SUBCHAPTER 59D - AGRICULTURE COST SHARE PROGRAM FOR NONPOINT SOURCE POLLUTION CONTROL

SECTION .0100 - AGRICULTURE COST SHARE PROGRAM

02 NCAC 59D .0101 PURPOSE

This Subchapter describes the operating procedures for the Division under the guidance of the Commission implementing the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the Community Conservation Assistance Program for Nonpoint Source Pollution Control, and the Agricultural Water Resources Assistance Program.

History Note: *Authority G.S. 106-840; 106-850; 106-860; 139-4; 139-60;*
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Readopted Eff. January 1, 2020.

02 NCAC 59D .0102 DEFINITIONS

In addition to the definitions found in G.S. 106-850 and 139-3, the following terms used in this Subchapter have the following meanings:

(1) "Agricultural Nonpoint Source (NPS) Pollution" means pollution originating from a diffuse source as a result of agricultural activities related to crop production, production and management of poultry, livestock and aquaculture, land application of waste materials, and management of forestland incidental to agricultural production.

(2) "Agricultural purposes" means agricultural activities related to crop production, production and management of poultry and livestock, land application of waste materials, and management of forestland incidental to agricultural production.

(3) "Allocation" means the annual share of the State's appropriation for each program to participating districts.

(4) "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." All entities with which the applicant is associated, including those in other counties, shall be considered the same applicant.

(5) "Average Costs" means the calculated cost, determined by averaging actual costs and current cost estimates for best management practice implementation. Actual costs include labor, supplies, and other costs required for physical installation of a practice.

(6) "Best Management Practice (BMP)" means a structural or nonstructural management based practice used singularly or in combination to address natural resource needs.

(a) For the Agriculture Cost Share Program and the Community Conservation Assistance Program, BMPs shall reduce nonpoint source inputs to receiving waters.

(b) For the Agricultural Water Resources Assistance Program, BMPs shall increase the storage, availability, and use efficiency of water for agricultural purposes.

(7) "Commission" means the Soil and Water Conservation Commission.

(8) "Conservation Plan" means a written plan documenting the applicant's decisions concerning land use, and both cost shared and non-cost shared BMPs to be installed and maintained on the management unit.

(9) "Cost Share Agreement" means an agreement between the applicant and the district that 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.

(10) "Cost Share Incentive (CSI)" means a predetermined fixed payment paid to an applicant for implementing a BMP in lieu of cost share.

(11) "Cost Share Rate" means a cost share percentage paid to an applicant for implementing BMPs.

(12) "Department" means the North Carolina Department of Agriculture and Consumer Services.

(13) "Design practice" means an engineering practice as defined by the Natural Resources Conservation Service (NRCS) Technical Guide for North Carolina, which is incorporated by reference including all subsequent amendments and editions, and can be accessed for free at http://efotg.sc.egov.usda.gov/#/, or Soil and Water Conservation Commission list of BMPs that are acceptable for cost sharing. The list of BMPs shall be approved annually by the Commission and published in the Detailed Implementation Plan. .]

(14) "Detailed Implementation Plan (DIP)" means the document published annually, including all Commission guidelines for each program for the current fiscal year including:

(a) annual program goals;

(b) district and Statewide allocations;

(c) BMPs that will be eligible for cost sharing; and

(d) the minimum life expectancy of those practices.

(15) "District Allocation Pool" means the annual share of the State's appropriation for each program to be allocated to participating districts.

(16) "District BMP" means a BMP requested by a district and approved by the Division for evaluation purposes.

(17) "Division" means the Division of Soil and Water Conservation.

(18) "Encumbered Funds" means monies from a district's allocation that have been obligated by the district to a cost share agreement.

(19) "In-kind Contribution" means a contribution by the applicant towards the implementation of BMPs. In-kind contributions shall be approved by the district and can include labor, fuel, machinery use, and supplies and materials for implementing the approved BMPs.

(20) "Fiscal Year" means the period from July 1 through June 30 for which funds are allocated to districts.

