

02 NCAC 59H .0102 is amended with changes as published in 31:01 NCR 7-8 as follows:

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. “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.”
- (2) ~~[District] Allocation [Pool]~~ means the annual share of the state's appropriation to participating districts. “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.
- (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. “Best Management Practice (BMP)” means a practice used to reduce nonpoint source inputs to receiving waters, including both structural or nonstructural management practices.
- (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. “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 property.
- ~~(3)(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. “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.
- ~~(4)(6)~~ 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. “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.
- ~~(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. “Cost Share Rate” means a cost share percentage paid to an applicant for implementing BMPs.

- 1 ~~(6)~~(8) Conservation Plan of Operation (CPO) means a written plan scheduling the applicant's decisions
2 concerning land use, and both cost shared and non cost shared BMPs to be installed and maintained on
3 the operating unit. "Detailed Implementation Plan" means the plan approved by the Commission that
4 specifies the guidelines for the current program year including:
5 (a) annual program goals;
6 (b) district, statewide, and regional allocations;
7 (c) BMPs that will be eligible for cost sharing; and
8 (d) the minimum life expectancy of those practices.
- 9 ~~(7)~~(9) Cost Share Agreement means an agreement between the applicant and the district which defines the
10 BMPs to be cost shared, rate and amount of payment, minimum practice life, and date of BMP
11 installation. The agreement shall state that the recipient shall maintain and repair the practice(s) for
12 the specified minimum life of the practice. The Cost Share Agreement shall have a maximum contract
13 life of three years for BMP installation. The district shall perform an annual status review during the
14 installation period. "District Allocation Pool" means the annual share of the state's appropriation to
15 participating districts
- 16 ~~(8)~~(10) Cost Share Incentive (CSI) means a predetermined fixed payment paid to an applicant for
17 implementing a nonstructural management BMP in lieu of cost share on a structural practice. "District
18 BMP" means a BMP designated by a district to reduce the delivery of NPS pollution and is approved
19 by the Division as technically adequate prior to funding.
- 20 ~~(9)~~(11) Cost Share Rate means a cost share percentage paid to an applicant for implementing BMPs.
21 "Division" means the Division of Soil and Water Conservation.
- 22 ~~(10)~~(12) Detailed Implementation Plan means the plan approved by the commission that specifies the
23 guidelines for the current program year pursuant to the Rules of the Commission. [Detailed
24 Implementation Plan means the plan approved by the Commission that specifies the guidelines for the
25 current program year including annual program goals; district, statewide and regional allocations;
26 BMPs that will be eligible for cost sharing and the minimum life expectancy of those practices.]
27 "Encumbered Funds" means monies from a district's allocation that have been committed to an
28 applicant after initial approval of the cost share agreement.
- 29 ~~(11)~~(13) District BMP means a BMP designated by a district to reduce the delivery of NPS pollution and which
30 is reviewed and approved by the Division to be technically adequate prior to funding. "Full Time
31 Equivalent (FTE)" means 2,080 hours per annum, which equals one full time technical position.
- 32 (14) [Division means the Division of Soil and Water Conservation.] "In-kind Contribution" means a
33 contribution by the applicant towards the implementation of BMPs. In-kind contributions shall be
34 approved by the district and may include labor, fuel, machinery use, and supplies and materials
35 necessary for implementing the approved BMPs.
- 36 ~~(12)~~(15) Encumbered Funds means monies from a district's allocation, which have been committed to an
37 applicant after initial approval of the cost share agreement. "Landowner" means any natural person or

1 other legal entity, including a governmental agency, who holds either an estate of freehold (such as a
2 fee simple absolute or a life estate) or an estate for years or from year-to-year in land, but does not
3 include an estate at will or by sufferance in land. Any governmental or quasi-governmental agency,
4 such as a drainage district or a soil and water conservation district, exercising similar powers for
5 similar purposes, can be a landowner for the purposes of this Subchapter if the governmental agency
6 holds an easement in land.

