

Dear Senators GUTHRIE, Den Hartog, Jordan, and  
Representatives BOYLE, Troy, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho Soil and Water Conservation Commission:

IDAPA 60.05.01 - Rules for Administration of the Idaho Resource Conservation and Rangeland  
Development Program - Proposed Rule (Docket No. 60-0501-1901).

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 10/29/2019. 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 11/27/2019.

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 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office Idaho State Legislature

*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee  
**FROM:** Deputy Division Manager - Katharine Gerrity  
**DATE:** October 08, 2019  
**SUBJECT:** Idaho Soil and Water Conservation Commission

IDAPA 60.05.01 - Rules for Administration of the Idaho Resource Conservation and Rangeland Development Program - Proposed Rule (Docket No. 60-0501-1901)

### Summary and Stated Reasons for the Rule

The Idaho Soil and Water Conservation Commission submits notice of proposed rule at IDAPA 60.05.01 - Rules for Administration of the Idaho Resource Conservation and Rangeland Development Program. According to the commission, the rulemaking modifies Section 103 to expedite the loan process by allowing applicants to begin construction before liens are filed and modifies Section 151 to allow a higher maximum loan limit for applicants, increasing the maximum loan from \$200,000 to \$600,000.

### Negotiated Rulemaking / Fiscal Impact

According to the commission, negotiated rulemaking was conducted.

### Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 22-2718 and 22-2731, Idaho Code.

cc: Idaho Soil and Water Conservation Commission  
Corrine Dalzell

### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

**IDAPA 60 – IDAHO SOIL AND WATER CONSERVATION COMMISSION**

**60.05.01 – RULES FOR ADMINISTRATION OF THE IDAHO RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM**

**DOCKET NO. 60-0501-1901**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, and IDAPA 04.11.01, the Idaho Rules of Administrative Procedure of the Attorney General, Section 830, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized by Sections 22-2718 and 22-2731, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing on the proposed rule will be held as follows.

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**PUBLIC (LIVE) HEARING**

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**Wednesday, October 16, 2019 - 9:00 a.m. (MDT)**

**Idaho Water Center  
5th Floor, Suite 560 Conference Room  
322 E. Front Street  
Boise, Idaho 83702**

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**TELECONFERENCE CALL-IN**

**Teleconference Number: 1-877-820-7831**

**Participation Code: 922837**

The hearing location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the hearing date. For arrangements, contact the undersigned.

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

ISWCC initiated this rulemaking to modify Section 103 to expedite the loan process by allowing applicants to begin construction before liens are filed and modifying Section 151 to allow a higher maximum loan limit for applicants.

This rulemaking was initiated prior to the rules reauthorization wherein the Commission’s rules were adopted as temporary rules and are currently being promulgated as proposed rules. Through the reauthorization process, the two rule chapters of the Commission (60.05.01 and 60.05.04) will be consolidated into a single rule chapter under IDAPA 60.05.01 and retitled as the “Rules of the Idaho State Soil and Water Conservation Commission.” as part of Docket No. 60-0000-1900F.

The amendments made in this rulemaking will be incorporated into the newly consolidated chapter once both rulemakings become final.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: This proposed rule change has no associated fee.

**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: There is no effect to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019, Idaho Administrative Bulletin, **Volume 19-6, page 106.**

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference in this rule: Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this rulemaking, contact Corrine Dalzell at [corrine.dalzell@swc.idaho.gov](mailto:corrine.dalzell@swc.idaho.gov), (208) 332-1792.

Anyone may submit written comments regarding this proposed rule. All written comments must be directed to the undersigned and must be delivered on or before 5:00 P.M. MDT on October 23, 2019.

Dated this 2nd day of October, 2019.

Corrine Dalzell, Rules Review Officer  
Idaho Soil and Water Conservation Commission  
[corrine.dalzell@swc.idaho.gov](mailto:corrine.dalzell@swc.idaho.gov)  
PO Box 83720  
Boise, ID 83720-0083  
Telephone: (208) 332-1792  
Fax: (208) 332-1799

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 60-0501-1901**  
**(Only Those Sections With Amendments Are Shown)**

**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 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 ~~the~~ appropriate technical assistance. ~~Technical personnel shall assist the contractee in implementation activities~~ to ensure ~~that~~ practices are properly designed, constructed, and managed. The applicant/contractee may install practices themselves or ~~sub~~contract work out ~~to a subcontractor~~. Whatever method is used, the applicant/contractee ~~shall be~~ is 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 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. (3-28-19)

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

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. (3-28-19)

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 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. (3-28-19)

**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. (3-28-19)

**(BREAK IN CONTINUITY OF SECTIONS)**

**151. LOAN POLICIES.**

~~01. Maximum Amount of Any One Loan.~~ The maximum amount of any one (1) loan ~~shall be two~~ is six hundred thousand dollars (\$~~26~~00,000). ~~(3-29-10)( )~~