(21) "Job Approval Authority" means the authority granted to individuals who are qualified to plan, design, and verify installation or implementation of specific practices per practice standards approved by the Natural Resources Conservation Service or the Commission. This authority is granted by the Natural Resources Conservation Service or the Commission.

(22) "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 shall 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, exercising similar powers for similar purposes, can be a landowner for the purposes of the rules of this Subchapter if the governmental agency holds an easement in land.

(23) "Nonpoint Source (NPS) Pollution" means pollution originating from a diffuse source.

(24) "Proper Maintenance" means that a practice(s) is being maintained such that the practice(s) is performing the function for which it was originally implemented, as determined by the technical representative of the district or Division based upon the best management practice design and standard.

(25) "Regional Allocation Pool" means the annual share of the State's appropriation for each program allocated for applications ranked in the Division's three regions as specified in the annual Detailed Implementation Plan.

(26) "Statewide Allocation Pool" means the annual share of the State's appropriation for applications ranked at the State level as specified in the annual Detailed Implementation Plan.

(27) "Strategic Plan" means the annual plan for the N.C. Soil and Water Conservation Commission Cost Share Programs to be developed by each district. The plan identifies natural resource needs and the level of cost sharing and technical assistance monies required to address those annual needs in the respective district.

(28) "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.

(29) "Unencumbered Funds" means the portion of the allocation to each district that has not been committed for cost sharing.

History Note: *Authority G.S. 106-840; 106-850; 106-860; 139-3; 139-4; 139-8; 139-60;*
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02 NCAC 59D .0103 AGRICULTURE COST SHARE PROGRAM FINANCIAL ASSISTANCE ALLOCATION GUIDELINES AND PROCEDURES

(a) The Commission shall allocate cost share funds to districts for cost share payments and cost share incentive payments. In order to receive fund allocations, each district shall submit an annual strategic plan to the Commission by June 1 of each year.

(b) Funds shall be allocated to the districts at the beginning of the fiscal year and whenever the Commission determines that sufficient funds are available to justify a reallocation. District allocations shall be based on the identified level of agricultural nonpoint source pollution problems, the respective district's BMP installation goals as demonstrated in the district's annual strategic plan, and the district's record of performance to affect BMP installation by participating farmers. The allocation method used for disbursement of funds shall be based on the relative position of each respective district for those parameters approved by the Commission pursuant to Paragraph (g) of this Rule. Each district shall be assigned points for each parameter, and the points shall be 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 Points Each District	x	Total Dollars Available	=	Dollars Available to Each District

(3) The minimum allocated to a district shall be twenty thousand dollars ($20,000) per program year, unless the district requests less than twenty thousand dollars ($20,000).

(4) If a district requests less than the dollars available to that district in Subparagraph (b)(2) of this Rule, then the excess funds shall be allocated to the districts who did not receive their full requested allocation using the same methodology described in Subparagraph (b)(2) of this Rule.

(c) In the initial allocation, 95 percent of the annual appropriation shall be allocated to district accounts administered by the Division. The Division shall retain five percent of the annual appropriation as a contingency to be used to respond to an emergency or natural disaster. If the contingency funds are not needed to respond to an emergency, then they shall be available for allocation after March 1.

(d) The Commission may recall funds allocated to a district 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.

(e) At any time a district may submit a revised strategic plan to request additional funds from the Commission.

(f) Agreements that encumber funds under the current fiscal year shall be submitted to the Division by 5:00 p.m. on June 30.

(g) For the Agriculture Cost Share Program for Nonpoint Source Pollution Control, districts shall be allocated funds based on their respective data for each of the following parameters:

(1) Percentage of total acres of agricultural land in North Carolina that are in the respective district as reported in the most recent edition of the North Carolina Census of Agriculture. This report is incorporated by reference with all subsequent amendments and editions and may be accessed at no charge at www.agcensus.usda.gov. The actual percentage shall be normalized to a 1-100 scale. (20%)

(2) Percentage of total number of animal units in North Carolina that are in the respective district as reported in the most recent edition of the North Carolina Census of Agriculture and converted to animal units using the conversion factors approved by the USDA-Natural Resources Conservation Service. The actual percentage shall be normalized to a 1-100 scale. (20%)

