

## NEW AND EXPANDED OPERATIONS

### Statement of Intent

Soil and Water Conservation Districts are allocated funds based on the identified level of agricultural nonpoint-source pollution problems, the district's BMP installation goals demonstrated in the annual strategic plan, and the district's record of performance in facilitating BMP installation on cooperating farms (02 NCAC 59D.0103). Districts are responsible for targeting technical and financial assistance to implement BMPs on identified critical areas (02 NCAC 59D.0108).

The Commission supports that consistent with North Carolina Administrative Rules (02 NCAC 59D), Districts have authority to approve contracts on previously established agricultural lands that are causing a water quality problem related to sediments, nutrients, chemicals, or other pollutants. Previously established operations are those established three or more years prior to the date of application for cost-share assistance.

- Eligibility is based on agricultural land use, not the operator's business history.
- A parcel of agricultural land must be in established agricultural use for three or more years before becoming eligible for cost-share contracts.
- Establishment is linked to land activity:
  - Cropland: When the first crop is planted.
  - Livestock: When animals are placed onsite.

Because agricultural operations differ significantly between cropland and livestock systems, eligibility criteria and requirements are organized into two primary categories:

- Cropland Agriculture
- Livestock Operations

### Cropland Agriculture

Cropland is considered established when the first crop has been planted for three or more years. The three years begin when the first crop is planted (seed in the ground). Districts may approve cost-share assistance only on cropland operations meeting this requirement and contributing to a water quality concern.

Prohibited Contracts - Districts shall not approve:

- Cropland operations not established for at least three years.
- Cropland operations expanded within three years. *The original acreage that has been established for more than three years is eligible, but newly planted acreage that does not meet this policy, is not eligible.*
- Cropland operations are relocating for reasons other than site restrictions.

## **Livestock Operations**

Livestock operations are established once animals have been onsite for three or more years. The three years begin when animals are onsite.

Prohibited Contracts - Districts shall not approve:

- Livestock operations not meeting the three-year establishment period.

Livestock operations expanded within three years. *Contracts for expanded livestock operations within three years are limited to pre-expansion resource concerns including waste-treatment and storage capacity.*

- Expanded livestock operations include:
  - Increases in animal units and associated structures.
  - Construction of structures significantly increasing housing or waste management.
- Livestock operations abandoned for four or more years prior to repopulation, except for the Waste Impoundment Closure BMP.
- Relocated livestock operations except where required by site restrictions.

## **Operational Changes Between Cropland and Livestock**

When agricultural land transitions between cropland and livestock use, the establishment period resets based on the new agricultural activity.

Districts must determine eligibility by evaluating:

- The land's documented history of use, including when the new use began.
- The presence of a demonstrable water quality concern associated with the current agricultural activity.

This means:

- A shift from cropland to livestock triggers the livestock three-year establishment period beginning when animals are placed onsite.
- A shift from livestock to cropland triggers the cropland three-year establishment period beginning when the first crop is planted.

Eligibility is based on the current land use, supported by clear evidence of water quality impact—not the operator's business history or type of enterprise.

## **Relocating Operations (Both Cropland and Livestock) – Option 1**

Operations relocating for reasons unrelated to site restrictions (loss of leased land, access limitations, etc.) are not eligible for cost-share assistance. Lagoon and waste structure closures remain eligible.

## **Relocating Operations (Both Cropland and Livestock) – Option 2**

Operations relocating for reasons unrelated to site restrictions (such as loss of leased land, access limitations, or land availability constraints) are not eligible for District-approved cost-share assistance.

However, relocation may be eligible when:

- The move is required due to site restrictions, such as inadequate land for proper waste treatment and storage, regulatory limitations, environmental constraints, or loss of a lease that prevent continued operation at the original site.
- Relocation is necessary to protect water quality, and the District documents how remaining at the original site would continue to cause or worsen a water quality concern.
- The operation meets all other establishment requirements for the current agricultural use at the new site (three-year livestock or cropland establishment period).

Additionally:

- Lagoon closures and waste storage structure closures on abandoned operations remain eligible regardless of relocation status.

### **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 1992; revised March 23, 1994; revised September 16, 1998; revised September 18, 2002; revised March 10, 2004; revised August 10, 2005; revised May 2010; revised TBD)