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IDAPA 60
TITLE 05
CHAPTER 01

IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

60.05.01 - RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM

000. LEGAL AUTHORITY.

The Idaho State Soil and Water Conservation Commission, pursuant to the authority granted in Section 22-2718, Idaho Code, has been granted the authority to adopt the following rules for the administration of a Resource Conservation and Rangeland Development Program (RCRDP) in Idaho. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules shall be known and cited as Rules of the Idaho State Soil and Water Conservation Commission, IDAPA 60.05.01, "Resource Conservation and Rangeland Development Program." (4-1-94)

02. Scope. The provisions of these rules set forth procedures and requirements for establishing, implementing, and administering a state loan for resource conservation and rangeland development. (3-29-10)

002. ADMINISTRATIVE APPEALS.

Reconsideration of loan disapproval or any matter affecting the amount of loan funds shall be done in accordance with RCRDP Rule Subsection 056.02.d. (4-1-94)

003. -- 009. (RESERVED)

010. DEFINITIONS.

For the purpose of these rules, unless the context indicates otherwise, the term: (9-9-86)

01. Account. The account established pursuant to Section 22-2730, Idaho Code, as amended, which contains the receipts allocated in Section 14-413(3)(a), Idaho Code, and all monies appropriated to it by the legislature or made available from federal, private, or other sources. (4-1-94)

02. Applicant. Any individual, partnership, association, trust, estate, private corporation, or any other private legal entity that is recognized by law as the subject of rights and duties who files an application with the appropriate local District for a loan under the provisions of the act. (3-29-10)

03. Application. The loan request document submitted to a local District. (3-29-10)

04. Commission. The Idaho State Soil and Water Conservation Commission as defined in Section 22-2718, Idaho Code. (9-9-86)

05. Contractee. The applicant when the loan has been closed and recorded. (9-9-86)

06. Coordinated Resource Planning Process. A process that considers all the resources and resource users within a geographical area and encourages active involvement and input from all interested parties. (9-9-86)

07. District. A Soil Conservation District (SCD) as defined in Section 22-2717, Idaho Code. (9-9-86)

08. Eligible Land. Private, state, county, or federal lands. (9-9-86)

09. Field Office. The principal headquarters of the District; it is usually co-located with the local United States Department of Agriculture Natural Resource Conservation Service (NRCS) office. (3-29-10)

10. Field Office Technical Guide. The primary technical reference used by NRCS and the Districts. (3-29-10)

- 11. Other Funds.** Federal, state, or private funds to be dedicated to conservation practice implementation costs. (3-29-10)
- 12. Practice or Eligible Practice for Loans.** A practice listed in the field office technical guide. (3-29-10)
- 13. Practice Life.** The number of years, with proper maintenance and operation, that a practice is expected to last, as shown in the field office technical guide. (3-29-10)
- 14. Program Year.** The state fiscal year. (9-9-86)
- 15. Project.** One (1) or more practices to be installed with a RCRDP loan. (3-29-10)
- 16. Rangeland.** Land used primarily for the grazing of domestic livestock and wildlife. (9-9-86)
- 17. RCRDP.** The Idaho Resource Conservation and Rangeland Development Program. (9-9-86)
- 18. Resource Conservation Plan for Loans.** A plan for loans, developed by the applicant and approved by the local District, that identifies the resource problems and needed conservation improvements, together with engineering and economic feasibility data and estimated costs. (3-29-10)
- 19. Riparian Areas.** Riparian areas are sites directly influenced by free water. They have visible vegetation or physical characteristics that reflect free water influence. Lake shores and stream banks are typical riparian areas. Excluded are sites such as ephemeral streams or washes that do not exhibit the presence of vegetation dependent upon free water in the soil. (4-1-94)
- 20. Security.** Collateral provided by an approved applicant to secure requested RCRDP funds. This may include mortgage note, promissory note, security agreement, water rights, or other asset. (3-29-10)
- 21. Special Practice.** A practice (not listed in the field office technical guide) that includes a proven, modern technique that is necessary to solve a resource problem and meet program objectives as determined by the local District. (3-29-10)

011. PROGRAM POLICY.

- 01. Administration.** It is the policy of the Idaho State Soil and Water Conservation Commission to administer the Resource Conservation and Rangeland Development Program to provide the greatest benefits to all concerned from the agricultural lands and rangelands within the state. (4-1-94)
- 02. Equal Opportunity.** Each applicant regardless of handicap, race, age, sex, creed, color or national origin, shall be given the opportunity to apply for a loan. (3-29-10)
- 03. Filing Applications.** An application may be filed at anytime during the program year. (4-1-94)

