

**NORTH CAROLINA SOIL AND WATER CONSERVATION COMMISSION
RALEIGH, NORTH CAROLINA
AGENDA
DRAFT
TELECONFERENCE**

BUSINESS SESSION

Archdale Building

Room #425G

512 N. Salisbury Street

Raleigh, NC 27604

September 12, 2016

Adobe Connect Pro Address: <https://ncag.adobeconnect.com/r1ta0ciwmer/>

Meet-Me Conference #: (919) 733-2511

7:00 p.m.

I. CALL TO ORDER

The State Government Ethics Act mandates that at the beginning of any meeting the Chair reminds all the members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or potential conflict, please state so at this time.

II. PRELIMINARY – Business Meeting

Welcome

Chairman John Langdon

III. BUSINESS

1. Approval of agenda

Chairman John Langdon

2. CCAP Rule - final adoption of proposed revisions

Ms. Julie Henshaw

IV. ADJOURNMENT



**NORTH CAROLINA
SOIL & WATER CONSERVATION
COMMISSION TELECONFERENCE MINUTES
September 12, 2016**

Archdale Building
4th Floor Conference Room
512 N. Salisbury Street, Raleigh, NC

Commission Members	Commission Counsel	Guests
John Langdon	Phillip Reynolds	Pat Harris
Wayne Collier		David Williams
Charles Hughes		Julie Henshaw
Ben Knox		Tom Hill
Manly West		Helen Wiklund
Bill Yarborough		

Chairman John Langdon called the meeting to order at 7:06 p.m. He inquired whether any Commission members need to declare any conflict of interest, or appearance of conflict of interest, that may exist for agenda items under consideration, as mandated by the State Ethics Act. None were declared. Chairman Langdon welcomed everyone.

1. Approval of Agenda: Commissioner Collier moved to approve the agenda and Commissioner West seconded. Motion carried.

2. CCAP Rule – Final Adoption of Proposed Revisions: Chairman Langdon recognized Ms. Julie Henshaw to present. Ms. Henshaw stated it is necessary to take formal action to approve the revised CCAP Rules the Commission adopted at the May Meeting. The 60-day public comment period concluded on August 30 with one comment received that expressed concern about the ability of smaller or less expensive BMPs to compete in a regional application process. The Commission's proposed rule revisions do not prohibit a district allocation nor does the new text specify which BMPs will be eligible during a regional application process. The Commission will have the ability to take action in the Detailed Implementation Plan each year for the program. Staff recommends to approve the draft rule revisions as adopted at the May Commission meeting.

Commissioner Knox moved to approve and Commissioner Hughes seconded. Motion carried.

Chairman Langdon asked for any further comments. Chairman Langdon asked for a motion to adjourn. Commissioner West moved to adjourn and Commissioner Knox seconded. Chairman Langdon declared the meeting adjourned at 7:11 p.m.

DRAFT CCAP RULE REVISIONS

SUBCHAPTER 59H – COMMUNITY CONSERVATION ASSISTANCE PROGRAM FOR NONPOINT SOURCE POLLUTION CONTROL

SECTION .0100 – COMMUNITY CONSERVATION ASSISTANCE PROGRAM

02 NCAC 59H .0102 DEFINITIONS FOR SUBCHAPTER 59H

The following terms used in this Subchapter have the following meanings:

- (1) Nonpoint Source (NPS) Pollution means pollution originating from a diffuse source.
- (2) District Allocation Pool means the annual share of the state's appropriation to participating districts.
- (3) Statewide Allocation Pool means the annual share of the state's appropriation allocated for applications ranked at the state level as specified in the annual detailed implementation plan.
- (4) Regional Allocation Pool means the annual share of the state's appropriation allocated for applications ranked in the division's three regions as specified in the annual detailed implementation plan.
- ~~(4)~~(5) Applicant means a person(s) who applies for best management practice cost sharing monies from the district. An applicant may also be referred to as a cooperator.
- ~~(6)~~(4) Average Costs means the calculated cost, determined by averaging actual costs and current cost estimates necessary for best management practice implementation. Actual costs include labor, supplies, and other direct costs required for physical installation of a practice.
- ~~(5)~~(7) Best Management Practice (BMP) means a practice used to reduce nonpoint source inputs to receiving waters, including both those types of practices which are structural or nonstructural management practices.
- ~~(6)~~(8) Conservation Plan of Operation (CPO) means a written plan scheduling the applicant's decisions concerning land use, and both cost shared and non-cost shared BMPs to be installed and maintained on the operating unit.
- ~~(7)~~(9) Cost Share Agreement means an agreement between the applicant and the district which defines the BMPs to be cost shared, rate and amount of payment, minimum practice life, and date of BMP installation. The agreement shall state that the recipient shall maintain and repair the practice(s) for the specified minimum life of the practice. The Cost Share Agreement shall have a maximum contract life of three years for BMP installation. The district shall perform an annual status review during the installation period.
- ~~(8)~~(10) Cost Share Incentive (CSI) means a predetermined fixed payment paid to an applicant for implementing a nonstructural management BMP in lieu of cost share on a structural practice.
- ~~(9)~~(11) Cost Share Rate means a cost share percentage paid to an applicant for implementing BMPs.
- ~~(12)~~(20) ~~Detailed Implementation Plan means the plan approved by the commission that specifies the guidelines for the current program year pursuant to the Rules of the Commission.~~ Detailed Implementation Plan means the plan approved by the commission that specifies the guidelines for the current program year including annual program goals; district, statewide and regional allocations; BMPs that will be eligible for cost sharing and the minimum life expectancy of those practices.
- ~~(11)~~(13) District BMP means a BMP designated by a district to reduce the delivery of NPS pollution and which is reviewed and approved by the Division to be technically adequate prior to funding.
- ~~(12)~~(4) Division means the Division of Soil and Water Conservation.
- ~~(12)~~(15) Encumbered Funds means monies from a district's allocation, which have been committed to an applicant after initial approval of the cost share agreement.
- ~~(13)~~(16) Full Time Equivalent (FTE) means 2,080 hours per annum which equals one full time technical position.
- ~~(14)~~(17) In-kind Contribution means a contribution by the applicant towards the implementation of BMPs. In-kind contributions shall be approved by the district and may include labor, fuel, machinery use, and supplies and materials necessary for implementing the approved BMPs.

- (4518) Landowner means any natural person or other legal entity, including a governmental agency, who holds either an estate of freehold (such as a fee simple absolute or a life estate) or an estate for years or from year to year in land, but does not include an estate at will or by sufferance in land. A governmental or quasi-governmental agency such as a drainage district or a soil and water conservation district, or any such agency, by whatever name called, exercising similar powers for similar purposes, can be a landowner for the purposes of this Subchapter if the governmental agency holds an easement in land.
- (4619) Program Year means the period from July 1 through June 30 for which funds are allocated to districts.
- (4720) Proper Maintenance means that a practice(s) is being maintained such that the practice(s) is successfully performing the function for which it was originally implemented.
- (4821) Strategy Plan means the annual plan for the Community Conservation Assistance Program for Nonpoint Source Pollution Control to be developed by each district. The plan identifies pollution treatment needs and the level of cost sharing and technical assistance monies required to address those annual needs in the respective district.
- (2219) Technical Representative of the district means a person designated by the district to act on their behalf who participates in the planning, design, implementation and inspection of BMPs.
- (230) Unencumbered Funds means the portion of the allocation to each district, which has not been committed for cost sharing.

*History Note: Authority G.S. 106-840; 106-860; 139-4; 139-8;
Eff. December 1, 2007;
Transferred from 15A NCAC 06I .0102 Eff. May 1, 2012.*

02 NCAC 59H .0103 ALLOCATION GUIDELINES AND PROCEDURES

(a) The Commission shall consider the total amount of funding available for allocation, relative needs of the program for BMP implementation, local technical assistance, and education to determine the proportion of available funds to be allocated for each eligible purpose. This determination shall be done prior to allocating funds to statewide, regional and district allocation pools and the Division. Funds may be allocated for any or all of the following purposes:

- (1) Cost share and cost share incentive payments,
- (2) technical assistance and administrative assistance, and
- (3) statewide or local education and outreach activities.

The percentage of funding available for each purpose and each allocation pool shall be specified in the annual Detailed Implementation Plan based on the recommendation of the division and the needs as expressed by the districts and needs to accelerate the installation of BMPs.