(3) Relative rank of the percentage of the county outside of municipal boundaries as defined by North Carolina Department of Transportation at https://gis11.services.ncdot.gov/arcgis/rest/services/NCDOT_CityBdy_Poly/MapServer/0, draining to waters identified as impaired or impacted on the most recent Integrated Report a produced by the North Carolina Division Water Resources. This report is incorporated by

reference with subsequent amendments and editions, and may be accessed at no charge at https://deq.nc.gov/about/divisions/water-resources/planning/classification-standards/classifications. (20%)

(4) Relative rank of the percentage of the county draining to waters classified as Primary Nursery Areas, Outstanding Resource Waters, High Quality Waters, Trout Waters on the current schedule of Water Quality Standards and Classifications, Shellfish Harvesting Areas (open) as determined by the Division of Marine Fisheries, and North Carolina Drinking Water Assessment Areas as determined by the Division of Water Resources. . All documents incorporated by reference may be accessed at no charge. The Classifications are incorporated by reference with subsequent amendments and editions, and may be accessed at no charge at http://ncdenr.maps.arcgis.com/apps/webappviewr/index.html. The Shellfish Harvesting Areas may be accessed at http://portal.ncdenr.org/web/mf/shellfish-closure-maps. The Drinking Water Assessment Areas may be accessed at http://deq.nc.gov/about/divisions/water-resources/drinking-water/drinking-water-protection-program/mapping-applications. (10%)

(5) Percentage of program funds allocated to a district that are expended for installed BMPs in the highest three of the most recent seven-year period as reported in the NC Cost Share Contracting System. . (20%)

(6) Relative rank of the number of acres of highly erodible land in the county as reported by the United States Department of Agriculture Farm Service Agency, unless the State Conservationist of the Natural Resources Conservation Service specifies that another information source would be more current and accurate. (10%)

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02 NCAC 59D .0104 COMMUNITY CONSERVATION ASSISTANCE PROGRAM ALLOCATION GUIDELINES AND PROCEDURES

(a) The Commission shall consider the total amount of funding available for allocation and relative needs 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 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 upon the recommendation of the Division and the needs expressed by the districts.

(b) Based on the availability of funds, the Commission shall allocate cost share funds from the district allocation pool to the districts. To receive fund allocations, each district shall request funds in their strategic plan.

(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 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's annual strategic plan. The allocation method used for disbursement of funds shall be based upon the score of each respective district for those parameters approved by the Commission pursuant to Subparagraph (7) of this Paragraph. The points each district scores on each parameter shall be totaled and proportioned to the total dollars available for district allocation under the current fiscal year funding according to the following formula:

(1)	Sum of Parameter Points			=	Total Points
(2)	Percentage Total Points Each District	x	Total Dollars Available	=	Dollars Available to Each District

(3) 95 percent of the 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 respond to an emergency or natural disaster.

(4) The Commission may recall funds allocated to a district 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.

(5) At any time a district may submit a revised strategic plan to request additional funds from the Commission.

(6) Agreements that encumber funds under the current fiscal year must be submitted to the Division by 5:00 p.m. on June 30.

(7) Districts shall be allocated funds based on their respective data for each of the following parameters:

(A) Relative rank of the percentage of the county draining to waters identified as impaired or impacted on the most recent Integrated Report produced by the North Carolina Division of Water Resources. (20 percent).

(B) Relative rank of the percentage of the county draining to waters classified as Outstanding Resource Waters, High Quality Waters and Trout Waters or on the current schedule of Water Quality Standards and Classifications, and Shellfish Harvesting Areas (open) as determined by the Division of Marine Fisheries. (20 percent)

(C) The percentage of each county covered by National Pollutant Discharge Elimination System Phase I and Phase II requirements found at https://deq.nc.gov/about/divisions/water-resources/water-resources-permit-guidance/npdes-phase-i-phase-ii-stormwater-guidance. (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 Water Resources. (20 percent)

(F) The Commission may consider additional factors, such as data sources changes to the Subparagraphs in this Paragraph, as recommended by the Division when making its allocations.

