

CHAPTER 58 - AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION TRUST FUND

SECTION .0100 - GENERAL PROVISIONS

02 NCAC 58 .0101 PURPOSE

This Chapter describes the operating procedures for the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services implementing the Agricultural Development and Farmland Preservation Trust Fund for continuation and preservation of agriculture in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to fund projects to encourage the preservation of qualifying agricultural, horticultural, and forestlands to foster the growth, development, and sustainability of family farms.

*History Note: Authority G.S. 106-744;
Eff. December 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

02 NCAC 58 .0102 FUNDING PRIORITIES

The Commissioner, with the advice of the Advisory Committee shall:

- (1) annually publish a list of funding priorities which he will follow in awarding grants for agricultural, horticultural and forestland preservation projects and agricultural development programs that meet the requirements of G.S. 106-744 and the rules in this Chapter;
- (2) request proposals to address specific funding priorities or to encourage specific farmland preservation projects or agricultural development programs intended to encourage farmland preservation and protect the State's agricultural economy, stabilize and maintain local tax bases, and optimally use natural resources; and
- (3) work cooperatively with other government agencies as well as agricultural, conservation, and rural entities to develop plans to maximize agricultural, horticultural, and forestland preservation efforts.

*History Note: Authority G.S. 106-744;
Eff. December 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

02 NCAC 58 .0103 DEFINITIONS

The following terms used in this Chapter have the following meanings:

- (1) "Advisory Committee" means the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee.
- (2) "ADFPTF," "ADFP Trust Fund," or "Trust Fund" means the Agricultural Development and Farmland Preservation Trust Fund.
- (3) "Agricultural conservation easement" is defined in G.S. 106-744(b).
- (4) "Applicant" means a nonprofit conservation organization or county who applies for funds from the ADFP Trust Fund.
- (5) "Chair" or "Commissioner" means the Chair of the Advisory Committee who is also the Commissioner of Agriculture.
- (6) "Department" or "NCDA&CS" means the North Carolina Department of Agriculture and Consumer Services.
- (7) "Landowner" means any natural person or other legal entity, including a governmental agency, who holds either an estate or freehold (such as a fee simple absolute or a life estate) or an estate for years or from year to year in land, but does not include an estate at will or by sufferance in land.
- (8) "Nonprofit conservation organization" is any nonprofit organization that provides assistance to landowners to protect their lands and can legally hold agricultural conservation easements.

- (9) "Project" means an agricultural conservation easement, conservation agreement, or an agricultural development program for which an applicant is requesting funds to complete.

*History Note: Authority G.S. 106-744;
Eff. December 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

02 NCAC 58 .0104 RESERVED FOR FUTURE CODIFICATION

02 NCAC 58 .0105 EVALUATION OF APPLICATIONS

- (a) Applicants for funding from the ADFPTF shall submit a completed application.
- (b) Applications and instructions shall be available online at <http://www.ncadfp.org>.
- (c) To be eligible for consideration for funding for agricultural conservation easements or agricultural agreements, applicants shall complete the Agricultural Development and Farmland Preservation Application Form for Conservation Easements and Agricultural Agreements, which contain the following information:
- (1) identifying information such as location, business name, and contact information;
 - (2) a description of the type of organization of the applicant;
 - (3) project affiliations, matching funds, and partnerships;
 - (4) whether funds are for an agricultural conservation easement or an agricultural agreement and the term years;
 - (5) current land value assessment, requested amount of funds, estimated easement value, project completion date;
 - (6) operation management plans;
 - (7) values relevant to the easement;
 - (8) agricultural, horticultural, or forestry property inventory;
 - (9) what transition plans are in place to continue operations for the future;
 - (10) threats of conversion;
 - (11) conservation and environmental concerns; and
 - (12) listed attachments.
- (d) To be eligible for consideration for funding for agricultural development programs, applicants shall complete the Agricultural Development and Farmland Preservation Application Form for Public and Private Enterprise Programs, which contain the following information:
- (1) identifying information;
 - (2) a description of the type of organization of the applicant;
 - (3) project affiliations, matching funds, and partnerships;
 - (4) a description of goals, target audience, and success measurements; and
 - (5) listed attachments.
- (e) Each completed application shall be evaluated by the Division staff based on the information provided in the application and in accordance with the ADFPTF criteria described in this Rule.
- (f) The staff shall review all applications for completeness. If an application is incomplete after the application deadline, the applicant shall be asked to reapply for the next grant cycle, which will be publicly announced by the Commissioner on an annual basis at the quarterly Agricultural Development and Farmland Preservation Trust Fund Advisory Committee prior to the grant cycle RFP and by press release from the North Carolina Department of Agriculture and Consumer Services.
- (g) During the review and evaluation of proposals, the staff shall report to the Commissioner on any site visits that may be required for full consideration of the grant proposal.
- (h) The Advisory Committee shall review the project evaluations and other data prepared by the applicant and by ADFPTF staff. The Advisory Committee shall make recommendations to the Commissioner on projects for funding.
- (i) The Commissioner and Advisory Committee shall consider the relative needs of the farmland preservation project and determine the proportion of available funds to be allocated for each eligible project.
- (j) Grants shall be awarded contingent on the availability of sufficient funds to do so. Funds shall be conveyed to grantees through contracts with the Trust Fund. If the Commissioner determines that grant funds are not being used for the purpose for which they were awarded, the Trust Fund shall cease making payments under the grant schedule until the problem has been resolved or shall demand return of any unspent money and interest from the grant. Grantees must reimburse the Trust Fund any funds that the Division staff determines to have not been spent for the