7 ~~(13)~~(16) Full Time Equivalent (FTE) means 2,080 hours per annum which equals one full time technical
8 position. "Nonpoint Source (NPS) Pollution" means pollution originating from a diffuse source.

9 ~~(14)~~(17) In kind Contribution means a contribution by the applicant towards the implementation of BMPs.
10 In kind contributions shall be approved by the district and may include labor, fuel, machinery use, and
11 supplies and materials necessary for implementing the approved BMPs. "Program Year" means the
12 period from July 1 through June 30 for which funds are allocated to districts.

13 ~~(15)~~(18) Landowner means any natural person or other legal entity, including a governmental agency, who
14 holds either an estate of freehold (such as a fee simple absolute or a life estate) or an estate for years or
15 from year to year in land, but does not include an estate at will or by sufferance in land. A
16 governmental or quasi governmental agency such as a drainage district or a soil and water
17 conservation district, or any such agency, by whatever name called, exercising similar powers for
18 similar purposes, can be a landowner for the purposes of this Subchapter if the governmental agency
19 holds an easement in land. "Proper Maintenance" means that a practice(s) is being maintained such
20 that the practice(s) is performing the function for which it was originally implemented.

21 ~~(16)~~(19) Program Year means the period from July 1 through June 30 for which funds are allocated to districts.
22 "Regional Allocation Pool" means the annual share of the state's appropriation allocated for
23 applications ranked in the Division's three regions as specified in the annual Detailed Implementation
24 Plan.

25 ~~(17)~~(20) Proper Maintenance means that a practice(s) is being maintained such that the practice(s) is
26 successfully performing the function for which it was originally implemented. "Statewide Allocation
27 Pool" means the annual share of the state's appropriation allocated for applications ranked at the state
28 level as specified in the annual Detailed Implementation Plan.

29 ~~(18)~~(21) Strategy Plan "Strategy Plan" means the annual plan for the Community Conservation Assistance
30 Program for Nonpoint Source Pollution Control to be developed by each district. The plan identifies
31 pollution treatment needs and the level of cost sharing and technical assistance monies required to
32 address those annual needs in the respective district.

33 ~~(19)~~(22) Technical Representative "Technical Representative" of the district means a person designated by the
34 district to act on their its behalf who participates in the planning, design, implementation
35 implementation, and inspection of BMPs.

36 ~~(20)~~(23) Unencumbered Funds "Unencumbered Funds" means the portion of the allocation to each district,
37 which district that has not been committed for cost sharing.

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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~~-2012;
Amended Eff. November 1, 2016.

02 NCAC 59H .0103 is amended with changes as published in 31:01 NCR 8-10 as follows:

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 regional, and district allocation pools and the Division. Funds may be allocated for any or all of the following purposes:

- (1) Cost cost share and cost share incentive payments; payments;
- (2) technical assistance and administrative assistance; 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~~ upon the recommendation of the ~~division~~ Division and the needs expressed by the districts.

~~(a)~~(b) District Allocations: The Commission shall allocate ~~the~~ cost share funds from the district allocation pool to the districts in the designated program areas. districts. To receive fund allocations, each district designated eligible by the commission Commission shall submit an annual a strategy plan to the ~~commission~~ Commission at the beginning of each fiscal program 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 shall be based upon the score of each respective district for those parameters approved by the Commission pursuant to Subparagraph ~~(9)~~(7) of this Paragraph. The points each district scores on each parameter are shall be 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).~~

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

5 ~~(5)~~(3) 95 percent of the total program funding designated for district allocations shall be allocated to the
6 district accounts in the initial allocation. The Division shall retain five percent of the total funding in a
7 contingency fund to be used to respond to an emergency or natural disaster. ~~If the funds are not~~
8 ~~needed to respond to an emergency, then the contingency fund shall be allocated at the March meeting~~
9 ~~of the Commission.~~

10 ~~(6)~~(4) The Commission may recall funds allocated to a district that have not been encumbered to an
11 agreement during a fiscal year that have not been encumbered to an agreement at any time if it
12 determines the recalled funds are needed to respond to an emergency or natural disaster.