(d) Based on the availability of funds, 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 respective 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.

History Note: *Authority G.S. 106-860; 139-8;139-8;*
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02 NCAC 59D .0105 AGRICULTURAL WATER RESOURCES ASSISTANCE PROGRAM FINANCIAL ASSISTANCE ALLOCATION GUIDELINES AND PROCEDURES

(a) The Commission shall consider the total amount of funding available for allocation and the relative needs for BMP implementation to determine the proportion of available funds to be allocated to statewide, regional, and district allocation pools and the Division. The percentage of funding available for each purpose and each allocation pool shall be specified in the annual Detailed Implementation Plan based upon the recommendation of the Division and the needs expressed by the districts.

(b) Based on funding availability, the Commission shall allocate cost share funds from the district allocation pool to the districts. To receive fund allocations, each district shall request an allocation in their strategic plan.

(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 funds are available in the district allocation pool to justify a reallocation. Districts shall be allocated monies based on the identified level of agricultural water use needs and the respective district's BMP installation goals as demonstrated in the district's annual strategic plan. The allocation

method used for disbursement of funds shall be based on the relative position of each respective district for those parameters approved by the Commission pursuant to Paragraph (h) of this Rule. The points each district scores on each parameter shall be totaled and proportioned to the total dollars available for district allocation under the current fiscal year funding according to the following formula:

(1)	Sum of Parameter Points	=	Total Points		
(2)	Percentage Total Points Each District	x	Total Dollars Available	=	Dollars Available to Each District

(3) The minimum district allocation shall be specified in the Detailed Implementation Plan.

(4) If a district requests less than the dollars available to that district in Subparagraph (b)(2) of this Rule, then the excess funds shall be allocated to the districts who did not receive their full requested allocation using the same methodology described in Subparagraph (b)(2) of this Rule.

(d) In the initial allocation, 95 percent of the annual appropriation shall be allocated to district accounts administered by the Division. The Division shall retain five percent of the annual appropriation as a contingency to be used to respond to an emergency or natural disaster. If the contingency funds are not needed to respond to an emergency, then they shall be available for allocation after March 1.

(e) The Commission may recall funds allocated to a district 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.

(f) At any time a district may submit a revised strategic plan to request additional funds from the Commission.

(g) Agreements that encumber funds under the current fiscal year must be submitted to the Division by 5:00 p.m. on June 30.

(h) For the Agricultural Water Resources Assistance Program, districts shall be allocated funds based on their respective data for each of the following parameters:

(1) Relative rank of the number of farms (total operations) that are in the respective district as reported in the Census of Agriculture. (20%)

(2) Relative rank of the total acres of land in farms that are in the respective district as reported in the Census of Agriculture. (20%)

(3) Relative rank of the Market Value of Sales that are in the respective district as reported in the Census of Agriculture. (15%)

(4) Relative rank of the amount of agricultural water use in the respective district as reported in the North Carolina Agricultural Water Use Survey (25%). Data from the most recent three surveys will be averaged to determine each district's rank.

(5) Relative rank of population density as reported by the state demographer. (20%)

(6) The Commission may consider additional factors, such as data sources changes to the Subparagraphs in this Paragraph, as recommended by the Division when making its allocations.

(i) Based upon funding availability, 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 respective 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.

History Note: *Authority G.S. 106-840; 106-850; 106-860; 139-4; 139-8; 139-60;*
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Temporary Amendment Eff. September 23, 1996;
Recodified form 15A NCAC 06E .0005 Eff. December 20, 1996;
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02 NCAC 59D .0106 BEST MANAGEMENT PRACTICES ELIGIBLE FOR COST SHARE PAYMENTS

(a) The Commission shall approve a list of BMPs that are acceptable for cost-sharing. The list of BMPs shall be approved annually and published in the DIP. The Commission may consider requests for additional BMPs at any time. The Commission shall consider the following criteria in approving BMPs:

(1) all eligible BMPs shall be designed to meet the purpose of the program or shall be authorized by statute;
(2) information establishing the average cost of the specified BMP shall be used, if available. District BMPs may use actual costs as indicated by receipts, if average costs are not available; and
(3) eligible BMPs shall follow technical specifications as set forth in Paragraph (b) of this Rule.

