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IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

60.05.01 – RULES OF THE IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

000. LEGAL AUTHORITY.

This chapter is adopted by the Idaho State Soil and Water Conservation Commission, under the legal authority of Sections 22-2718, 22-2727, and 22-2730, Idaho Code. (3-20-20)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 60.05.01, “Rules of the Idaho State Soil and Water Conservation Commission.” (3-20-20)T

02. Scope. The provisions of these rules set forth procedures and requirements for establishing, implementing, and administering a state loan from the RCRDP fund as provided in Sections 22-2730, through 22-2732, Idaho Code, and provide for the allocation of state funds appropriated for distribution to conservation districts pursuant to Section 22-2727, Idaho Code. (3-20-20)T

002. -- 009. (RESERVED)

010. DEFINITIONS.

For the purpose of these rules, unless the context indicates otherwise, the terms and phrases are used as defined herein: (3-20-20)T

01. Applicant. An eligible applicant as defined in Section 22-2717, Idaho Code. (3-20-20)T

02. Application. The loan request document that sets forth the information required by Section 22-2732, Idaho Code and Subsection 057.03 of these rules, including a conservation plan. (3-20-20)T

03. Base Funding. Funds appropriated to the Commission to be allocated equally to the various soil conservation districts in a sum not to exceed eight thousand five hundred dollars (\$8,500) per district per year. (3-20-20)T

04. Board of Supervisors. Governing body of a district as provided in Section 22-2717(25), Idaho Code. (3-20-20)T

05. Certify. To confirm formally as true, accurate, or genuine. (3-20-20)T

06. Commission. The Idaho State Soil and Water Conservation Commission as defined in Section 22-2718, Idaho Code. (3-20-20)T

07. Conservation District or District. A soil (and water) conservation district as defined in Section 22-2717, Idaho Code. (3-20-20)T

08. Conservation Plan. A conservation plan as defined in Sections 22-2717 and 22-2732, Idaho Code that sets forth the information required by Subchapter A. of these rules. (3-20-20)T

09. Contractee. The applicant when the loan has been closed and recorded. (3-20-20)T

10. 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. (3-20-20)T

11. District. A Conservation District, Soil Conservation District, or Soil and Water Conservation District as defined in Section 22-2717, Idaho Code. (3-20-20)T

12. Eligible Land. Private, state, county, or federal lands within the state of Idaho. (3-20-20)T

13. Field Office. The local United States Department of Agriculture Natural Resources Conservation Service (NRCS) office usually located with the principal headquarters of the local District. (3-20-20)T

14. Field Office Technical Guide. The primary scientific reference for NRCS that contains technical

information about the conservation of soil, water, air, and related plant and animal resources. Technical guides used in each field office are localized so that they apply specifically to the geographic area for which they are prepared. Copies of the field office technical guides may be obtained from a local District or field office. (3-20-20)T

15. **Financial and Match Report.** Documentation certified by the Board of Supervisors that: (3-20-20)T
 - a. Itemizes local funds and services received by a district during the previous fiscal year; and (3-20-20)T
 - b. Describes how state base and match funds were utilized during the previous fiscal year. (3-20-20)T
16. **Fiscal Year.** As set forth in Section 67-2201, Idaho Code, the fiscal year will begin on July 1 and close on June 30 of the following year. (3-20-20)T
17. **Five (5) Year Plan.** The plan reviewed and updated annually by each district pursuant to the Final Agreement to implement an Antidegradation Policy for the State of Idaho (August 18, 1988). The plan will contain the following components, as further specified by Commission policy: physical characteristics, economic condition and outlook, assessment of the District's resource conditions and conservation needs, prioritized objectives, water quality component, and an annual work plan. (3-20-20)T
18. **Fund.** The RCRDP fund established pursuant to Section 22-2730, Idaho Code. (3-20-20)T
19. **Funding Criteria.** Criteria considered by the Commission to determine the amount of base and match funding to be allocated to the conservation districts. Criteria may include district budgets, district budget requests, district programs and work plans, and district work load analysis. The following documents may be required on an annual basis in order to consistently apply the criteria to all districts: (3-20-20)T
 - a. Five (5) year plans; (3-20-20)T
 - b. Financial and match reports; and (3-20-20)T
 - c. Performance reports. (3-20-20)T
20. **Local Funds.** Monies received in the previous fiscal year from local units of government and organizations for the general purposes of a conservation district. Funds received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding. (3-20-20)T
21. **Local Services.** Non-cash contributions received in the previous fiscal year from local units of government and organizations for the general purposes of a conservation district. Services received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding. (3-20-20)T
22. **Local Units of Government.** Any general or special purpose political subdivision of the state which has the power to levy taxes and/or appropriate and spend funds. (3-20-20)T
23. **Match Funding.** Funds appropriated to the Commission for distribution to conservation districts in excess of base funding not to exceed twice the amount of local funds and services received by each district in the previous fiscal year. (3-20-20)T
24. **Maximum Allocation.** The total of base funding and match funding allocated to any one (1) conservation district shall not exceed fifty-eight thousand and five hundred dollars (\$58,500) in a fiscal year. (3-20-20)T
25. **Organizations.** A group of two (2) or more persons structured and managed to pursue a collective goal on a continuing basis. (3-20-20)T