purpose for which they were granted. Grantees must return any grant money that remains unspent at the conclusion of the grant project, with any interest earned on grant money.

(k) The following general criteria shall be used to evaluate conservation easement or agricultural agreement projects only:

- (1) parcel information;
- (2) planning for the future; and
- (3) site visits.

(l) The following general criteria shall be used to evaluate agricultural development programs only:

- (1) project description;
- (2) project implementation; and
- (3) applicant interview.

(m) The Commissioner and Advisory Committee shall also consider the following factors when evaluating projects:

- (1) the geographic distribution of projects;
- (2) the presence or absence of other funding sources;
- (3) the level of compliance with prior grant agreements;
- (4) the amount of funds available;
- (5) the amount of funds requested;
- (6) priority funding map found at <http://ncadfp.org/FarmlandPreservation>; and
- (7) other relevant information requested in the application.

*History Note: Authority G.S. 106-744;
Eff. January 1, 2008;
Readopted Eff. February 1, 2019.*

02 NCAC 58 .0106 GRANT AGREEMENT

(a) Upon approval, a written agreement shall be executed between the grant recipient(s) and the Commissioner.

(b) The agreement shall define the Commissioner's and grant recipient's responsibilities and obligations, the project period, project scope, and the amount of grant assistance.

(c) The approved application and any support documentation submitted by the applicant shall become a part of the grant agreement.

(d) The grant agreement may be amended upon mutual consent and approval by the Commissioner and the grant recipient(s). The grant recipient(s) shall submit a written request for amendment to the Commissioner.

(e) Grant payments shall be made only for activities within the grant contract period and projects may not begin until the Commissioner and grant recipient(s) sign the agreement.

(f) The agreement shall include a requirement that, in any agricultural conservation easement funded by the ADFPTF, the State of North Carolina shall have the right to enforce the easement if the grantee of the easement fails to do so.

*History Note: Authority G.S. 106-744;
Eff. January 1, 2008;
Readopted Eff. February 1, 2019.*

02 NCAC 58 .0107 REPORTING

(a) Grant recipients shall submit written progress reports biannually for grants less than five hundred thousand dollars (\$500,000) and quarterly for grants more than five hundred thousand dollars (\$500,000) until completion of the project. Written reports shall describe the status of the project, progress toward achieving program objectives, notable occurrences, and any problems encountered and steps taken to overcome the problems. Upon completion of the project, the grant recipient must make a final written report to the Commissioner that shall include project accomplishments and benefits, all expenditures by line item as established in the project budget, and verification of the number of hours or money in matching funds.

(b) The Division staff shall review the progress reports for completeness, which shall include a showing of how the project is meeting its stated goals and performance standards. If the Division staff finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grantee shall be notified of the deficiency and must provide a changed and corrected report within 30 business days. If a corrected or changed report is not received within 30 business days, the Commissioner shall withhold the next grant payment.

(c) Grantees shall submit monitoring reports in accordance with the ADFPTF Monitoring Policies and Guidelines found at <http://ncadfp.org/downloads.htm>.

History Note: Authority G.S. 106-744;
Eff. January 1, 2008;
Readopted Eff. February 1, 2019.

02 NCAC 58 .0108 RECORDS

Grant Recipients must keep financial and other records of the project for a period of five years, following completion of the project, or until audited. The records shall be made available to the Commissioner upon request. Recipients shall contact Division staff at the North Carolina Department of Agriculture and Consumer Services before destroying records or in the event that records are destroyed. The Commissioner shall maintain and dispose of paper and electronic records in accordance with the approved Functional Schedule for North Carolina State Agencies, Program Record Retention and Disposition Schedule and Electronic Records and Imaging Policy, incorporated by reference with subsequent editions and amendments. The policy can be accessed free of charge at <https://archives.ncdcr.gov/documents/functional-schedule-state-agencies>.

History Note: Authority G.S. 106-744;
Eff. December 1, 2007;
Readopted Eff. February 1, 2019.