13 ~~(7)~~(5) At any time a district may submit a revised strategy plan and apply to the Commission for additional
14 funds.

15 ~~(8)~~(6) CPOs that encumber funds under the current year must be submitted to the Division by 5:00 p.m. on
16 the first Wednesday in June.

17 ~~(9)~~(7) Districts shall be allocated funds based on their respective data for each of the following parameters:

18 (A) ~~Relative rank of the number of miles of stream identified as less than fully supporting due to~~
19 ~~nonpoint source pollution as reported in the North Carolina Water Quality Assessment and~~
20 ~~Impaired Waters List and the most recent Basinwide Water Quality Plan for each river basin,~~
21 ~~where the source of pollution is not solely due to agriculture. (20 percent) Relative rank of~~
22 ~~the percentage of the county draining to waters identified as impaired or impacted on the~~
23 ~~most recent Integrated Report produced by the North Carolina Division of Water Resources.~~
24 This report is incorporated with subsequent amendments and editions, and may be accessed
25 at no charge at <http://ncdenr.maps.arcgis.com/apps/webappviewer/index.html> (20 percent).

26 ~~The North Carolina Water Quality Assessment and Impaired Waters list and the Basinwide~~
27 ~~Water Quality Plans are produced by the Division of Water Quality.~~

28 (B) Relative rank of the percentage of the county draining to waters classified as Outstanding
29 Resource Waters, High Quality Waters, ~~Trout, Waters and Trout Waters~~ or Shellfishing
30 ~~(open)~~ on the current schedule of Water Quality Standards and ~~Classifications.~~
31 Classifications, and shellfish growing areas (open) as determined by the [Department of
32 Environmental Quality's] Division of Marine Fisheries. The classifications are incorporated
33 with subsequent amendments and editions, and may be accessed at no charge at
34 <http://ncdenr.maps.arcgis.com/apps/webappviewer/index.html>. The shellfish harvesting areas
35 may be accessed at <http://portal.ncdenr.org/web/mf/shellfish-closure-maps>. (20 percent)

36 (C) The percentage of each county covered by NPDES Phase I and Phase II requirements. (20
37 percent)

- 1 (D) Relative rank of population density for the county. (20 percent)
- 2 (E) Relative rank of the percentage of a county's land area that is located within drinking
- 3 water assessment areas, as delineated by the Public Water Supply Section of the Division
- 4 of ~~Environmental Health~~. Water Resources. The Public Water Supply assessment areas
- 5 are incorporated with subsequent amendments and editions, and may be accessed at no
- 6 charge at [11 \(d\) Statewide and Regional Allocations: The Commission shall allocate cost share funds from the statewide and

12 regional allocation pools. To receive fund allocations, each district designated eligible by the Commission shall

13 submit applications to \[appropriate\] respective pools when solicited by the \[division.\] Division. The \[division\]

14 Division shall rank each application and recommend to the Commission for its approval an amount to allocate to

15 each district corresponding to the highest ranking applications.](http://deq.nc.gov/about/divisions/water-resources/drinking-water/drinking-</u></p>
<p>7 <u>water-protection-program/mapping-applications.</u> (20 percent)</p>
<p>8 (F) <u>The Commission may consider additional [factors] factors, such as data sources changes to</u></p>
<p>9 <u>the Subparagraphs in this Paragraph, as recommended by the Division of Soil and Water</u></p>
<p>10 <u>Conservation when making its allocations.</u></p>
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16 ~~(e)~~(e) The funds available for technical and administrative assistance shall be allocated by the Commission based ~~on~~

17 upon the needs as expressed by the district and needs to accelerate the installation of BMPs in the respective district.

