

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59C .0303

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Line 5 – do you mean “and” or “or”?*

*Line 8 – replace “landowner(s)” with “landowners”*

*Line 8 – replace “indicating” with “stating” or “describing”*

*Line 10 – delete the comma after “acquisition”*

*Line 12 – add “a property” before “interest” if that is what you mean.*

*Line 13 – replace “which” with “that”*

*Line 15 – replace “owner’s” with “landowner’s” if that is what you mean.*

*Line 22 – delete “etc” or add examples to explain what is meant.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

1 02 NCAC 59C .0303 is readopted as published in 31:05 NCR 369 as follows:

2  
3 **02 NCAC 59C .0303 APPROVALS TO EXERCISE THE POWER OF EMINENT DOMAIN**

4  
5 A county and a watershed district may apply to the commission for approvals to exercise the power of eminent domain.  
6 Before the commission will approve an applicant's request to condemn land for a proper purpose, that applicant shall  
7 provide the commission the following information at least 30 days prior to a commission hearing:

- 8 (1) a written statement with copies to the division and to the landowner(s) involved, indicating the applicant's  
9 purpose;  
10 (2) a resolution adopted by the local Soil and Water Conservation District supporting the acquisition, and  
11 identifying each parcel by landowner and by specific watershed development site;  
12 (3) a written statement describing efforts made to secure interest in each parcel and a copy of the appraisal;  
13 (4) a map of the land needed from each specific landowner, which shows:  
14 (a) the location of the needed land in relation to the specific project site;  
15 (b) the location of the needed land in relation to the owner's total tract;  
16 (c) the location of that portion of the land devoted to:  
17 (i) the permanent pool;  
18 (ii) the flood pool;  
19 (iii) other purposes of water storage; if applicable,  
20 (iv) the borrow area;  
21 (v) the construction work area; and  
22 (vi) recreational facilities, etc.

23  
24 *History Note: Authority G.S. 106-840; 139-4(d);*  
25 *Eff. September 1, 1982;*  
26 *Transferred from 15A NCAC 06C .0303 Eff. May 1, ~~2012~~ 2012;*  
27 *Readopted Eff. November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59E .0101

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Lines 9-10 – consider deleting “In agreement with the Environmental Management Commission (EMC) and the Division of Environmental Management (DEM), Water Resources (DWR),”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

1 02 NCAC 59E .0101 is readopted as published in 31:23 NCR 2269 as follows:

2  
3 **SUBCHAPTER 59E - PROCEDURES AND GUIDELINES TO IMPLEMENT THE NONDISCHARGE RULE FOR**  
4 **ANIMAL WASTE MANAGEMENT SYSTEMS**

5  
6 **02 NCAC 59E .0101 PURPOSE**

7 This Subchapter describes rules to implement the provisions of ~~15A NCAC 02H .0200~~ 15A NCAC 02T Section .1300 -  
8 Waste Not Discharged To Surface Waters, Waters: Animal Waste Management Systems, hereinafter called the Nondischarge  
9 Rule for Animal Waste Management Systems. In agreement with the Environmental Management Commission (EMC) and  
10 the Division of ~~Environmental Management (DEM);~~ Water Resources (DWR), the Soil and Water Conservation Commission  
11 sets forth these Rules for certification of animal waste management systems in accordance with ~~15A NCAC 02H .0217. 15A~~  
12 NCAC 02T Section .1300. Alternatively, and in lieu of these Rules, the requirements of 15A NCAC 02H .0200 may be  
13 satisfied also by receiving an individual nondischarge permit from the Division of Environmental Management in accordance  
14 with 15A NCAC 02H .0217(d). An owner must either obtain certification under these Rules or meet DEM requirements for  
15 an individual nondischarge permit. The review process of the District does not abrogate the responsibilities of the owner to  
16 either obtain a certification or to meet DEM requirements for an individual nondischarge permit.

17  
18 *History Note: Authority G.S. 106-840; 139-2; 139-4;*  
19 *Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule*  
20 *Becomes Effective, Whichever is Sooner;*  
21 *Eff. March 1, 1994;*  
22 *Transferred from 15A NCAC 06F .0101 Eff. May 1, 2012-2012;*  
23 *Readopted Eff. November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59E .0102

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Lines 4-5 - Please place the statutory citations in numerical order*

*Line 5 – what does “OT” in “15A NCAC OT .0103” refer to?*

*Line 10 – what “certification”? G.S. 143-215.10C(d) refers to “approval” of a plan by a technical specialist. Is the specialist certifying his or her approval as required by the statute? If not, what authority governs this certification? If so, consider revising as follows:*

- (1) "Certification" means a statement from a technical specialist that an animal waste management plan complies with 15A 02T Section .1300 and G.S. 143-215.10C and that a technical specialist has approved the plan as required by G.S. 143-215.10C(d).