012. PROGRAM OBJECTIVES.

- 01. Objectives.** The objectives of the Resource Conservation and Rangeland Development Program are to: (9-9-86)
- a.** Conserve soil resources. (9-9-86)
 - b.** Conserve water resources. (9-9-86)
 - c.** Improve riparian areas for multiple use benefits. (9-9-86)
 - d.** Protect or improve existing beneficial uses of the state's waters. (9-9-86)

- e. Conserve and improve fish and wildlife habitat. (9-9-86)
- f. Increase agricultural productivity of: (9-9-86)
 - i. Cropland. (9-9-86)
 - ii. Orchards. (9-9-86)
 - iii. Pasture and Hayland. (9-9-86)
 - iv. Rangeland. (9-9-86)
 - v. Woodland. (9-9-86)

02. Achieving Program Objectives. Decisions concerning the use of program funds shall be based on achievement of program objectives. The administration of the program shall emphasize coordinated resource management planning and decision-making to ensure maximum benefit of funds. Program objectives shall be achieved when the resource conservation plan or rangeland and riparian area improvement plan is implemented. (4-1-94)

013. -- 055. (RESERVED)

056. RESPONSIBILITIES.

- 01. District.** The local District shall: (3-29-10)
 - a. Receive applications for program participation. (9-9-86)
 - b. Within sixty (60) days of receipt, review and evaluate the application for loans to determine if the project is consistent with the District's program goals and objectives. (3-29-10)
 - c. Assign a priority of high, medium, or low to the applications. (4-1-94)
 - d. Forward applications to the Commission with a recommendation for funding. (4-1-94)
 - e. Prepare and forward to the Commission special practice requests. (9-9-86)
- 02. Commission.** The Idaho State Soil and Water Conservation Commission shall: (9-9-86)
 - a. Review and evaluate applications. (4-1-94)
 - b. Approve loans, if: (9-9-86)
 - i. The applicant has adequate assets for security to protect the state from risk and loss. (9-9-86)
 - ii. There is reasonable assurance that the borrower can repay the loan. (9-9-86)
 - iii. Money is available in the loan account. (9-9-86)
 - c. Disapprove loans for reasons including but not limited to: (4-1-94)
 - i. The purpose of the loan is to pay for resource conservation plan practices that have been applied prior to Commission approval. (4-1-94)
 - ii. If all the requirements in Rule Subsection 056.02.b. are not met. (4-1-94)

- d.** Reconsider loan disapproval if the applicant, within fifteen (15) business days after notice of disapproval, requests the Soil Conservation Commission, in writing, to reconsider its determination in any matter affecting the loan or the amount of loan funds. Reconsideration of the determination shall take place within ninety (90) business days from the date the written request is received. The time, place, and date shall be determined by the Commission. The applicant shall be notified of the time, place, and date and shall have the right to appear. (3-29-10)
- e.** Upon loan approval, execute a promissory note and other security documents with the applicant for loan repayment. (4-1-94)
- f.** Not less than once per year, determine the loan interest rate not to exceed six percent (6%) annually. (9-9-86)
- g.** Prepare an annual report showing RCRDP accomplishments and benefits resulting from use of loan and grant funds. (4-1-94)
- h.** Administer and monitor loan proceeds to assure that the intent of the law is met. (9-9-86)
- i.** Approve or disapprove special practice requests. (9-9-86)

057. APPLICATION FOR LOAN.

- 01. How to Apply.** Any applicant desiring a loan from the RCRDP account must apply through the local District. (3-29-10)
- 02. Two or More Applicants.** Two (2) or more applicants may install a practice(s) as a group providing the loan can be adequately collateralized and all parties agree to joint and several liability. (4-1-94)
- 03. Application Form.** The application shall be on a form prescribed by the Commission and must include: (4-1-94)
 - a.** Name of applicant, and the location, size, and type of agricultural enterprise. (9-9-86)
 - b.** Applicant's status (full-time farmer/rancher, part-time farmer/rancher or owner of agricultural lands leased to another operator). (9-9-86)
 - c.** Identification and extent of the resource problem (erosion, plant community deterioration, water loss, water quality, low production, etc.). (9-9-86)
 - d.** Statement of applicant's objectives and expected benefits. (9-9-86)
 - e.** Proposed practices, implementation schedule, and estimated costs. (9-9-86)
 - f.** Estimate of total loan funds needed. (9-9-86)
 - i.** Applicant shall be required to supply at least five percent (5%) of the total project costs through personal funds or in-kind services. (3-29-10)
 - ii.** Total RCRDP loan funds combined with other funds cannot exceed ninety-five percent (95%) of total project costs. (3-29-10)
 - g.** Applicant's statement of security offered. (4-1-94)
 - h.** Applicant's statement of willingness to allow continued monitoring and evaluation of impacts resulting from applied land treatment and management practices. (9-9-86)
 - i.** A copy of the applicant's resource conservation plan which becomes a part of the application for assistance. The resource conservation plan shall include: (4-1-94)