26. **Other Funds.** Funds to be dedicated to conservation practice implementation costs which are not from the RCRDP fund or provided by the applicant. (3-20-20)T
27. **Performance Report.** Documentation summarizing conservation activities, projects, and programs implemented by a conservation district during the previous fiscal year. (3-20-20)T
28. **Practice or Eligible Practice for Loans.** A practice listed in the field office technical guide or a special practice approved under Section 058 of these rules. (3-20-20)T
29. **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. (3-20-20)T
30. **Program Year.** The state fiscal year as provided in Section 67-2201, Idaho Code. (3-20-20)T
31. **Project.** One (1) or more practices to be installed with a RCRDP loan. (3-20-20)T
32. **Rangeland.** Land used primarily for the grazing of domestic livestock and wildlife. (3-20-20)T
33. **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. (3-20-20)T
34. **Security.** Collateral provided by an approved applicant to secure requested RCRDP funds. (3-20-20)T
35. **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. (3-20-20)T

011. ABBREVIATIONS.

01. **RCRDP.** The Idaho Resource Conservation and Rangeland Development Program. (3-20-20)T
02. **NRCS.** United States Department of Agriculture Natural Resources Conservation Service. (3-20-20)T

SUBCHAPTER A – RULES FOR ADMINISTRATION OF THE IDAHO RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM

012. PROGRAM POLICY.

01. **Administration.** It is the policy of the 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. (3-20-20)T
02. **Equal Opportunity.** Each applicant regardless of handicap, race, age, sex, creed, color or national origin, must be given the opportunity to apply for a loan. (3-20-20)T
03. **Filing Applications.** An application may be filed at anytime during the program year. (3-20-20)T
04. **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. (3-20-20)T

013. PROGRAM OBJECTIVES.

- 01. Objectives.** The objectives of the RCRDP are to: (3-20-20)T
- a.** Conserve soil resources. (3-20-20)T
 - b.** Conserve water resources. (3-20-20)T
 - c.** Improve riparian areas for multiple use benefits. (3-20-20)T
 - d.** Protect or improve existing beneficial uses of the state’s waters. (3-20-20)T
 - e.** Conserve and improve fish and wildlife habitat. (3-20-20)T
 - f.** Increase agricultural productivity of cropland, orchards, pasture and hayland, rangeland, and woodland. (3-20-20)T

02. Achieving Program Objectives. Decisions concerning the use of program funds must be based on achievement of program objectives. The administration of the program must emphasize coordinated resource management planning and decision-making to ensure maximum benefit of funds. (3-20-20)T

014. -- 055. (RESERVED)

056. RESPONSIBILITIES.

- 01. District.** The local District must: (3-20-20)T
- a.** Receive the conservation plan for program participation. (3-20-20)T
 - b.** Within sixty (60) days of receipt, review and evaluate the conservation plan to determine if the project is consistent with the District’s program goals and objectives. (3-20-20)T
 - c.** Assign a priority of high, medium, or low to the project. (3-20-20)T
 - d.** Forward conservation plans to the Commission with a recommendation for funding. (3-20-20)T
 - e.** Prepare and forward to the Commission special practice requests. (3-20-20)T
 - f.** The local District may assign a priority to practices in the field office technical guide and have that priority ranking apply to all future projects seeking to implement the pre-ranked practices. The local District Board must consider pre-ranking practices at a scheduled Board meeting. The Board’s decision including the name and identification number of the practice(s), the assigned ranking and the recommendation for funding must be reflected in the meeting minutes and be forwarded to the Commission. (3-20-20)T
 - g.** If the local District does not review and evaluate a conservation plan within sixty (60) days of receipt, the Commission may review and evaluate the conservation plan and assign a priority ranking for the project based on the District’s five (5) year plan. (3-20-20)T