(b) BMP definitions and specifications shall be determined by the Commission or by the Division for District BMPs. For a contract to be eligible for payment, all cost-shared BMPs shall meet or exceed the specifications in effect at the time the contract was approved. Provisions for exceeding BMP design specifications by an applicant may be considered at the time of application with the district. The applicant shall assume responsibility for all costs associated with exceeding BMP design specifications.

(c) The Division has authority to approve District BMPs for evaluation purposes. The BMP shall be requested by a district and meet the program purpose. The Division shall determine it to be technically adequate prior to approving the agreement for funding.

(d) The minimum required maintenance of the BMPs shall be listed in the Detailed Implementation Plan or be established by the Division for District BMPs.

History Note: *Authority G.S. 106-840; 106-850;106-860; 139-4; 139-8; 139-60;*
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02 NCAC 59D .0107 COST SHARE AND INCENTIVE PAYMENTS

(a) Cost share incentive (CSI) payments may be made through Cost Share Agreements between the district, Division, and the applicant.

(b) For all practices except those eligible for Cost Share Incentives (CSI), the State shall fund a percentage of the average cost for BMP installation not to exceed the maximum cost share percentages shown in G.S. 106-850(b)(6), (8), and (9), and the applicant shall fund the remainder of the cost. In-kind contributions by the applicant shall be included in the applicants' cost share contribution. In-kind contributions shall be approved by the district and Division.

(c) CSI payments shall be limited to a maximum of three years per entity.

(d) Average installation costs for each comparative area or region of the State and the amount of cost share incentive payments shall be updated and revised triennially by the Division for approval by the Commission.

(e) The total annual cost share payments to an applicant shall not exceed the maximum funding authorized in G.S. 106-850(b)(6) and (9).

(f) Use of cost share payments shall be restricted to land located within the county approved for funding by the Commission. However, in the situation where an applicant's farm is not located solely within a county, the entire farm, if contiguous, shall be eligible for cost share payments.

(g) Agriculture Cost Share Program and Agricultural Water Resources Assistance Program Cost Share Agreements used on or for local, State, or federal government land shall be approved by the Commission to avoid potential conflicts of interest and to ensure that such contracts are consistent with the purposes of these programs.

(h) The district Board of Supervisors may approve Cost Share Agreements with cost share percentages or amounts less than the maximum allowable in G.S. 106-850(b)(6), (8), and (9) if:
(1) the Commission allocates insufficient cost share BMP funding to the district to enable it to award funding to all applicants; or
(2) the district establishes other criteria in its annual strategic plan for cost sharing percentages or amounts less than those allowable in G.S. 106-850(b)(6), (8) and (9).

(i) For purposes of determining eligible payments under practice-specific caps described in the Detailed Implementation Plan, the district board shall consider all entities with which the applicant is associated, including those in other counties, as the same applicant.

History Note: *Authority G.S. 106-850;106-860; 139-4; 139-8; 139-60;*
Eff. May 1, 1987;
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02 NCAC 59D .0108 TECHNICAL ASSISTANCE FUNDS

(a) The funds available for technical assistance shall be allocated by the Commission based on the recommendation of the Division, the needs as expressed by the district, and the needs to accelerate the installation of BMPs in the respective district. The district shall provide at least 50 percent of the total matching funds for technical assistance.

(b) The Commission shall allocate technical assistance funds as described in its DIP. This allocation shall be made based on the implementation of conservation practices for which district employees provided technical assistance incorporating the following:

(1) Commission Cost Share Programs funded practices will be weighted at 100 percent;

(2) other local, State, federal, and grant funded practices that meet the purpose requirements as set forth in Rule .0101 of this Section will be weighted at a minimum of 25 percent as specified in the DIP;

(3) districts shall submit information on funded practices as specified in Subparagraph (2) of this Paragraph through their annual strategic plan;

(4) this allocation will be calculated using the highest three of the most recent seven years; and

(5) this allocation will be calculated once every three years, unless there is a change in technical assistance State appropriations.