*Line 11 – replace “the” with “an”*

*Line 11 – add “NCAC” after “15A”*

*Line 32 – replace “are to” with “meet”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

02 NCAC 59E .0102 is readopted with changes as published in 31:23 NCR 2269 as follows:

### 02 NCAC 59E .0102 DEFINITIONS

The terms used in this Subchapter shall be as defined in G.S. 139-3; ~~143-215.74; 106-850; 143B-294; 106-840; 15A NCAC 02H .0203; 143-15.10B; 15A NCAC 0T .0103; 02 NCAC 59D .0102;~~ and as follows:

~~(1) "Agronomic rates" means those amounts of animal waste or compost to be applied to lands as contained in the nutrient management standard of the USDA Soil Conservation Service Technical Guide Section IV or as recommended by the North Carolina Department of Agriculture and the North Carolina Cooperative Extension Service at the time of certification of the animal waste management plan.~~

~~(2)~~(1) "Certification" means the certification required ~~in the Nondischarge Rule for Animal Waste Management Systems (15A NCAC 02H .0217).~~ for the animal waste management plan in 15A 02T Section .1300 and G.S. 143-215.10C.

~~(2)~~ "Certified Crop Advisor" means an individual who has obtained and maintained the Certified Crop Advisor Credential from the American Society of Agronomy.

~~(3)~~ "DEM" "DWR" means the Division of Environmental Management, Department of Environment, Health, and Natural Resources, and the agency to receive the certification forms and responsible for enforcement of 15A NCAC 02H .0200. Water Resources of the Department of Environmental Quality.

~~(4)~~ "Design approval authority" means that authority granted by the Commission to designated individuals or groups of individuals to certify that a BMP or the system of BMPs for waste management has been designed to meet the standards and specifications of practices adopted by the Commission.

~~(5)~~(4) "Installation approval authority" means that authority granted by the Commission to designated individuals or groups of individuals to certify a BMP or system of BMPs for waste management has been installed to meet the standard of practices adopted by the Commission. "Interagency Nutrient Management Committee" means a committee represented by the Agronomics Division of the NC Department of Agriculture and Consumer Services, the Division of Water Resources of the NC Department of Environmental Quality, the North Carolina Cooperative Extension Service – Department of Soil and Crop [Science,] Sciences, and the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture to provide uniform nutrient management recommendations based on scientific data and research.

~~(6)~~(5) "Technical Specialist" means individuals or groups of individuals an individual designated by the Commission at 02 NCAC 59E .0105 to certify an entire or portion of an animal waste management plan that the planning, design, and implementation of BMPs, including all or part of an animal waste management plan, are to the standards and specifications of the Commission or NRCS.

*History Note: Authority G.S. 106-840; 106-850; 139-4; Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;*

1  
2  
3  
4

*Eff. March 1, 1994;*

*Transferred from 15A NCAC 06F .0102 Eff. May 1, ~~2012~~ 2012;*

*Readoption Eff. November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59E .0103

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*This Rule references a "certification," but that term is not used in G.S. 143-215.10C. The terms used by the statute are "approve" and "permit." Is this issue resolved by the technical change requests to Rule .0102? Please review and ensure that the rules are using terms that are consistent with the enabling statute.*

*Lines 4-6 – consider revising as follows:*

(a) An animal waste management plan shall not be deemed approved as required by G.S. 143-215.10C(d) unless a technical specialist certifies that the system is designed and installed to properly collect, treat, store, or [and?] apply animal waste as required by G.S. 143-215.10C and 15A 02T .1300.

*Line 5 – do you mean "or" or "and"?*

*Line 16 – delete "minimum"*

*Line 16 – delete "as approved by the Commission"*

*Line 23 – replace "must" with "shall"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017



1 02 NCAC 59E .0103 is readopted as published in 31:23 NCR 2269-2270 as follows:

2  
3 **02 NCAC 59E .0103 REQUIREMENTS FOR CERTIFICATION OF WASTE MANAGEMENT PLANS**

4 (a) In order for an animal waste management plan to receive the certification required by G.S. 143-215.10C and 15A  
5 02T .1300, the technical specialist shall certify that the system is designed and installed to properly collect, treat, store, or  
6 apply animal waste as required in G.S. 143-215.10C. In accordance with 15A NCAC 02H .0217(a)(1), owners of animal  
7 waste management systems are required to:

8 (1) ~~obtain certification that the system will properly collect, treat, store, or apply animal waste to the land~~  
9 ~~such that no discharge of pollutants occurs to surface waters of the state by any means except as a~~  
10 ~~result of a storm event more severe than the 25 year, 24 hour storm as required in 15A NCAC 02H~~  
11 ~~.0203(3); or~~

12 (2) ~~receive an individual nondischarge permit from the Division of Environmental Management in~~  
13 ~~accordance with 15A NCAC 02H .0217(d).~~

14 (b) The certification is ~~to~~ shall be made by a ~~Technical Specialist~~ technical specialist ~~designated pursuant to this~~  
15 ~~Subchapter, and will~~ shall confirm that the best management practices (BMPs) contained in the animal waste  
16 management plan meet applicable minimum standards and ~~specifications.~~ specifications as approved by the Commission  
17 pursuant to Rule .0104 of this Subchapter. BMPs in an existing system are not shall not be required to meet current  
18 standards and specifications as established by the Commission as long as the system is certified to be nondischarging as  
19 required in 15A NCAC 02H .0203(3). G.S. 143-215.10C.

20 (c) More than one ~~Technical Specialist~~ technical specialist may be consulted for the design of BMPs and installation of  
21 BMPs. A ~~Technical Specialist~~ technical specialist must shall certify ~~the entire animal waste management plan as~~  
22 ~~installed.~~ only parts of the animal waste management plan within their approved designated category pursuant to 02  
23 NCAC 59G .0104 and for which they are technically competent. The technical specialist must provide a copy of the  
24 certification to the owner or operator of the animal waste management system.

