

GENERAL POLICIES FOR COMMISSION COST SHARE PROGRAMS

1. The most beneficial water quality protection item should be installed first in any North Carolina Agriculture Cost Share Program Community Conservation Assistance Program contract (also known as Conservation Plan of Operation (CPO), and Agreement; also known as the contract.)
2. Practices should only be installed as part of a total water quality management system. All practices necessary to solve the water quality problem should be installed whether cost-shared or not. (For example, a grassed waterway should not be installed in an eroding field unless the erosion problems of the field are also addressed.) **Both cost shared and non-cost shared Best Management Practices (BMPs) to be installed shall be included in the contract.**
3. BMPs shall be designed and installed according to Natural Resources Conservation Service or Soil and Water Conservation Commission standards and specifications at the minimum design necessary to solve the water quality problem. If the applicant chooses to exceed design criteria for purposes not associated with water quality, the applicant will be responsible for the additional cost. Additional costs are required to be reflected in the contract.
4. Applicants are responsible for appropriate local, state and federal permits.
5. If an operator transfers real property which contains a Cost Shared BMP(s) during the maintenance period, he/she is required to repay the State a pro-rated amount of the original cost(s) or arrange for the buyer to assume (in writing) the maintenance of the BMP. (SWCC policy approved 08/21/96, revised 01/08/12) Please refer to the [Substitution of Parties Agreement](#).
6. Operators who receive Cost Share funds for the purchase of equipment that is not affixed to real property are prohibited from using the Cost Shared equipment as collateral during the maintenance period. In addition, if the Cost Shared equipment is sold during the maintenance period, the operator must repay the State a pro-rated amount of the original Cost Share payment. (SWCC policy approved 08/21/96)
7. Any conversion of real property or equipment from the intended use of the Cost Shared BMP during the maintenance period will require the operator to repay the State a pro-rated amount of the original Cost Share payment. (SWCC policy approved 08/21/96, revised 01/08/12)
8. Operators found to be out of compliance with a Cost Share contract must be notified in writing by the District and informed of the "reimplementation or refund" rule (see 02 NCAC 59D .0107, 02 NCAC 59H .0107). A copy of the notification letter and any follow-up must be forwarded to the Division.
9. Districts are prohibited from approving cost share contracts with an operator on a different site, field or operation if the operator is out of compliance with the Cost Share Program at any site, field or operation.
10. Districts are required by State law to conduct an annual audit (Technical Assistance funds and Matching funds) with the chairperson certifying under oath that the audit is correct.

Alternatively, the District may have an independent audit conducted by a CPA or by the county government. For Cost Share BMP Funds, the chairperson certifies that adequate accounting procedures are being followed and that funds are reconciled with the Division's records.

11. When a cost shared BMP is damaged or destroyed by the applicant or his/her agents, the operator must repair/re-implement the BMP(s) within the times stated in the Cost Share Program Rules (see 02 NCAC 59D .0107, 02 NCAC 59H .0107). The operator is not eligible to receive cost share funds for the repair/reimplementation of the BMP(s) and is not eligible for funds for any BMP(s) on a different site, field or operation until the repair/reimplementation is completed.
12. When a cost shared BMP is damaged or destroyed and the operator is not at fault, a contract may be approved for cost share funds for the repair or reimplementation of the BMP(s). The repair must be implemented before cost share funds can be used for BMPs on a different site, field or operation. Contracts for repairs must be limited to one calendar year. Repair contracts require approval by the division prior to the start of installation and follow the routine procedures of the Cost Share Program.

However, if the district certifies that the unrepaired BMP poses an immediate threat to public health or the environment, then procedural changes to expedite approval of the contract should be followed. District staff must certify that a site visit has been performed which verifies the damage to the BMP, that an immediate threat exists, and that the damage has occurred through no fault of the cooperator. The District should notify the division in writing, complete an NC-CSP-11 and 11-A signed by the district staff and submit the information to the division as soon as possible. The Division will accept the notification, NC-CSP-11 and NC-CSP-11-A as valid contract documents and pend approval of the contract to the district so that installation may begin immediately. The division will honor a Request for Payment (NC-CSP-3) on the repair contract when the district submits an agreement (NC-CSP-2), NC-CSP-11, NC-CSP-11A, sketch and location map containing all appropriate signatures. (See the [Repairs policy](#) for more information on repair contracts.)