- i. A map showing project location and extent of the resource problem. (4-1-94)
- ii. The eligible practices to be installed. (4-1-94)
- iii. Estimated costs of applying the practices. (4-1-94)
- iv. An implementation schedule. (4-1-94)
- v. A statement whereby the applicant agrees to properly maintain and operate installed practices. (4-1-94)
- vi. Needed clearances, easements and rights of way. (4-1-94)
- vii. Any other appropriate documentation needed to complete the implementation of the resource conservation plan as requested by the local District or Commission. (3-29-10)

04. Presenting the Application. The completed application must be presented by the applicant (or representative) to the local District Board at a scheduled meeting. (3-29-10)

058. SPECIAL PRACTICE(S) APPROVAL FOR LOANS.

01. Special Practice Approval. A special practice must be approved by the Commission before it becomes an eligible practice. (9-9-86)

02. Special Practice Requests. Special practice requests shall be prepared by the local District for the Commission and shall include: (3-29-10)

- a. A description of the proposed practice. (9-9-86)
- b. A justification of need for the special practice. (9-9-86)
- c. Standards and specifications for the proposed practice. (9-9-86)
- d. A statement from the appropriate agency as to the technical adequacy of the special practice in solving the resource problem. (9-9-86)

059. -- 080. (RESERVED)

081. ENCOURAGING PUBLIC BENEFITS WHEN INSTALLING PRACTICES.

District Boards shall encourage persons responsible for any aspect of performing practices to promote public benefit by improving or preserving environmental quality and ecological balance when the practices are being installed. Multiple objective achievement and total resource evaluation and treatment shall receive high priority consideration for loan funds. When reviewing loan requests the following considerations shall be made: (4-1-94)

- 01. Preventing Degradation.** Preventing or abating pollution and other environmental degradation. (9-9-86)
- 02. Benefiting the Community.** Benefiting the community by means such as outdoor recreational opportunities or enhancing the appearance of the area. (9-9-86)
- 03. Benefiting Habitat.** Benefiting fish and wildlife habitat. (9-9-86)

082. -- 100. (RESERVED)

101. CREDIT GUIDELINES FOR LOANS.

These credit guidelines are established to reduce the risk of the state. Even though these loans are made at a low

interest rate for the purpose of encouraging conservation and resource development, they must be repaid. This rule sets forth the requirements for determining the eligibility of an operator for a loan. (4-1-94)

01. Standards for Acceptable Loans. There shall be adequate assets and collateral for security to protect the state from risk and loss. (9-9-86)

02. Credit Information. Documentation shall be sufficient and verified to support the loan offered. It must include financial and operating statements and other supporting documents as deemed necessary relative to the size, complexity, and financial responsibility of the individual or entity being financed. A credit report will be ordered from at least three (3) credit repositories for each applicant. (3-29-10)

03. Information Needed Prior to Loan Commitment. Documents and forms required for all loans: (9-9-86)

a. Loan application. (9-9-86)

b. Financial statements. (9-9-86)

i. A current balance sheet will be required from all parties who will be responsible for repayment of the loan and may be required from other relevant parties. (4-1-94)

ii. Applicant may be questioned about any major changes that may have occurred on the financial statements submitted. (9-9-86)

iii. Income and expense statements. The most recent three (3) year series of accountant prepared statements, if available, or federal tax returns are desired. (3-29-10)

c. Copy of drivers license or other photo identification. (3-29-10)

d. Documentation of water rights. (3-29-10)

e. Current tax assessments for all parcels referenced in the conservation plan. (3-29-10)

f. Copy of land lease agreement, if the applicant is not the owner of the parcel(s) referenced in the conservation plan. (3-29-10)

04. Field Inspections. Field inspections may be used to: (4-1-94)

a. Determine loan and security positions, provide repayment estimates and verify agricultural assets. (4-1-94)

b. Indicate the applicant's management ability. (4-1-94)

c. Secure a complete and accurate description of collateral for the security agreement. (4-1-94)

05. Other Information Needed Prior to Loan Commitment. Real estate secured loans. (9-9-86)

a. A legal description of the offered collateral. (4-1-94)

b. Real estate appraisal, if necessary, should consist of one (1) of the following: (9-9-86)

i. Copy of appraisal made by a professional appraiser deemed acceptable to the state. (9-9-86)

ii. Evaluation made by Commission or the local District Board according to their knowledge of the estimated average value of the property in the area in which the project is to be implemented. (3-29-10)

c. Other Collateral. Any item having tangible value may be accepted as security for these loans.