25 (d) ~~Upon receiving a certification from a Technical Specialist, the owner must submit a copy of the certification to DEM~~  
26 ~~and a copy of both the certification and the waste management plan to the District in which the system is or is to be~~  
27 ~~located.~~

28 (e) ~~The District shall review the waste management plan and, within 30 days of receipt of the plan, notify the owner, the~~  
29 ~~certifying Technical Specialist, DEM and the Division if the District does not concur that the certification was signed by~~  
30 ~~an approved Technical Specialist and that the waste management plan satisfies the purpose of proper conservation and~~  
31 ~~utilization of farm generated animal by products. If the District, upon review, concurs with the certification, no further~~  
32 ~~action is required.~~

33 (f) ~~The District shall maintain a copy of all animal waste management plans and the accompanying certification form.~~

34 (g) ~~If the District does not concur that the certification was signed by a Technical Specialist, or that the waste~~  
35 ~~management plan is acceptable, and if either the owner or the DEM requests that the District reconsider its decision, the~~  
36 ~~District shall review its decision and within 45 days of the request, notify the owner, the certifying Technical Specialist,~~  
37 ~~DEM, and the Division of the District's final decision. The District is encouraged to utilize other technical specialists,~~

1 local agricultural agencies and disinterested agricultural producers in reconsidering its initial decision. If the District fails  
2 to act within 45 days on a request for reconsideration, the District's initial decision shall become final.

3 ~~(h) An owner not receiving concurrence from the District may request that the Commission mediate a dispute over  
4 concurrence. Nothing in this Rule creates an administrative remedy which must be exhausted prior to exercising permit  
5 appeal rights pursuant to the rules of the Environmental Management Commission.~~

6 ~~(i) An owner who does not obtain a certification is not deemed permitted pursuant to G.S. 143-215.1(d) and must apply  
7 for an individual permit from the Division of Environmental Management. Nothing in these Rules prohibits permit  
8 appeal rights pursuant to the rules of the Environmental Management Commission.~~

9 ~~(j)(d) Any proposed modification of an animal waste management plan requires approval by a Technical Specialist. shall  
10 be certified by a technical specialist.~~

11 ~~(k) Any modifications made in the system as a result of changes in the operation such as types and numbers of animals,  
12 equipment, or crops, must be in accordance with the BMP standards and specifications approved by the Commission and  
13 in effect at the time of the modification.~~

14 ~~(l)(e) A change in the cropping pattern as a result of weather-caused delays after application of animal waste shall not  
15 require the owner to obtain a new certification certification, as long as the owner followed the application rates set forth  
16 in the certified waste management plan application rates and no discharge occurs to surface waters.~~

17 ~~(m)(f) The certifying Technical Specialist technical specialist and the District are not shall not be required to spot check  
18 or otherwise assure proper maintenance and operation of an animal waste management system installed to meet the DEM  
19 certification requirements. requirements pursuant to G.S. 143-215.10C. Enforcement of the Nondischarge Rule for  
20 Animal Waste Management Systems (15A NCAC 02H .0217) shall remain the responsibility of DEM.~~

21  
22 *History Note: Authority G.S. 106-840; 106-850; 139-4;*  
23 *Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule*  
24 *Becomes Effective, Whichever is Sooner;*  
25 *Eff. March 1, 1994;*  
26 *Transferred from 15A NCAC 06F .0103 Eff. May 1, 2012. 2012;*  
27 *Readopted Eff. November 1, 2017.*  
28

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59E .0104

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Is this Rule intended to “establish criteria governing approval of ... best management practices” as authorized in G.S. 139-4(d)(12)? Are these BMPs “policy” as defined in G.S. 150B-2(7a)? If the answers to these questions is yes, please consider the following requested changes. If the answer is no, please call to discuss.*

*Line 5 – delete “system.”*

*Line 7 – delete “As required by DEM in 15A NCAC 02H .0217, 15A NCAC 02T Section .1300,”*

*Line 8 – delete “must”*

*Lines 9 and 11 – delete “minimum”*

*Line 11 – what does “standards and specifications as otherwise determined by the Commission” mean? Specify the rules that set forth these standards or consider replacing “as otherwise determined” with “set forth in rules adopted” if that is what is meant.*

*Line 14 – delete “as”*

*Line 16 – replace “for these purposes” with “for the purpose of this Rule”*

*Line 17 – replace “following” with “that follow”*

*Line 18 – replace “is” with “are”*

*Line 20 – replace “acceptable” with “deemed approved”*

*Lines 23-26 – revise as follows:*

With concurrence from a NCDA&CS Regional Agronomist, a voting member of the NC Agricultural Consultants Association (NCACA), or a Certified Crop Advisor (CCA), a technical

Jason Thomas

Commission Counsel

Date submitted to agency: October 2, 2017

specialist may use plant and tissue analysis to justify additional nitrogen and extend the application period.

*Line 28 – replace “are acceptable” with “shall be approved”*

*Line 28 – what does “no practical alternative exists” mean? Are there rules, standards, or examples that could be cited to give this phrase meaning?*

*Line 29 – what does “requirements for Nondischarge” mean? Are there rules, standards, or examples that could be cited to give this phrase meaning?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

1 02 NCAC 59E .0104 is readopted with changes as published in 31:23 NCR 2270-2271 as follows:

2  
3 **02 NCAC 59E .0104 APPROVED BEST MANAGEMENT PRACTICES (BMPS)**

4 (a) The Commission will approve a list of BMPs that are acceptable as part of an approved animal waste management  
5 system. plan. The list of BMPs will be approved annually (by August 1) and revised as needed during the year by the  
6 Commission.