- 02. Commission.** The Commission must: (3-20-20)T
- a.** Review and evaluate applications. (3-20-20)T
 - b.** Approve loans, if: (3-20-20)T
 - i.** The applicant has adequate assets for security to protect the state from risk of loss. (3-20-20)T
 - ii.** There is reasonable assurance that the borrower can repay the loan. (3-20-20)T
 - iii.** Money is available in the RCRDP fund. (3-20-20)T

- c. Disapprove loans for reasons including but not limited to: (3-20-20)T
 - i. The purpose of the loan is to pay for conservation plan practices that have been implemented prior to Commission approval. (3-20-20)T
 - ii. If all the requirements in Paragraph 056.02.b. of these rules are not met. (3-20-20)T
- d. Reconsider loan disapproval if the applicant, within fifteen (15) business days after notice of disapproval, requests the Commission, in writing, to reconsider its determination in any matter affecting the loan or the amount of loan funds. Reconsideration of the determination must take place within ninety (90) business days from the date the written request is received at the time, place, and date determined by the Commission. The applicant must be notified of the time, place, and date and must have the right to appear. (3-20-20)T
- e. After loan approval, execute a promissory note and other security documents with the applicant for loan repayment. (3-20-20)T
- f. Not less than once per year, determine the loan interest rate not to exceed six percent (6%) annually. (3-20-20)T
- g. Prepare an annual report showing RCRDP accomplishments and benefits resulting from use of loan and grant funds. (3-20-20)T
- h. Administer and monitor loan proceeds to assure that the intent of the law is met. (3-20-20)T
- i. Approve or disapprove special practice requests. (3-20-20)T

057. APPLICATION FOR LOAN.

- 01. **How to Apply.** Any applicant desiring a loan from the RCRDP fund must: (3-20-20)T
 - a. Prepare and submit a conservation plan. The conservation plan must be presented by the applicant (or representative appointed by the applicant) to the local District Board at a scheduled meeting unless the project includes only practices that have been pre-ranked by the local District in accordance with Paragraph 56.01.f. of these rules. If the project includes only pre-ranked practices, the applicant must submit the conservation plan to the Commission. (3-20-20)T
 - b. Prepare and submit a completed application. The application including all information required under Subsection 57.03 of these rules must be submitted to the Commission. (3-20-20)T
- 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. (3-20-20)T
- 03. **Application Form.** The application must be on a form prescribed by the Commission and include: (3-20-20)T
 - a. Name of applicant, and the location, size, and type of agricultural enterprise. (3-20-20)T
 - b. Identification and extent of the resource problem (erosion, plant community deterioration, water loss, water quality, low production, etc.). (3-20-20)T
 - c. Statement of applicant's objectives and expected benefits. (3-20-20)T
 - d. Estimate of costs of implementing the project and of total loan funds needed. (3-20-20)T
 - i. Applicant must be required to supply at least five percent (5%) of the total project costs through personal funds or in-kind services. (3-20-20)T

- ii. Total RCRDP loan funds combined with other funds cannot exceed ninety-five percent (95%) of total project costs. (3-20-20)T
- e. Applicant's statement of security offered. (3-20-20)T
- f. Applicant's statement of willingness to allow continued monitoring and evaluation of impacts resulting from applied land treatment and management practices. (3-20-20)T
- g. All documentation required under Subsection 101.03 of these rules and any other documentation requested by the Commission needed to determine whether there is reasonable assurance that the applicant can repay the loan. (3-20-20)T
- h. A copy of the applicant's conservation plan which becomes a part of the application for assistance. The conservation plan must include: (3-20-20)T
 - i. A map showing project location and extent of the resource problem. (3-20-20)T
 - ii. The eligible practices to be installed. (3-20-20)T
 - iii. Estimated costs of applying the practices. (3-20-20)T
 - iv. An implementation schedule. (3-20-20)T
 - v. A statement whereby the applicant agrees to properly maintain and operate installed practices. (3-20-20)T
 - vi. Needed clearances, easements and rights of way. (3-20-20)T
 - vii. Any other appropriate documentation needed to complete the implementation of the conservation plan as requested by the local District or Commission. (3-20-20)T