(c) Technical assistance funds may be used for salary, benefits, social security, field equipment and supplies, office rent, office equipment and supplies, postage, telephone service, travel, mileage, and any other expense of the district in implementing Soil and Water Conservation Commission Cost Share Programs.

(d) Each district requesting technical assistance funding with the required 50 percent local match shall receive a minimum allocation of $20,000 each year.

(e) If a district is not spending more financial assistance funds on Commission Cost Share Programs than they receive for technical assistance, the district shall appeal to the Commission to receive technical assistance funding.

(f) All technical district employees shall obtain Job Approval Authority for two best management practices from the Commission or the United States Department of Agriculture Natural Resources Conservation Service within three years of being hired or three years of the effective date of this Rule, whichever is later.

(1) One of the best management practices for which the employee has obtained Job Approval Authority shall be a design practice. "Design practice" means an engineering practice as defined by the Natural Resources Conservation Service of Soil and Water Conservation Commission in their Program Detailed Implementation Plan(s).

(2) The District Board of Supervisors may request a one-year extension for their employees in meeting the Job Approval Authority requirement for extenuating circumstances outside of the employee's control.

History Note: *Authority G.S. 106-840; 106-850; 139-4; 139-8;*
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Recodified from 15A NCAC 6E .0008 Eff. December 20, 1996;
Amended Eff. March 1, 2008; November 1, 1997;
Transferred from 15A NCAC 06E .0108 Eff. May 1, 2012;
Readopted Eff. January 1, 2020.

02 NCAC 59D .0109 COST SHARE AGREEMENT

(a) The landowner shall be required to sign the agreement for all practices that affect change to the property. The agreement shall include a requirement for the landowner to be responsible for BMP maintenance and continuation.

(b) The technical representative of the district shall determine if the practice(s) implemented have been installed according to practice standards as defined for the respective program year in the USDA- Natural Resources Conservation Service (NRCS) Technical Guide for North Carolina according to other specifications approved by the Commission, or according to standards approved by the Division for district BMPs based on the criteria established in 02 NCAC 59G .0103(c).

(c) The district shall be responsible for making an annual compliance visit of five percent of all the cost share agreements to ensure proper maintenance. The Commission may specify additional compliance visit requirements for specific BMPs in the Detailed Implementation Plan.
(d) If the technical representative of the district determines that a BMP for which program funds were received has been destroyed or has not been properly maintained, the applicant shall be notified that the BMP shall be repaired or re-implemented within 30 business days. For vegetative practices, applicants shall be given one calendar year to re-establish the vegetation. The Division shall grant a one calendar year extension period if it determines compliance cannot be met due to circumstances beyond the. applicant's control, such as weather.
(e) If the practices are not repaired or reimplemented within the specified time, the applicant shall be required to repay to the Division a prorated refund for cost share BMPs as shown in Table 1 and 100 percent of the cost share incentive payments received.

Table 1
PRORATED REFUND SCHEDULE FOR NONCOMPLIANCE
OF COST SHARE PAYMENTS

Percent Age of Practice Life	Percent Refund
0	100
10	95
20	89
30	82
40	74
50	65
60	55
70	44
80	31
90	17
100	0

(f) In the event that a Cost Share Agreement has been found to be noncompliant and the applicant does not agree to correct the non-compliance, the Division shall invoke procedures to achieve resolution to the noncompliance.
(g) When land under cost share agreement changes ownership the new landowner shall be encouraged by the district to accept the remaining maintenance obligation. If the new landowner does not accept the maintenance requirements in writing, then the original applicant shall be required to refund 100 percent of all CSI payments and a prorated portion of cost share payments in accordance with Table 1 in Paragraph (e) of this Rule.

History Note: *Authority G.S. 106-850; 139-4; 139-8;*
Eff. January 1, 2020.