Condition of the collateral shall be updated periodically and additions to the security agreement may be required over time. (4-1-94)

- d.** If the state is not a primary lien holder, a request for notice of default shall be recorded and a letter written to primary lien holders notifying them of the security interests of the state. (9-9-86)
- e.** Must include a map designating location of subject property. (9-9-86)

102. LOAN CLOSURE AND ADMINISTRATION.

01. Servicing and Documentation. All loans shall be assigned to a loan officer (Commission employee) who shall be responsible for servicing the loan. (4-1-94)

02. Loan Securing Documents. Following approval of the application, the Commission, shall prepare all necessary loan securing documents. (4-1-94)

03. Loan Note and Security Agreement. The loan shall be secured by utilizing a loan note and security document listing the parties and the collateral, as well as terms and conditions of the loan. A mortgage or deed of trust shall be executed and recorded with the county recorder where the collateral is located if the collateral is real property. A security agreement shall be executed if the collateral is not real property. Appropriate financing statements shall be executed and filed with the Secretary of State on all collateral consisting of personal property. (4-1-94)

04. Fund Obligation. Funds shall be obligated when all loan conditions established by the Commission have been met and when all necessary loan securing documents are in order and appropriately signed by the applicant. Funds will then be obligated. Upon notification of fund obligation, the applicant who is now the contractee, may proceed with the implementation of the resource conservation plan. (4-1-94)

05. Cost Incurred. The applicant is required to cover all costs incurred for loan closure, title insurance, and recording fees. (9-9-86)

103. IMPLEMENTATION OF AGREED TO PRACTICES.

Once the loan has been approved and the conditions of approval have been met, the contractee may install practices as identified and scheduled in the resource conservation plan. The contractee has the responsibility to obtain the appropriate technical assistance. Technical personnel shall assist the contractee in implementation activities to ensure that practices are properly designed, constructed, and managed. The contractee may install practices or subcontract work out to a subcontractor. Whatever method is used, the contractee shall be responsible to ensure that the quality of materials and workmanship in the installation of practices meets the approved standards and specifications for each practice. (4-1-94)

01. Practice Completion. Upon completion of the scheduled practice the contractee shall notify the local District and the provider of technical assistance. And the provider of technical assistance shall inspect and document the amount and extent of the installed practice and certify its completion if it meets the quality standards and construction specifications of the practice and notify the local District and contractee. If the practice does not meet practice standards and specifications the contractee and the local District shall be notified by the provider of technical assistance, in writing, of the deficiencies and what needs to be done so the practice shall meet standards and specifications. (3-29-10)

02. Submitting Vouchers and Bills. (3-29-10)

a. When practices are certified complete by the provider of technical assistance, the contractee must submit to the Commission signed vouchers and bills along with the certification of completion report. (3-29-10)

b. Up to ninety-five percent (95%) of loan funds can be disbursed toward submitted bills during the loan installment period. The remaining loan funds will be disbursed upon receipt of written certification of project completion from the provider of technical assistance. (3-29-10)

03. Warrant Requests. The Commission staff shall prepare warrant request(s) made out to the contractee(s) and the vendor and mail it to the contractee. (4-1-94)

04. Drawing Loan Funds. The contractee shall implement the practices as scheduled and upon certification may draw on the loan funds throughout the installment term of the loan contract. (3-29-10)

104. -- 125. (RESERVED)

126. REPAYMENT OF LOAN.

01. Repayment of the Loan. Repayment of the loan, together with interest, shall commence no later than two (2) full years from the date the note is signed. (4-1-94)

02. Repayment Schedule. The repayment schedule shall be identified in the loan documents with a fifteen (15) year maximum loan period. One (1) month before payment is due, the commission will mail the contractee a notice of payment due. (4-1-94)

03. First Payment. The first payment shall be due as required on the signed loan documents as prepared by the ISCC. Any additional interest incurred during the installment period of the loan will be added to the first payment notice. (3-29-10)

127. FORECLOSURE.

In the event of a contractee not adhering to the payment terms and conditions of the mortgage, promissory note, or security agreement, the Commission may seek foreclosure procedures according to the laws of the state of Idaho. (3-29-10)

128. -- 150. (RESERVED)

151. LOAN POLICIES.

01. Maximum Amount of Any One Loan. The maximum amount of any one (1) loan shall be two hundred thousand dollars (\$200,000). (3-29-10)

02. Total Maximum Program Obligation. The total maximum program liability of any individual borrower is three hundred thousand dollars (\$300,000). (3-29-10)

03. Use of Loan Money in Conjunction with State or Federal Programs. Requests for state or federal cost-share assistance and for loan approval are handled by different governmental agencies and approval for one does not guarantee approval for the other. (4-1-94)

152. -- 999. (RESERVED)

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