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. (3-20-20)T
- 02. Special Practice Requests.** Special practice requests may be prepared by the local District or the Commission and must include: (3-20-20)T
 - a. A description of the proposed practice. (3-20-20)T
 - b. A justification of need for the special practice. (3-20-20)T
 - c. Standards and specifications for the proposed practice. (3-20-20)T
 - d. A statement from the appropriate agency as to the technical adequacy of the special practice in solving the resource problem. (3-20-20)T

059. -- 080. (RESERVED)

081. ENCOURAGING PUBLIC BENEFITS WHEN INSTALLING PRACTICES.

District Boards must 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 must receive high priority consideration for loan funds. When reviewing loan requests the following considerations must be made: (3-20-20)T

- 01. Preventing Degradation.** Preventing or abating pollution and other environmental degradation. (3-20-20)T
- 02. Benefiting the Community.** Benefiting the community by means such as outdoor recreational opportunities or enhancing the appearance of the area. (3-20-20)T
- 03. Benefiting Habitat.** Benefiting fish and wildlife habitat. (3-20-20)T

082. -- 100. (RESERVED)

101. CREDIT GUIDELINES.

01. Standards for Acceptable Loans. There must be adequate assets and collateral for security to protect the state from risk of loss. (3-20-20)T

02. Required Documentation. The applicant must provide documentation to the Commission sufficient to determine the applicant's ability and willingness to repay the loan. Such documentation may include: financial statements; balance sheets; profit and loss statements; driver's license; income tax returns; budgets; credit reports; estimates/quotes; deeds; leases; and other supporting documents as deemed necessary relative to the size, complexity, and financial responsibility of the individual or entity being financed. (3-20-20)T

03. Duty to Inform. After submitting the application and before funds are dispersed, the applicant must inform and provide documentation to the Commission of any significant change of circumstance that may impact their financial standing or ability to repay the loan. (3-20-20)T

04. Field Inspections. The Commission may require a field inspection in order to: (3-20-20)T

a. Determine loan and security positions, provide repayment estimates and verify assets. (3-20-20)T

b. Indicate the applicant's management ability. (3-20-20)T

c. Secure a complete and accurate description of collateral for the security agreement. (3-20-20)T

05. Additional Information Required for Loans Secured with Real Estate. Where real estate is offered as collateral the following information must be provided: (3-20-20)T

a. A legal description of the offered collateral. (3-20-20)T

b. Real estate appraisal, consisting of at least one (1) of the following: (3-20-20)T

i. Copy of appraisal made by a licensed professional appraiser approved by the Commission. (3-20-20)T

ii. Copy of the most recent property tax assessment. (3-20-20)T

iii. Evaluation made by Commission or the local District according to its knowledge of the estimated average value of the property in the area in which the project is to be implemented. (3-20-20)T

c. A map designating the location of the real estate. (3-20-20)T

06. Other Collateral. Any item having tangible value may be accepted as security for these loans. Condition of the collateral must be updated periodically and additions to the security agreement may be required over time. (3-20-20)T

102. LOAN CLOSURE AND ADMINISTRATION.

01. Servicing and Documentation. All loans must be assigned to a loan officer (Commission

employee) who must be responsible for servicing the loan. (3-20-20)T

02. Loan Securing Documents. Following approval of the application, the Commission, must prepare all necessary loan securing documents. (3-20-20)T

03. Loan Note and Security Agreement. The loan must be secured by utilizing a promissory 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 must be executed and recorded with the county recorder where the collateral is located if the collateral is real property. A security agreement and any other necessary documents must be executed if the collateral is not real property. Appropriate financing statements must be executed and filed with the Secretary of State on all collateral consisting of personal property. (3-20-20)T

04. Fund Obligation. Funds must 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 complete implementation of the project. (3-20-20)T