7 (b) As required by DEM in 15A NCAC 02H .0217, 15A NCAC 02T Section .1300, a BMP or system of BMPs designed  
8 and installed for an animal waste management plan at the time of certification must shall either:

9 (1) meet the minimum standards and specifications of the US Department of Agriculture ~~Soil~~  
10 ~~Conservation Service~~ Natural Resources Conservation Service (NRCS) Technical Guide, Section IV  
11 or minimum standards and specifications as otherwise determined by the Commission; or

12 (2) ~~the owner must receive an approved individual nondischarge permit as required for the animal waste~~  
13 ~~management system.~~ meet the Swine Waste System Performance Standards pursuant to 15A 02T  
14 .1307 and follow the approval process as described in 15A NCAC 02T .1308.

15 (c) BMPs approved for use in the Agriculture Cost Share Program for Nonpoint Source Pollution Control ~~are hereby~~  
16 shall be deemed approved for these purposes.

17 (d) Land application BMPs following the nutrient management standard contained in the Section IV of the ~~SCS NRCS~~  
18 Technical Guide or as recommended by the Agronomic Division of the North Carolina Department of Agriculture and  
19 Consumer Services (Soil (predictive Soil Test Report and predictive Waste Analysis, Form AD-10) Analysis [Report]  
20 Report) and the Cooperative Extension Service (AG 439-4) (AG 439-5) (AG 439-28) are shall be acceptable. In cases  
21 where NC agronomic rates are not specified in the nutrient management standard established for a specific crop or  
22 vegetative type, application rates may be determined using the best judgement of the certifying Technical Specialist after  
23 consultation with NCDA or CES. by the NC Interagency Nutrient Management Committee. A technical specialist may  
24 use plant and tissue analysis to justify additional nitrogen and extend the application period with concurrence from a  
25 NCDA&CS Regional Agronomist, a voting member of the NC Agricultural Consultants Association (NCACA), or a  
26 Certified Crop Advisor (CCA).

27 (e) Exemptions from the minimum buffer requirements for animal waste storage and treatment facilities and animal  
28 concentration areas are acceptable if no practical alternative exists and the BMP installed as an equivalent control meets  
29 the requirements for Nondischarge except as a result of a storm event more severe than the 25-year, 24-hour storm.

30  
31 *History Note: Authority G.S. 106-840; 106-850; 139-4;*  
32 *Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule*  
33 *Becomes Effective, Whichever is Sooner;*  
34 *Eff. March 1, 1994;*  
35 *Transferred from 15A NCAC 06F .0104 Eff. May 1, 2012; 2012;*  
36 *Readopted Eff. November 1, 2017.*  
37

1 02 NCAC 59E is repealed as published in 31:23 NCR 2271 as follows:

2

3 **02 NCAC 59E .0105 TECHNICAL SPECIALIST DESIGNATION**

4

5 *History Note: Authority G.S. 106-840; 106-850; 139-4;*  
6 *Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule*  
7 *Becomes Effective, Whichever is Sooner;*  
8 *Eff. March 1, 1994;*  
9 *Transferred from 15A NCAC 06F .0105 Eff. May 1, ~~2012~~ 2012;*  
10 *Repealed Eff. November 1, 2017.*

11

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59F .0106

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Line 4 – where is CREP defined? Can you cite that definition or provide the phrase that CREP stands for?*

*Line 4 – replace “must” with “shall”*

*Line 5 – replace “to do so” with “of noncompliance from the Division”*

*Lines 5-6 – replace this phrase with “The notice shall include:”*

*Line 10 – replace with “(4) a schedule for correcting the noncompliance.”*

*Line 11 – what statute authorizes the Commission to assign liability? Isn't this just a legal opinion? Consider deleting this sentence.*

*Lines 15 and 16 – replace “will” with “shall”*

*Line 16 – replace “for repairing the easement area” with “to correct the noncompliance”*

*Line 16 – delete “of repair”*

*Lines 17-18 – replace “Once a plan is approved in writing by the Division, the landowner has 90 days from the date of said approval to complete restoration of the easement area” with “After a plan is approved in writing by the Division, the landowner shall correct the noncompliance within 90 days after the date of the approval”*

*Line 17 – replace “For vegetative practices, applicants are given one calendar year to re-establish the vegetation” with “For vegetative practices, applicants shall restablish vegetation within one year after the date of the approval”*

*Lines 21-25 – delete Paragraph (c) entirely.*

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017



1 02 NCAC 59F .0106 is readopted as published in 31:23 NCR 2271-2272 as follows:

2  
3 **02 NCAC 59F .0106 ~~DISPUTE RESOLUTION~~ NONCOMPLIANCE WITH CREP AGREEMENT**

4 (a) If noncompliance with any CREP agreement is determined, the landowner must return the enrolled area to the  
5 condition that meets the guidelines of the CREP upon receiving written notification to do so. The notice, from the  
6 ~~appropriate CREP agency, Division,~~ will contain:

- 7 (1) a detailed description of the enrolled area;  
8 (2) a description of the area in noncompliance;  
9 (3) recommended measures ~~for repair of the practice; and~~ to correct the noncompliance; and  
10 (4) a time frame for repair.

