

NEW AND EXPANDED OPERATIONS

STATEMENT OF INTENT

Soil and Water Conservation Districts are allocated monies based on the identified level of agricultural-related nonpoint source pollution problems, the respective district's BMP installation goals as demonstrated in the district annual strategy plan, and the district's record of performance to affect BMP installation by cooperating farms (15A NCAC 06E.0103). Districts are responsible for targeting technical and financial assistance to facilitate BMP implementation on the identified critical areas (15A NCAC 06E.0108).

The position of the Soil and Water Conservation Commission is that Districts are given authority under the North Carolina Administrative Rules (15A NCAC) to approve contracts on previously established operations that are causing a water quality problem (sediments, nutrients, chemicals, *et al.*) as a result of current activities related to agricultural activities. Previously established operations are those that are established 3 or more years prior to the date of application for cost share assistance. For livestock operations, the three year period begins when animals are onsite. For cropland, the three year begins when the first crop is planted (seed in the ground).

Districts are prohibited from approving:

- Contracts on agricultural operations that are not established, and therefore, are not causing a water quality problem.
- Contracts on animal operations that have been abandoned for 4 or more years prior to repopulation with animals.
- Contracts on new or expanded operations. New or expanded operations are those that were established less than 3 years prior to the application date or have increased in size less than 3 years prior to the application date.
- Contracts for operations which are relocating for reasons other than site restrictions, such as (but not limited to) the operator's loss of the lease for the land on which the operation exists or for land needed in order to properly address animal waste treatment and storage needs.

Expanded operations include, but are not limited to, the following examples:

- Increase in the number of animal units and structures
- Cleared acreage for crop production. Cost share may be available for cleared cropland that was in production for 3 years prior to the date of cost share application if it remains in agriculture crop production.

For animal operations which expand less than 3 years prior to the date of cost share application, the cost share contract amount must be limited to the animal waste design, treatment and storage capacity necessary to provide animal waste treatment and storage at the pre-expansion level.

STATEMENT OF PURPOSE

The Commission recognizes the possible need to provide assistance to not-yet established and newly established operations. Districts are authorized to provide technical assistance to applicants of new operations to help ensure the proper design and installation of practice that protect water quality. If the District determines that cost share assistance is needed to address a water quality problem on agricultural land that was established less than 3 years prior to the date of cost share assistance application or on an operation that has expanded, the application can be presented to the Commission. The Commission reserves the authority to approve contracts on new or expanded operations on a case-by-case basis.

Operations that met standards that were in effect at the time of the start-up or expansion, but are now out of compliance or will be out of compliance with a new law, regulation, standard or permit condition or is not in compliance with a policy or official guidance are eligible for cost share assistance regardless of when the operation was established or expanded. These contracts will be approved by the Division on a case-by-case basis. The District submitting the contract for approval must fully justify the water quality need and provide a clear citation to the specific cause for the operation now being out of compliance or out of conformity.

(Adopted 13, 1992; revised March 23, 1994; revised September 16, 1998; revised September 18, 2002; revised March 10, 2004; revised August 10, 2005; revised May 2010)