05. Cost Incurred. The applicant is required to cover all costs incurred for loan closure, title insurance, and recording fees. (3-20-20)T

103. IMPLEMENTATION OF AGREED TO PRACTICES.

The applicant may, at their own risk, begin installing practices as identified and scheduled in the conservation plan provided the project is not completed before the loan is approved and the conditions of approval are met. Should the applicant choose to begin installing practices prior to the conditions of approval being met, the Commission may require additional title insurance to protect against intervening materialman's liens. The applicant/contractee has the responsibility to obtain appropriate technical assistance to ensure practices are properly designed, constructed, and managed. The applicant/contractee may install practices themselves or contract work out. Whatever method is used, the applicant/contractee is responsible to ensure the quality of materials and workmanship meets the approved standards and specifications for each practice. (3-20-20)T

01. Practice Completion. Upon completion of the scheduled practice the applicant/contractee must notify the provider of technical assistance. The provider of technical assistance must 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 applicant/contractee. If the practice does not meet practice standards and specifications the applicant/contractee must be notified by the provider of technical assistance, in writing, of the deficiencies and what needs to be done so the practice meets standards and specifications. (3-20-20)T

02. Submitting Vouchers and Bills. (3-20-20)T

a. The provider of technical assistance must provide a written certification of completion of the project to the Commission. The applicant/contractee must submit invoices, vouchers and bills for the project to the Commission. (3-20-20)T

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. (3-20-20)T

03. Warrant Requests. The Commission staff must prepare warrant request(s). The warrant(s) are paid to the order of the contractee(s) and the vendor, and are mailed to the contractee. (3-20-20)T

04. Drawing Loan Funds. The applicant/contractee must implement the practices as scheduled and the contractee may draw loan funds in multiple disbursements during installation of the project. (3-20-20)T

104. -- 125. (RESERVED)

126. REPAYMENT OF LOAN.

01. Repayment of the Loan. Repayment of the loan, together with interest, must commence no later than two (2) full years from the date the note is signed. (3-20-20)T

02. Repayment Schedule. The repayment schedule must 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. (3-20-20)T

03. First Payment. The first payment is due as required on the signed loan documents as prepared by the Commission. Any additional interest incurred during the installment period of the loan will be added to the first payment notice. (3-20-20)T

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 according to the laws of the state of Idaho. (3-20-20)T

128. -- 150. (RESERVED)

151. LOAN POLICIES.

The maximum amount of any one (1) loan is six hundred thousand dollars (\$600,000). (3-20-20)T

152. -- 199. (RESERVED)

SUBCHAPTER B – RULES FOR ALLOCATION OF FUNDS TO CONSERVATION DISTRICTS

200. ALLOCATION OF FUNDS TO DISTRICTS.

01. Base Funding. The Commission shall determine the dollar amount to allocate equally to conservation districts on an annual basis. As soon as practicable after the start of the fiscal year, the Commission shall immediately distribute base funding to the districts that submitted the required documents during the previous fiscal year. (3-20-20)T

02. Match Funding. Following determination of base funding, the Commission shall review and approve the additional amount of state appropriations available for proportional allocation to each district in match funding. The amount of match funding allocated will be based upon local funds and services received in the previous fiscal year by each conservation district for the general purposes of the district. Funds received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding. Once the required documents for match funding are submitted and determined to be complete, the Commission shall distribute match funding to each district as soon as practicable. (3-20-20)T

03. Required Documents. The Commission may require submission of certain documents prior to allocation of base and match funding to districts. These documents may include five (5) year plans, financial and match reports, and performance reports. (3-20-20)T

a. The Board of Supervisors shall certify in writing that the district has examined all documentation submitted and that the statements and representations in the documents are true and accurate. (3-20-20)T

b. The district shall submit any required documents by a date established by the Commission. (3-20-20)T

04. State Budget Requests. The Commission shall conduct a public hearing to consider the needs of the conservation districts on or before June 15th of each year, giving twenty (20) days' written notice of the hearing to each conservation district and to all other persons requesting notice of the hearing. The Commission shall hear and consider testimony at the hearing and all information submitted by the districts prior to submission of the annual budget request to the legislature and governor based upon the criteria of Subsection 010.19 of this rule. (3-20-20)T

201. -- 999. (RESERVED)

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