11 Any expense incurred ~~due to~~ correct the noncompliance of a practice will be the responsibility of the landowner.  
12 ~~Landowners are not responsible for repayment of cost share due to a failure of a practice through no fault of their own. If~~  
13 the noncompliance involves a cost-shared practice that is within the state cost share contract maintenance period, then the  
14 requirements in 02 NCAC 59D .0107 shall be followed.

15 (b) From the date of the notice of noncompliance, the landowner will be given 30 days to reply in writing to the Division  
16 with a plan for repairing the easement area. The Division will work with the landowner to ensure that the plan of repair  
17 meets the CREP objectives. Once a plan is approved in writing by the Division, the landowner has 90 days from the date  
18 of said approval to complete restoration of the easement area. For vegetative practices, applicants are given one calendar  
19 year to re-establish the vegetation. An extension may be granted by the Division if it is determined that compliance  
20 cannot be met due to circumstances beyond the landowner's control.

21 (c) In the event that an easement has been found to be noncompliant and the landowner does not agree to ~~repair or re-~~  
22 ~~implement the cost shared practice, the landowner and the Division may jointly request the Commission to mediate the~~  
23 ~~case as set forth in the NC CREP contract between the parties. To invoke this method, both parties must stipulate that~~  
24 ~~said mediation is binding.~~ correct the noncompliance, the Division may invoke procedures to achieve resolution to the  
25 noncompliance, including any and all remedies available to it under the easement or applicable law.

26  
27 *History Note: Authority G.S. 106-840; 106-850(a); 139-4;*  
28 *Temporary Adoption Eff. October 1, 2000;*  
29 *Eff. August 1, 2002;*  
30 *Transferred from 15A NCAC 06G .0106 Eff. May 1, ~~2012~~, 2012;*  
31 *Readopted Eff. November 1, 2017.*  
32

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59G .0101

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Line 9 – replace “where” with “if”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

1 02 NCAC 59G .0101 is readopted as published in 31:23 NCR 2272 as follows:

2

3 **SUBCHAPTER 59G - APPROVAL OF TECHNICAL SPECIALISTS AND BMPS FOR WATER QUALITY**  
4 **PROTECTION**

5

6 **02 NCAC 59G .0101 PURPOSE**

7 This Subchapter describes criteria and procedures for the Soil and Water Conservation Commission to approve water  
8 quality technical specialists and to approve Best Management Practices (BMPs) for use in water quality protection  
9 ~~programs of the Department.~~ programs. These criteria and procedures are intended for use by the Commission where  
10 technical specialists or BMPs are needed in conjunction with actions by the Environmental Management ~~Commission or~~  
11 ~~other commissions in Department water quality protection programs.~~ Commission.

12

13 *History Note: Authority G.S. 106-840; 139-4;*

14 *Temporary Adoption Eff. October 22, 2001;*

15 *Eff. April 1, 2003;*

16 *Transferred from 15A NCAC 06H .0101 Eff. May 1, ~~2012.~~ 2012;*

17 *Readopted Eff. November 1, 2017.*

18

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59G .0102

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Line 8 – delete “the”*

*Line 17 – if “USDA” is not defined, revise as follows: “Natural Resources Conservation Service of the United States Department of Agriculture”*

*Line 18 – delete “a BMP for”*

*Line 18 – add a comma after “form”*

*Line 23 – replace “are to” with “meet”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

02 NCAC 59G .0102 is readopted as published in 31:23 NCR 2272 as follows:

### 02 NCAC 59G .0102 DEFINITIONS

When used in this Subchapter:

- (1) "Best Management Practice" (BMP) means a structural or nonstructural management practice used singularly or in combination to reduce nonpoint source inputs to receiving waters.
- (2) "Certified Animal Waste Management Plan" means the animal waste management plan certified by a technical specialist as required in the EMC Nondischarge Rule for 15A NCAC 02T Section .1300 Animal Waste Management Systems (15A NCAC 02H .0217)-Systems.
- (3) "Commission" means the Soil and Water Conservation Commission.
- ~~(4) "Department" means the Department of Environment and Natural Resources.~~
- ~~(5)~~(4) "EMC" means the Environmental Management Commission.
- (5) "Land application" means providing nutrients to a receiving crop by spraying, spreading, or injecting inorganic fertilizer or animal waste (including liquid, solid, or sludge) pursuant to a certified nutrient or animal waste management plan.
- (6) "NCCES" means the North Carolina Cooperative Extension Service.
- (7) "NRCS" means the USDA Natural Resources Conservation Service.
- (8) "Nutrient management" means a BMP for managing the amount, source, placement, form and timing of nutrients to ensure adequate fertility for plant production and to minimize the potential for water quality impairment.
- (9) "Technical Specialist" means an individual designated by the Commission to certify that the planning, design and implementation of ~~BMPs~~ BMPs, including all or part of an animal waste management plan, are to the standards and specifications of the Commission or NRCS.
- (10) "Technical specialist designation category" means a ~~designation specific to any of several individual or groups of BMPs.~~ category specified in 02 NCAC 59G .0104(a).
- (11) "Water management" means a ~~BMP for~~ control of water levels in the soil profile, including ~~but not limited to,~~ the use of flashboard risers or other similar structures ~~placed in drainage ditches to benefit~~ meet crop water needs and reduce nutrient loss.