(b) District allocations: The Commission shall allocate ~~the~~ cost share funds from the district allocation pool to the districts ~~in the designated program areas~~. To receive fund allocations, each district designated eligible by the commission shall submit an annual strategy plan to the commission at the beginning of each fiscal year. Funds may be allocated to each district and the Division for any or all of the following purposes:

- (1) Cost share and cost share incentive payments,
- (2) technical assistance and administrative assistance, and
- (3) statewide or local education and outreach activities.

(b) The Commission shall consider the relative needs of the program for BMP implementation, local technical assistance, and education to determine the proportion of available funds to be allocated for each eligible purpose prior to allocating funds to districts and the Division.

(c) Funds for cost share and cost share incentive payments shall be allocated to the districts at the beginning of the fiscal year and whenever the Commission determines that sufficient funds are available in the district allocation pool to justify a reallocation. Districts shall be allocated monies based on the identified level of nonpoint source pollution problems and the respective district's BMP installation goals as demonstrated in the district annual strategy plan. The allocation method used for disbursement of funds is based on the score of each respective district for those parameters approved by the Commission pursuant to Subparagraph (9) of this Paragraph. The points each district

scores on each parameter are totaled and proportioned to the total dollars available for district allocation under the current program year funding according to the following formula:

- (1) Sum of Parameter Points = Total Points
- (2) Percentage Total x Total Dollars = Dollars Available
Points Each District Available to Each District
- ~~(3) The minimum allocated to a particular district shall be one thousand five hundred dollars (\$1,500) per program year, unless the district requests less than one thousand five hundred dollars (\$1,500).~~
- ~~(4) If a district requests less than the dollars available to that district in Subparagraph (2) of this Paragraph, then the excess funds beyond those requested by the district shall be allocated to the districts who did not receive their full requested allocation using the same methodology described in Subparagraph (2) of this Paragraph.~~
- (5) 95 percent of the ~~total~~ program funding designated for district allocations shall be allocated to the district accounts in the initial allocation. The Division shall retain five percent of the total funding in a contingency fund to be used to respond to an emergency or natural disaster. ~~If the funds are not needed to respond to an emergency, then the contingency fund shall be allocated at the March meeting of the Commission.~~
- (6) The Commission may recall funds allocated to a district that have not been encumbered to an agreement during a fiscal year that have not been encumbered to an agreement at any time if it determines the recalled funds are needed to respond to an emergency or natural disaster.
- (7) At any time a district may submit a revised strategy plan and apply to the Commission for additional funds.
- (8) CPOs that encumber funds under the current year must be submitted to the Division by 5:00 p.m. on the first Wednesday in June.
- (9) Districts shall be allocated funds based on their respective data for each of the following parameters:
 - (A) ~~Relative rank of the number of miles of stream identified as less than fully supporting due to nonpoint source pollution as reported in the North Carolina Water Quality Assessment and Impaired Waters List and the most recent Basinwide Water Quality Plan for each river basin, where the source of pollution is not solely due to agriculture. Relative rank of the percentage of the county draining to waters identified as impaired or impacted on the most recent 305(b) Integrated Report produced by the North Carolina Division of Water Resources. (20 percent)~~ The North Carolina Water Quality Assessment and Impaired Waters list and the Basinwide Water Quality Plans are produced by the Division of Water Quality.
 - (B) Relative rank of the percentage of the county draining to waters classified as Outstanding Resource Waters, High Quality Waters, and Trout Water, s or Shellfishing (open) on the current schedule of Water Quality Standards and Classifications, and Shellfish growing areas (open) as determined by the Department of Environmental Quality's Division of Marine Fisheries. (20 percent)
 - (C) The percentage of each county covered by NPDES Phase I and Phase II requirements. (20 percent)
 - (D) Relative rank of population density for the county. (20 percent)
 - (E) Relative rank of the percentage of a county's land area that is located within drinking water assessment areas, as delineated by the Public Water Supply Section of the Division of Environmental Health Water Resources. (20 percent)
 - (F) The Commission may consider additional factors as recommended by the Division of Soil and Water Conservation when making its allocations.