Any request to cancel a repair contract must include a written justification. The district must provide an explanation to the division for all repair contracts which expire without installation. If an operator chooses not to repair the BMP within the one year time stipulated by the contract, then he/she is in noncompliance and subject to reimbursing the State regardless of the fact that the need for repair/reimplementation was not the fault of the operator. This policy is supported by the N.C. Department of Justice, Office of the Attorney General opinion of July 1991.

13. NCACSP funds may not be used to replace a BMP(s) that was originally funded with NCACSP funds for the convenience of the operator or to allow the operator to upgrade the facility using technological advances. However, when the Commission approves a change in the components of a BMP which may be cost shared, a cooperator may retrofit the originally cost shared BMP to include the new cost shared BMP component based on the current year average cost.
14. If an operator has received cost share monies (State or Federal) to install BMP(s) to correct a water quality problem; and, after installing the BMP(s) the applicant creates at the same site/field another problem that causes a water quality problem, then the operator is no longer

in compliance in protecting water quality off-the-site as agreed in the original contract and is out of compliance with the Cost Share Program.

15. When Cost Share is used on a farm that results in a waste application system that meets CAFO permitting requirements, and a new water quality problem associated with the waste application system is created through the actions of the farmer, Cost Share funds shall not be used to solve the new problem.

When a waste management system is certified with equipment that is not Cost Shared, the farmer will be eligible to upgrade the system with Cost Share assistance as long as greater water quality benefits can be shown.

Cost Share funds can be used to pay the difference between the current replacement value of a previously Cost Shared waste application system (e.g., a honey wagon) and a new system (e.g., solid set) so long as the new system is shown to provide greater water quality improvements.

If a third party applicator arrangement for an animal operation fails, the operator/owner may be eligible for Cost Share assistance to install a waste application system. This example would be analogous to a system that breaks through no fault of the operator and a repair contract would be allowable.

Cost Share would not be available to extend irrigation pipe or expand the waste management system because certain nutrients are overloading the land application area due to mismanagement by the operator. If the change in the system is due to changes in standards, regulations, or scientific information that increase the amount of land application area needed, then cost share would be available, not to exceed the applicable cost share caps.

16. On contracts containing BMP(s) that require fencing as a component:
 - a. if the operator pays for the fencing because it does not meet NRCS standards and the technician in the field certifies that the fencing has been installed and is adequate, then the fencing should be shown in the CPO as a non-cost shared item and a statement to that effect must accompany the request for payment;
 - b. if the contract originally contained cost shared fencing and the fencing was installed at the operator's expense, then a statement to that effect must accompany the request for payment, regardless of whether the fencing meets NRCS standards;
 - c. if a contract contains cost shared BMP(s) which require fencing, the District must provide to the Division a statement signed by the technician that fencing was installed and is adequate in order to cancel fencing from the contract. This policy also applies to expiring contracts that contain cost shared BMP(s) which require fencing.
17. For all structural practices, any additional volume needed to accommodate the producer's equipment and/or desires will be at the producer's expense. Therefore, if the operator stores equipment other than waste handling equipment in the structure and the plan did not stipulate that the volume of the designed structure was increased at the producer's expense, then the operator is out of compliance.

18. Any contract, revision, supplement or repair completed under the Cost Share Program or other nonpoint source pollution cost-shared programs for lands owned or operated by a District, County, Division or NRCS employee or District Supervisor will be spot checked by representatives of the NRCS Area Office within one year after completion of a contract item (effective 12/13/90). See [Cost Share Programs Spot Check Policy](#) for more information.