*History Note: Authority G.S. 106-840; 139-4;  
Temporary Adoption Eff. October 22, 2001;  
Eff. April 1, 2003;  
Transferred from 15A NCAC 06H .0102 Eff. May 1, 2012- 2012;  
Readopted Eff. November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59G .0103

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Line 4 – when “may” the Commission approve the individual BMPs? What are the factors of consideration? How is the individual approval requested? Please clarify the standards and process.*

*Line 6 – delete “minimum”*

*Lines 6-7 – what is the referenced document? Is it an outside party’s document? If so, incorporate by reference in accordance with G.S. 150B-21.6.*

*Line 8 – I think we may have erred in asking for the comma after “Technical” – please remove it if this sentence refers to three separate things: (1) BMPs Practices, (2) Technical or Performance Specifications, and (3) Operation and Maintenance requirements.*

*Lines 9, 10, 13, and 15 – replace “where” with “if”*

*Line 16 – delete the comma*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

1 02 NCAC 59G .0103 is readopted as published in 31:23 NCR 2272 as follows:

2  
3 **02 NCAC 59G .0103 APPROVAL OF BEST MANAGEMENT PRACTICES (BMPS)**

4 (a) The Commission may approve individual BMPs or systems of BMPs in conjunction with water quality protection  
5 programs for agriculture and other nonpoint sources.

6 (b) Approved BMPs shall meet the minimum technical standards of the USDA Natural Resources Conservation Service  
7 Field Office Technical Guide, Section IV, Raleigh, North Carolina, except as specified in Paragraph (c) of this Rule.

8 (c) The Commission shall approve alternative BMPs Practices, ~~Technical~~ Technical, or Performance Specifications, and  
9 Operation and Maintenance requirements where any of the following criteria are met:

10 (1) Where no existing USDA technical standard ~~specifically achieves the desired~~ exists for water quality  
11 protection ~~benefits; benefits equivalent to the benefits achieved by an approved BMP as established in~~  
12 Paragraph (a) of this Rule;

13 (2) Where an existing USDA technical standard includes design or installation requirements for purposes  
14 other than those necessary ~~to achieve the desired~~ for water quality protection ~~benefits; or protection; or~~

15 (3) Where there is a need for additional operator flexibility to reduce the initial cost of installing or  
16 implementing the BMP, while providing ~~equivalent~~ water quality protection ~~benefits. benefits~~  
17 equivalent to the benefits achieved by an approved BMP as established in Paragraph (a) of this Rule.

18 (d) In approving BMPs, the Commission shall consider technical input from persons engaged in agriculture or  
19 experienced in nonpoint source management.

20  
21 *History Note: Authority G.S. 106-840; 139-4;*  
22 *Temporary Adoption Eff. October 22, 2001;*  
23 *Eff. April 1, 2003;*  
24 *Transferred from 15A NCAC 06H .0103 Eff. May 1, ~~2012~~; 2012;*  
25 *Readopted Eff. November 1, 2017.*  
26

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59G .0104

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Line 5 – delete “technical specialist designation”*

*Line 14 – delete the comma after “loss”*

*Line 20 – delete “and”*

*Line 22 – add “and” at the end of this line*

*Lines 27-28 – what does “pursuant to NRCS job approval authority or engineering licensure” mean? Does this mean that a technical specialist in the runoff control category is to approve any erosion control BMP that is prepared by a licensed professional engineer or someone who has NCRS job approval authority? Since you are simply identifying categories. Wouldn't this be sufficient:*

The Runoff Control category provides for the approval of the design and installation of erosion control BMPs.

*Page 2, line 2 – replace “to comply” with “in compliance with”*

*Page 2, line 20 – do you mean “or” or “and”?*

*Page 2, line 24 – replace “Individuals” with “Technical specialists other than those described in Subparagraphs (b)(1) and (b)(2) of this Rule”*

*Page 2, line 36 – add “this” before “education”*

*Page 3, line 3 – replace “included in” with “who meet the requirements of”*

*Page 3, line 3 – to remain consistent with your punctuation in this Rule, replace the semicolon with a period.*

*Page 3, line 7 – delete the comma*

Jason Thomas  
Commission Counsel

Date submitted to agency: October 2, 2017



*Page 3, line 17 – delete the comma*

*Page 3, line 24 – replace “must” with “shall”*

*Page 3, line 27 – replace “will” with “shall.” When and how will applicants be notified?*

*Page 3, line 30 – add a comma after “2003”*

*Page 3, line 31 – add a comma after “Course”*

*Page 3, line 34 – replace “Technical” with “A technical”*

*Page 4, line 1 – replace this line with “Technical specialists shall complete six hours of training approved by the”*

*Page 4, line 4 – replace “the finding” with “a finding”*

*Page 4, lines 4-9 – consider revising as follows:*

j) Upon the finding by the Commission that the work of a technical specialist designated pursuant to this Rule fails to comply with the requirements of 15A NCAC 02T Section .1300, this Subchapter, or the NRCS Technical Guide, or that a technical specialist has submitted false data in the course of his or her work, the Commission may withdraw its designation of the technical specialist in any or all categories. In addition, technical specialist designation shall be rescinded by the Commission for failure to complete the approved additional training by the end of each three-year period.