(d) Statewide and Regional Allocations: The Commission shall allocate cost share funds from the statewide and regional allocation pools. To receive fund allocations, each district designated eligible by the commission shall submit applications to appropriate pools when solicited by the division. The division shall rank each application and recommend to the Commission for its approval an amount to allocate to each district corresponding to the highest ranking applications.

(ee) The funds available for technical and administrative assistance shall be allocated by the Commission based on the needs as expressed by the district and needs to accelerate the installation of BMPs in the respective district. Each district may use these monies to fund new positions or to accelerate present technical assistance. Districts must provide an itemized budget to the division in order to qualify for technical assistance funds. N.C. Community Conservation Assistance Program technical assistance funds may be used for technical assistance with the district matching at least 50 percent of the total. Each district to which funds are allocated for technical assistance shall demonstrate to the Commission that matching funds are available prior to any expenditure of funds. The allocation method used for disbursement of funds is based on the score of each respective district for those parameters approved by the Commission pursuant to Subparagraph (4) of this Paragraph. The points each district scores for each parameter are totaled and proportioned to the total dollars available under the current program year funding according to the following formula:

- (1) Sum of Parameter Points = Total Points
- (2) Percentage Total x Total Dollars = Dollars Available
Points Each District Available to Each District
- (3) If a district requests less than the dollars available to that district in Subparagraph (2) of this Paragraph, then the excess funds beyond those requested by the district shall be allocated to the districts who did not receive their full requested allocation using the same methodology described in Subparagraph (2) of this Paragraph.
- (4) Priority for funding shall be based upon the following parameters:
 - (A) Whether the position is presently funded by Community Conservation Assistance Program technical assistance funds. (25 percent)
 - (B) The proportion of Community Conservation Assistance Program funds for cost share and cost share incentive allocated to districts served by this technical assistance request (normalized to 1 to 100 scale by multiplying each district's score by a factor such that the product of the highest score for this parameter is 100) (50 percent), and
 - (C) The amount of additional funds leveraged by grants and other funds committed to districts served by this technical assistance request (normalized to 1 to 100 scale by multiplying each district's score by a factor such that the product of the highest score for this parameter is 100). (25 percent)
- (5) Subject to availability of funds and local match, provide support for technical assistance for every district.
- (6) District technicians may be jointly funded by more than one district to accelerate the program in each participating district. Each district must be eligible for cost sharing in the program. Requests for funding (salary, FICA, insurance, etc.) of a shared position must be presented to the division by all concerned districts and the division shall cost share to the billing district at a 50-50 rate based on the portion of the FTE provided each respective district. A shared position must be officially housed in one specific district and cost share for support items (office rent, telephone, etc.) shall be paid to one district only.
- (7) Funds, if available, may be allocated to each participating district to provide for administrative costs under this program. These funds shall be used for clerical assistance and other related program administrative costs and shall be matched with in-kind funds of an equal amount from the district.

(fe) The funds available for the education and outreach purpose shall be allocated by the Commission based on the needs as expressed by the district and needs to accelerate the installation of BMPs in that respective district. Districts and the Division may use these funds for holding workshops for potential applicants and for developing, duplicating, and distributing outreach materials or signs. Districts must provide an itemized budget to the Division in order to qualify for education and outreach funds. Education and outreach funds shall be allocated to each district in accordance with the following formula:

- (1) Each district shall receive the lesser of one thousand dollars (\$1,000) or the result of the following equation:

$$\frac{\text{Total Education and Outreach}}{\text{Total Education and Outreach Dollars}} \times \frac{\text{Total Education and Outreach Dollars}}{\text{Total Education and Outreach Dollars}} = \frac{\text{Education and Outreach}}{\text{Education and Outreach Dollars}}$$

ATTACHMENT 10

- | | Dollars Available | Dollars Requested by Each District | Requested by All Districts | Available to Each District |
|-----|--|------------------------------------|----------------------------|----------------------------|
| (2) | If more Education and Outreach funds are available for allocation than are requested by districts or the Division, then the excess funds shall be added to the funds to be allocated for cost share and cost share incentive payments. | | | |

*History Note: Authority G.S. 106-840; 106-860; 139-4; 139-8;
Eff. January 1, 2008;
Transferred from 15A NCAC 061 .0103 Eff. May 1, 2012.*