

1 02 NCAC 57 .0103 is amended with changes as published in 31:22 NCR 2216 as follows:

2
3 **02 NCAC 57 .0103 DEFINITIONS**

4 In addition to the definitions contained in ~~G.S. 143-716~~ G.S. 143-716, the following definitions ~~apply~~: apply to this
5 Chapter:

- 6 ~~(1)~~ Lost Quota. ~~The difference in total aggregate annual tobacco quota poundage between the year in~~
7 ~~question and 1997;~~
8 ~~(2)~~ Person. ~~An individual human being;~~
9 ~~(3)~~ (1) Tobacco allotment. An amount of tobacco allowed to be grown on a tract of land;
10 ~~(4)~~ (2) Former Tobacco allotment holder. A person who, at the time of the ~~grant application~~, ~~owns~~ Master
11 Settlement Agreement owned a certain amount of tobacco quota on a tract of land, as determined
12 by the U.S. Farm Service Agency records for the county in which the quota is located;
13 ~~(5)~~ Tobacco grower. ~~Tobacco producer;~~
14 ~~(6)~~ (3) Tobacco producer, producer or grower. A person or entity actively engaged in planting, growing,
15 harvesting and marketing tobacco, or who shares in the expense of producing the crop, and for that
16 reason is entitled to share in the revenues derived from marketing the crop;
17 ~~(7)~~ (4) Tobacco products. Cigarettes, cigars, smokeless tobacco, pipe tobacco, roll your own tobacco
18 tobacco, or any other tobacco product sold at retail intended for human consumption; and
19 ~~(8)~~ (5) Tobacco-related segment of the State's agricultural economy. That part of the State's agricultural
20 economy that includes tobacco producers, former tobacco allotment holders, persons who work on
21 tobacco farms and tobacco auction-related workers or warehousemen-warehousemen, and others in
22 tobacco-dependent communities as determined by the Commission in a grant or contract approval.

23
24 *History Note: Authority G.S. 143-716; 143-718;*
25 *Temporary Adoption Eff. May 15, 2002;*
26 *Temporary Adoption Eff. June 29, 2002;*
27 *Eff. April 15, 2003;*
28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24,*
29 *2015.*
30 *Amended Eff. September 1, 2017.*

1 02 NCAC 57 .0204 is amended with changes as published in 31:22 NCR 2216 as follows:

2
3 **SECTION .0200 - ~~COMPENSATORY~~ PROGRAM GRANTS**

4
5 **02 NCAC 57 .0204 APPLICATIONS FOR GRANTS**

6 (a) The Commission shall designate specific dates for submission of grant applications. ~~based on the amount of funds~~
7 ~~available.~~ Grant application submission dates ~~will~~ shall be announced in the call for proposals by on the Commission
8 website, <http://tobaccotrustfund.org> at least not less than 30 days before the application is due ~~date applications are~~ due.

9 (b) Grant ~~proposals~~ applications shall be ~~typed or~~ printed and an original and four copies timely submitted to the
10 Commission by hand-delivery, by a designated delivery service authorized pursuant to G.S. 1A-1, Rule 4, or by U.S
11 ~~Mail.~~ Mail, or online portal. Applications shall be ~~deemed~~ timely submitted as follows:

12 (1) if delivered ~~by hand~~ to the Commission's physical office ~~and signed for by Commission staff before~~
13 ~~5:00 P.M.~~ by the end of the business day on designated date announced in the call for proposals; on
14 the submission date; or

15 (2) ~~by~~ if delivered by designated delivery service, ~~whereby the parcel which package~~ bears a shipping
16 date on or before the submission date; ~~or~~

17 (3) ~~by if~~ placing into the U.S. Mail, addressed to 1080 Mail Service Center, Raleigh, NC 27699 and
18 postmarked on or before the submission ~~date.~~ date; or

19 (4) submitted through online portal buy due date. ~~Applicants may will also provide an electronic~~
20 ~~courtesy copy formatted in Microsoft Word or Adobe Acrobat.~~

21 (c) To be considered for funding, applicants shall complete the Tobacco Trust Fund Grant Application Form which
22 shall contain the following information:

23 (1) ~~Names, names,~~ mailing addresses, telephone numbers, and signatures of the applicant;