*Page 4, line 7 – what determines whether the Commission “may” withdraw a designation? What standards or factors guide such a decision? Is there a rule or statute that could be cited the states those standards or factors?*

*Page 4, line 14 – what determines whether the Commission “may” withdraw a designation? What standards or factors guide such a decision? Is there a rule or statute that could be cited the states those standards or factors?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

02 NCAC 59G .0104 is readopted with changes as published in 31:23 NCR 2273-2275 as follows:

**02 NCAC 59G .0104 APPROVAL OF WATER QUALITY TECHNICAL SPECIALISTS**

(a) ~~Technical specialist designation categories and roles are as follows: specialists shall be designated in one or more of the following technical specialist designation categories:~~

(1) The Structural Animal Waste category provides for the approval of the design and ~~construction inspection~~ installation of lagoons, storage ponds, dry ~~stacks~~ stacks, and other similar structures. This category also includes the design and installation of a spillway in conjunction with the decommissioning of a lagoon or storage pond.

(2) The Waste Utilization ~~Plan~~ Plan/Nutrient Management category provides for:

(A) ~~The development~~ Development of land application ~~plans~~ plans, including crop acreages available to meet nutrient and hydraulic loading rates, application windows, determination of animal waste nutrient amounts, and other similar determinations such as evaluation of fields for phosphorous loss, and field buffers and related measures; buffers;

(B) Confirmation of storage volumes, exterior lots, ~~lagoon closures~~, and cropping systems; and systems;

(C) Development and establishment of buffers and ~~setbacks to manage runoff from exterior lots.~~ verification of land application setbacks;

(D) Certification ~~that~~ of the land application component of a USDA Comprehensive Nutrient Management Plan; and

(E) Authority to approve nutrient management plans to comply with Rule .0105 of this Subchapter.

(F) Decommissioning of a lagoon or storage structure other than the design or installation of a spillway.

(3) The Runoff Control category provides for the approval of the design and ~~implementation of filter strips, diversions, grass channels and related BMPs which manage runoff from exterior lots.~~ installation of erosion control BMPs pursuant to NRCS job approval authority or engineering licensure.

(4) The Irrigation Equipment category provides for the approval of the design and installation of irrigation systems to include pipe size, pump horsepower, nozzle size, and system layout, and other system parameters. layout including required land application setbacks.

(5) The Wettable Acres category provides for the determination of irrigated acreage in accordance with a Certified Animal Waste Management Plan.

~~(6) The Waste Utilization Plan/Nutrient Management category provides for the items included in Subparagraph (a)(2) of this Rule and the authority to approve river basin nutrient management plans and to certify the land application component of a USDA Comprehensive Management Plan.~~

1           ~~(7)~~(6) The Inorganic Fertilizer/Nutrient Management category provides for approval of river basin nutrient  
2 management plans to comply with Rule .0105 of this Subchapter for inorganic fertilizer only.

3           ~~(8)~~(7) The Water Management category provides for the approval of the design and installation of subsurface  
4 water management systems.

5           ~~(8)~~ — The Waste Facility Closure category provides for the design and oversight of decommissioning waste  
6 storage ponds, lagoons, and other similar structures.

7 (b) The Commission ~~designates~~ shall designate the following individuals who meet the criteria and training requirements  
8 of this Rule as technical specialists:

9           (1) Individuals ~~who to whom the NRCS has have been~~ assigned approval authority ~~for a designation to~~  
10 conduct the activities specified in a technical specialist category by the USDA NRCS, the North  
11 Carolina Department of Agriculture and Consumer Services, the Division of Soil and Water  
12 Conservation, or the North Carolina Cooperative Extension Service. Soil and Water Conservation  
13 District employees are assigned approval authority by the USDA NRCS. Agency employees who do  
14 not have a designation at the time this Rule becomes effective must meet the training requirements  
15 included in Subparagraph (c)(2) of this Rule in order to receive a designation; described in Paragraph  
16 (a) of this Rule;

17           (2) Professional engineers subject to the "The NC Engineering and Land Surveying Act" for the categories  
18 of ~~structural animal waste, Structural Animal Waste, waste utilization plan, Waste Utilization Plan,~~  
19 ~~runoff control, Runoff Control, irrigation equipment Irrigation Equipment and water management~~  
20 ~~designation; Water [Management] and [Waste Facility Closure designation;] Management; or~~

21           (3) Individuals not included in Subparagraph (b)(1) and (b)(2) who meet the criteria in Paragraph (c) of  
22 this Rule.

23 (c) ~~Those individuals not designated in Subparagraphs (b)(1) or (b)(2) of this Rule must have an existing designation at~~  
24 ~~the time this Rule becomes effective under 02 NCAC 59E .01025 or must~~ Individuals shall meet the following criteria  
25 and training requirements:

26           (1) ~~Minimum criteria~~ Criteria for each technical specialist designation category ~~are;~~ shall be the following:

27           (A) ~~The Irrigation Equipment designation category~~ requires designation as an irrigation designer  
28 by the National Irrigation Association or three years experience in the design of irrigation  
29 systems for waste application.

30           (B) ~~The Wettable Acres designation category~~ requires holding either the ~~waste utilization plan~~  
31 Waste Utilization Plan/Nutrient Management or ~~irrigation equipment Irrigation Equipment~~  
32 designation.