18 Each district may use these monies to fund new positions or to accelerate present technical assistance. Districts must

19 provide an itemized budget to the ~~division~~ Division in order to qualify for technical assistance funds. N.C. Community

20 Conservation Assistance Program technical assistance funds may be used for technical assistance with the district

21 matching at least 50 percent of the total. Each district ~~to which funds are allocated~~ allocated funds for technical

22 assistance shall demonstrate to the Commission in the itemized budget that matching funds are available prior to any

23 expenditure of funds. The allocation method used for disbursement of funds ~~is shall be~~ based on the score of each

24 respective district for those parameters approved by the Commission pursuant to Subparagraph (4) of this Paragraph.

25 The points each district scores for each parameter ~~are shall be~~ totaled and proportioned to the total dollars available under

26 the current program year funding according to the following formula:

- | | | | | |
|----|-----|--|---|-------------------|
| 27 | (1) | Sum of Parameter Points | = | Total Points |
| 28 | (2) | Percentage Total | x | Total Dollars |
| 29 | | Points Each District | = | Dollars Available |
| 30 | (3) | | | to Each District |
| 31 | | If a district requests less than the dollars available to that district in Subparagraph (2) of this | | |
| 32 | | Paragraph, then the excess funds beyond those requested by the district shall be allocated to the | | |
| 33 | | districts who did not receive their full requested allocation using the same methodology described in | | |
| 34 | | Subparagraph (2) of this Paragraph. | | |
| 35 | (4) | Priority for funding shall be based upon the following parameters: | | |
| 36 | (A) | Whether the position is presently funded by Community Conservation Assistance Program | | |
| | | technical assistance funds. (25 percent) | | |

1 (B) The proportion of Community Conservation Assistance Program funds for cost share and
2 cost share incentive allocated to districts served by this technical assistance request
3 (normalized to 1 to 100 scale by multiplying each district's score by a factor such that the
4 product of the highest score for this parameter is ~~100~~ 100). ~~(50 percent), and (50 percent)~~

5 (C) The amount of additional funds leveraged by grants and other funds committed to districts
6 served by this technical assistance request (normalized to 1 to 100 scale by multiplying each
7 district's score by a factor such that the product of the highest score for this parameter is
8 100). (25 percent)

9 (5) Subject to availability of funds and local match, the Commission shall provide support for technical
10 assistance for every district.

11 (6) District technicians may be jointly funded by more than one district to accelerate the program in each
12 participating district. Each district must shall be eligible for cost sharing in the program. Requests for
13 funding (salary, FICA, insurance, etc.) of a shared position must be presented to the division Division
14 by all concerned participating districts and the division Division shall cost share to the billing district
15 at a 50-50 rate based on the portion of the FTE provided each respective district. A shared position
16 must shall be officially housed in one specific district and cost share for support items (office rent,
17 telephone, etc.) shall be paid to one district only.

18 (7) Funds, if available, may shall be allocated to each participating district to provide for administrative
19 costs under this program. These funds shall be used for clerical assistance and other related program
20 administrative costs and shall be matched with in-kind funds of an equal amount from the district.

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

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

$$\frac{\text{Total Education and Outreach Dollars Requested by Each District}}{\text{Total Education and Outreach Dollars Requested by All Districts}} = \frac{\text{Education and Outreach Dollars Available}}{\text{Education and Outreach Dollars Available}}$$

29 (2) If more Education and Outreach funds are available for allocation than are requested by districts or the
30 Division, then the excess funds shall be added to the funds to be allocated for cost share and cost share
31 incentive payments.
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1 *History Note: Authority G.S. 106-840; 106-860; 139-4; 139-8;*
2 *Eff. January 1, 2008;*
3 *Transferred from 15A NCAC 06I .0103 Eff. May 1, ~~2012.~~ 2012.*
4 *Amended Eff. November 1, 2016.*
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