24 (2) ~~If if~~ the applicant is an organization, consortium, ~~cooperative cooperative,~~ or other entity
25 representing multiple eligible beneficiaries, a description of the ~~applicants, applying organization~~
26 ~~organizational including~~ history, mission statement, fiscal information, audit statements (if
27 available), organizational ~~goals goals,~~ and members of the Board of Directors. If the applicant
28 involves more than one organization, ~~person person,~~ or entity, it shall identify participating
29 organizations, ~~persons persons,~~ or entities and define their roles in completing the ~~Compensatory~~
30 ~~Program project;~~

31 (3) ~~A a~~ description of the ~~Compensatory Program, project,~~ its goals and objectives, and measurable
32 outcomes ~~the manner in which it will accomplish its goals and objectives,~~ including the ~~how the~~
33 ~~applicant will quantify actual losses due to the Master Settlement Agreement that are not~~
34 ~~compensated by payments from the National Tobacco Grower Settlement Trust; following:~~

35 (A) for Compensatory Programs: how the applicant shall quantify actual losses due to
36 the Master Settlement Agreement that are not compensated by payments from the
37 National Tobacco Grower Settlement Trust; or

1 (B) for Qualified Agricultural Program (QAP): how the applicant shall provide the
2 manner in which the project will foster the vitality and solvency of the tobacco-
3 related segment of the State's agricultural economy;

4 (4) ~~A~~ a statement of the projected cost of the ~~Compensatory Program~~ project, including any
5 administrative costs and including expected funding from any other source;

6 (5) ~~A~~ a description of how the project will be completed including time lines;

7 ~~(6)~~ ~~A description of the accounts that will be set up and used and an assurance that all accounts can be~~
8 ~~audited by the Commission or the State Auditor;~~

9 ~~(7)~~ ~~(6)~~ ~~An~~ explanation of how the project's results will be evaluated;

10 ~~(8)~~ ~~(7)~~ ~~At~~ at least two references who may be contacted by the Commission;

11 ~~(9)~~ ~~(8)~~ ~~Any~~ any other information required by G.S. 143, Article 75 or these Rules in order to make a
12 decision on the grant proposal; and

13 ~~(10)~~ ~~An explanation of how the project will enhance North Carolina's tobacco related economy for the~~
14 ~~common good; and~~

15 ~~(11)~~ ~~(9)~~ ~~A~~ a list and history of the applicant's past projects funded by grants or awards.

16 (d) ~~As a condition of applying for or of receiving a grant for a Compensatory Program, applicants or grantees must~~
17 ~~allow the Commission or the Commission staff to make site visits at the Grantee and Commission's convenience.~~

18 Applicants shall also provide an electronic copy as directed with the application packet, if not submitted online.

19
20
21 *History Note: Authority G.S. 143-718; 143-720;*

22 *Temporary Adoption Eff. May 15, 2002;*

23 *Eff. April 15, 2003;*

24 *Amended Eff. December 1, 2008;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24,*
26 *2015.*

27 *Amended Eff. September 1, 2017.*

02 NCAC 57 .0205 is amended with changes as published in 31:22 NCR 2217 as follows:

02 NCAC 57 .0205 SPECIAL INFORMATION NEEDED FOR DIRECT COMPENSATORY PROGRAMS

If a request is for direct compensation or indemnification or for a ~~program~~ project to administer direct compensation or indemnification to an eligible beneficiary or beneficiaries, then the application for the Compensatory Program ~~must~~ shall contain the following:

- (1) ~~Documentation~~ documentation demonstrating the amount of actual loss of tobacco-related income in North Carolina in 1998 or years subsequent. An applicant may make such demonstration with:
 - (a) ~~A~~ a verified letter from a Certified Public Accountant or an attorney licensed in North Carolina that details the amount of the actual loss; ~~or~~
 - (b) ~~That that~~ That portion of a federal or state income tax return that shows a loss of tobacco-related income. ~~(Please~~ Any documents submitted by the applicant shall be aware that any such tax information included in an application will become part of the public record); a public record under Chapter 132 of the General Statutes; or
 - (c) ~~A~~ a verified statement from a North Carolina employer quantifying the applicant's loss in tobacco-related income in North Carolina for any given year from 1998 forward; or
 - (d) ~~Any any~~ Any other similar reliable, ~~accurate~~ accurate, and verifiable documentation ~~which that~~ the Commission may accept as proof of actual loss;
- (2) ~~Documentation~~ documentation demonstrating that the amount of actual loss of tobacco-related income is attributable to the Master Settlement Agreement and not ~~simply~~ because of a decline in quota not caused by the Master Settlement Agreement. Applicants may demonstrate the actual loss with verified information from an independent expert in the field, which expert may ~~be, but is not limited to, be~~ be, but is not limited to, be an economist or an accountant. The Commission will compare this demonstration with any independent expert information it may have about losses caused by the Master Settlement Agreement and losses compensated by the National Tobacco Grower Settlement Trust; and
- (3) ~~Documentation~~ documentation of any compensation received from the National Tobacco Grower Settlement Trust, or any other source to cover actual losses due to the Master Settlement Agreement, or a verified statement that no compensation was received from the National Tobacco Growers' Settlement Trust or from any other source to compensate losses caused by the Master Settlement Agreement.

*History Note: Authority G.S. 143-718; 143-720;
Temporary Adoption Eff. May 15, 2002;
Eff. April 15, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.*

02 NCAC 57 .0207 is amended with changes as published in 31:22 NCR 2218 as follows:

02 NCAC 57 .0207 REVIEW OF PROPOSALS

(a) ~~The Executive Director of the Commission or~~ Commission staff or designee shall ~~screen~~ review applications to see if ~~they~~ the application is ~~are~~ complete. Commission staff shall notify applicants if the grant application is incomplete.

(b) Applications that are complete will be forwarded to a Grant Review Committee of the Commission. ~~The Grant Review Committee members shall be Commissioners.~~

(c) During the review and evaluation of proposals, the Commission staff and Grant Review Committee may solicit information from persons who have expertise in technical or specialized areas or request that the Commission staff or designee make reports on any site visits that may be required for consideration of the grant proposal. The Grant Review Committee ~~will~~ shall make recommendations to the ~~Commission.~~ Commission based on its review and evaluation. Scoring and rating of proposals may be determined by using any consistent rating methodology, including adjectival, ~~numerical~~ numerical, or ordinal rankings.

(d) The Commission ~~will receive~~ shall evaluate grant proposals and recommendations made to the suggestions of Commission by the Grant Review Committee ~~and will evaluate proposals as set out in G.S. 143-720, as follows:~~

- (1) ~~for compensatory programs~~ Compensatory Programs set forth in G.S. ~~143-720, 143-720; or~~
- (2) ~~for qualified agricultural programs~~ Qualified Agricultural Programs set forth in ~~G.S. 143-721, 143-721.~~

(e) In making this evaluation the Commission may ~~consider who will benefit from the grant, how many will benefit from the grant, the cost of administering the grant and whether the grant will benefit tobacco dependent economies of the State in a measurable manner.~~ Proposals will be given a preference for statewide impact and for containing a delivery mechanism to intended beneficiaries. ~~consider:~~

- (1) ~~who will benefit from the grant;~~ [or]
- (2) ~~how many will benefit from the grant;~~ [or]
- (3) ~~the cost of administering it;~~ [or]
- (4) ~~how the grant project will alleviate or avoid unemployment, stabilize local tax bases;~~ [or]
- (5) ~~encourage the economic stability of participants in the State's agricultural~~ [economy or] economy;
- (6) ~~encourage the optimal use of natural resources in the tobacco dependent economies or related segment of the State's agricultural economy in a measurable~~ [manner]-manner; or
- (7) ~~past performance of grants and publicly funded projects.~~

(f) Proposals shall be given a preference for statewide impact, for containing a delivery mechanism to intended beneficiaries, for providing alternate markets for tobacco, or for providing for diversification of the tobacco crop or the tobacco grower.

~~(f)-(g)~~ No grant shall be awarded for a project that is unlawful. ~~unlawful under NC General Statutes.~~

History Note: Authority G.S. 143-718; 143-720;

1 *Temporary Adoption Eff. May 15, 2002;*
2 *Eff. April 15, 2003;*
3 *Amended Eff. December 1, 2008;*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24,*
5 *2015.*
6 *Amended Eff. September 1, 2017.*