of violation. (11-22-89)
05. Contract Violation Review. (11-1-81)
- a. Upon receipt of a request for contract violation review, the district shall notify the participant in writing of the time, date, and place set for the review. (11-1-81)
 - b. The review shall be conducted in the manner considered most likely to obtain the facts relevant to the alleged violation. (11-1-81)
 - c. If the participant does not file written request for a review, or does not appear at the appointed time, or is not represented at a review so requested, the participant shall have no further right to a review before the district. (11-1-81)
 - d. The district shall make a determination on the basis of the review. This determination shall: (11-1-81)
 - i. Be based on the BMP standards and specifications adopted by the district at the time the water quality plan is prepared; and (11-1-81)

ii. Shall specifically state whether the violation of the contract is of such a nature as to warrant termination of the contract or that the violation does not warrant termination of the contract. (11-1-81)

e. Each participant under said contract shall be notified in writing of the determination. (11-1-81)

06. Appeal of District Determination. Appeal to the Board may be made by any participant adversely affected by a contract violation review determination of the district in accordance with Title 05, Chapter 03, "Rules Governing Contested Cases and Declaratory Rulings," upon which there shall be no further rights to appeal in the program. (12-31-91)

404. CONTRACT TERMINATION.

01. Causes of Termination. A contract may be terminated prior to its expiration date based on: (11-1-81)

a. Violation of the contract; or (11-1-81)

b. Loss of control of all or part of the land under contract with no successor in interest; or (11-1-81)

c. Mutual consent, providing purpose of termination is consistent with intent of contract. (11-1-81)

02. Notice of Termination. Written notice of contract termination shall be sent by certified mail, return receipt requested, to the participant thirty (30) days prior to the effective date of termination. (11-22-89)

405. PAYMENT.

01. Cost-Share Payments. Cost-share payments are to be made by the district upon its determination that the BMP's or identifiable units thereof have been properly installed and meet the standards and specifications adopted by the district and effective at the time of water quality plan preparation. (11-1-81)

02. Application. Application for cost-share payment must be submitted to the district and supported by such cost receipts as required by the district. It is the participant's responsibility to apply for payments. (11-1-81)

03. Payments Pending Violation Decision. No cost-share payments shall be made pending a decision on whether or not a contract violation has occurred or whether or not a contract shall be terminated. (11-1-81)

04. Payment Request as Violation. The filing of request for payment for BMP's not carried out or for BMP's carried out in a manner which does not meet district specifications constitutes violation of the contract. (11-1-81)

406. -- 499. (RESERVED).

500. QUALITY CONTROL.

01. Rights of Access. The district shall have the right of access at reasonable times to land under contract and the right to examine any project records, cost-share applications, and contracts. This is limited to the right to furnish technical assistance and to inspect work performed under the contract. (11-1-81)

02. BMP Inspections. Spot checks to ensure proper BMP design installation and maintenance shall be conducted in a manner consistent with the policies and procedures of the technical agency. (11-22-89)

03. Inspection Report. The district shall report the findings of said inspections annually to the Department and the Commission. (11-1-81)

501. EVALUATION.

01. Purpose. The purpose of project and program evaluation shall be to assess the effectiveness of each project and the overall program in reducing agricultural pollution. (11-22-89)

02. Project Evaluation. Project evaluations shall be conducted annually by the Department, the Commission, the technical agency and the district to determine BMP implementation progress and resulting improvements in water quality. (11-22-89)

03. Program Evaluation. Program evaluations shall be conducted annually by the Department, the Commission and the districts to determine the overall effectiveness of the program in improving water quality. (11-22-89)

04. Evaluation Criteria. Criteria for the evaluation of project effectiveness shall include, but not be limited to: (11-22-89)

- a. Attainment of project goals for reduction of pollutant loadings; and (11-1-81)
- b. Attainment of a minimum level of participation; and (11-22-89)
- c. Attainment of project goals for installation of BMP's; and (11-1-81)
- d. Project's contribution toward meeting state water quality goals; and (11-1-81)
- e. Program's contribution toward implementing the Idaho Agricultural Pollution Abatement Plan; and (11-22-89)
- f. Prudent use and management of grant funds. (11-1-81)

502. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, Title 05, Chapter 03, Sections 000., et seq., "Rules Governing Contested Cases and Declaratory Rulings," upon which no further rights to appeal are granted. (12-31-91)

997. CONFIDENTIALITY.

Information received by the Department involving contested case proceedings is subject to the provisions of Idaho Department of Health and Welfare Rules, Title 05, Chapter 01, "Rules Governing Protection and Disclosure of Department Records." (11-1-81)

998. INCLUSIVE GENDER.

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (11-1-81)

999. SEVERABILITY.

Idaho Department of Health and Welfare Rules, Title 01, Chapter 14, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (11-1-81)