02 NCAC 59D .0110 DISTRICT PROGRAM OPERATION
(a) Each district shall prioritize resource concerns for each program in its annual strategic plan. The district shall target technical and financial assistance to facilitate BMP implementation.
(b) The district shall give priority to implementing systems of BMPs that provide the most cost-effective conservation practice for addressing priority resource concerns.
(c) All applicants shall apply to the district in order to receive cost share payments.
(d) The district shall review each application and determine the feasibility of each application. The district shall review and approve the evaluation and assign priority for cost sharing. All applicants shall be informed of cost share application approval or denial.
(e) Upon approval of the application by the district, the applicant, district, and the Division shall enter into a cost share agreement. The Cost Share Agreement shall list the practices to be cost shared with State funds. The agreement shall also include the average cost of the recommended practice(s), cost incentive payment of the practice(s), and the expected implementation date of the practice(s). The District shall develop a conservation plan that shall become a part of the Cost Share Agreement.
(f) Upon completion of practice(s) implementation, the technical representative of the district shall notify the District Board of Supervisors of compliance with design specifications.
(g) Upon notification by the technical representative, the district shall review the agreement and request for payment. Upon approval, the district shall certify the practices in the agreement and notify the Division to make payment to the applicant. The District Board of Supervisors shall certify that the individual signing the conservation

plan and request for payment has Job Approval Authority for the respective practice(s) before signing requests for payment for completed BMPs.
(h) The district shall be responsible for and approve all BMP inspections as set forth in Rule .0109(c) of this Section to ensure proper maintenance and continuation under the Cost Share Agreement.
(i) The district shall keep records dealing with the program per its document retention schedule.

History Note: *Authority G.S. 106-840; 106-850; 139-4; 139-8;*
Eff. January 1, 2020.

SECTION .0200 – JOB APPROVAL AUTHORITY

02 NCAC 59D .0201 CRITERIA AND PROCEDURES FOR GRANTING JOB APPROVAL AUTHORITY

(a) "Eligible individuals" means Soil and Water Conservation District employees, county employees working as staff for a Soil and Water Conservation District, and employees of the North Carolina Department of Agriculture and Consumer Services Division of Soil and Water Conservation.
(b) Eligible individuals seeking Job Approval Authority (JAA) from the Commission shall receive agreement from their immediate supervisor. District staff shall also receive agreement from the chair of the Soil and Water Conservation District for whom they are employed.
(c) Eligible individuals seeking JAA for a best management practice as defined by 02 NCAC 59D .0102(6) shall submit application to the Division for evaluation of technical competency. The application for JAA shall include:

(1) name;
(2) contact information;
(3) JAA requested;
(4) signature of District Chair or Supervisor; and
(5) proof of technical competency for the requested JAA including comparable JAA through USDA-NRCS, or applicable certification or submission of two completed practice designs.

The minimum technical competency requirements for each practice shall be listed in the applicable program's Detailed Implementation Plan (DIP) as defined in 02 NCAC 59D .0102(14).
(d) Eligible individuals who submit documentation of JAA issued by the USDA Natural Resources Conservation Service as part of the application described in Paragraph (c) of this Rule shall be granted equivalent JAA by the Commission, unless JAA has subsequently been rescinded due to factors identified in Paragraph (f) of this Rule.
(e) The Commission shall consider an eligible individual who is duly licensed as a professional engineer by the North Carolina Board of Examiners for Engineers and Surveyors as having JAA for any best management practice to which they affix their seal and signature to all designs and technical documents.
(f) The Commission may rescind an individual's JAA for any or all best management practices where the Commission determines that the individual fails to comply with the applicable practice standards, submits false data or is dishonest in the use of their JAA, taking into consideration the severity of the non-compliance, the extent and significance of any false data submitted, and the individual's history of non-compliance.
(g) Individuals no longer employed by the County, District, or Division shall have previously issued JAA reinstated if they are re-employed as an eligible individual and have subsequently complied with the requirements described in Paragraphs (b) and (c) of this Rule.

History Note: *Authority G.S. 106-840; 106-850; 139-3; 139-4(d)(9) and (14);*
Eff. January 1, 2021.