33           (C) ~~The Waste Utilization Plan/Nutrient Management and the Inorganic Fertilizer Only/Nutrient~~  
34 Fertilizer/Nutrient Management designations categories require either three years experience  
35 in nutrient management, a four year degree in agronomy or related ~~field~~ field, or a  
36 combination of education and experience totaling four years.

1 (D) ~~The Structural Animal Waste, Runoff Control and Control, and Water Management [and~~  
2 ~~Waste Facility Closure]~~ designations categories are reserved only for those individuals  
3 included in Subparagraphs (b)(1) or (b)(2);

4 (2) Training requirements ~~are:~~ shall be the following:

5 (A) ~~For all categories except Inorganic Fertilizer/Nutrient Management category, NC Rules and~~  
6 ~~Regulations Governing Animal Waste Management Systems taught by the Division or~~  
7 ~~Department of Environmental Quality, and advertised through the Division website.~~

8 ~~(A)(B)~~ (B) ~~For the category of Waste Utilization Plan/Nutrient Management, Management and Inorganic~~  
9 ~~Fertilizer/Nutrient Management, North Carolina Nutrient Management Course taught by the~~  
10 ~~Division, NCCES, NCCES, or the NRCS and the North Carolina Nutrient Management~~  
11 ~~Software Course taught by the Division or the NCCES, NCCES, and advertised through the~~  
12 ~~Division website.~~

13 ~~(B)~~ ~~For the category of Inorganic Fertilizer Only/Nutrient Management, North Carolina~~  
14 ~~Inorganic Fertilizer Nutrient Management Course taught by the NCCES or the NRCS and the~~  
15 ~~North Carolina Nutrient Management Software Course taught by the Division or the NCCES.~~

16 (C) ~~For the category of Wettable Acres, the North Carolina Wettable Acres Course taught by the~~  
17 ~~NCCES, NCCES, and advertised through the Division website.~~

18 ~~(3)~~ ~~Provide to the Division an "Application for Designation for Technical Specialist" and evidence of~~  
19 ~~experience and training required for each designation category. A list of three references who can~~  
20 ~~attest to the applicant's technical competence must accompany the application.~~

21 ~~(4)~~ ~~Be determined by the Commission to meet the requirements of this Rule for designation.~~

22 (d) All individuals requesting technical specialist designation shall provide to the Division an "Application for  
23 Designation for Technical Specialist" and evidence of expertise, skills, and training required for each designation  
24 category. A list of three references who can attest to the applicant's technical competence must accompany the  
25 application.

26 (e) All individuals requesting technical specialist designation shall be determined by the Commission to meet the  
27 requirements of this Rule [and] in order to be approved by the Commission for designation. Applicants will be notified  
28 of the Commission's actions.

29 ~~(4)(f)~~ (f) Professional Engineers included in Subparagraph (b)(2) who are licensed after the effective date of this Rule must  
30 April 1, 2003 shall attend the North Carolina Nutrient Management Course and the Course, the North Carolina Nutrient  
31 Management Software Course and the NC Rules and Regulations Governing Animal Waste Management Systems in  
32 order to use the waste utilization plan Waste Utilization Plan/Nutrient Management designation.

33 ~~(e)(g)~~ (g) All technical specialists must attend training as provided by the Division, NRCS or NCCES when new areas  
34 evolve within their designation in order to maintain their designation. Technical specialist shall perform services only in  
35 areas of the technical specialist's designated category and technical competence.

36 (h) The Division shall maintain a database and make available the names of designated technical specialists and their  
37 designated categories on the Division's website.

1 (i) A valid designation as a technical specialist shall be maintained by completion of six hours of training approved by  
2 the Commission during each three-year period following initial ~~designation.~~ designation or each three-year period  
3 following the effective date of this rule.

4 ~~(j)~~ Upon the finding by the Commission that the work of a technical specialist designated under Subparagraph (b)(3)  
5 ~~of pursuant to~~ this Rule fails to comply with the requirements of ~~15A NCAC 02H .02017(a), 15A NCAC 06F, 15A~~  
6 ~~NCAC 02T Section .1300, 02 NCAC 59E, the NRCS Technical Guide Guide, or any applicable state or federal laws, or~~  
7 submits false data ~~or is in any other way dishonest,~~ the Commission may withdraw its designation of the technical  
8 specialist in any or all categories. In addition, technical specialist designation shall be rescinded by the Commission for  
9 failure to complete the approved additional training by the end of each three-year period.

10 ~~(k) Upon the finding by the commission that~~ When the Commission makes findings regarding the work of a technical  
11 specialist designated under Subparagraph (b)(1) of this ~~Rule~~ Rule, the Commission shall forward these findings to the  
12 respective agency with the request that the agency provide documentation that their technical specialist has received  
13 training to correct deficiencies in the area of ~~work concern~~ to retain a designation. If the agency fails to provide such  
14 documentation, the Commission may withdraw its designation of the technical specialist for any or all categories.

15  
16 *History Note: Authority G.S. 106-840; 139-4;*  
17 *Temporary Adoption Eff. October 22, 2001;*  
18 *Eff. April 1, 2003;*  
19 *Transferred from 15A NCAC 06H .0104 Eff. May 1, ~~2012~~, 2012;*  
20 *Readopted Eff. November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Soil and Water Conservation Commission

RULE CITATION: 02 NCAC 59G .0105

**DEADLINE FOR RECEIPT: Friday, October 13, 2017**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Line 6 – replace “may be used to” with “shall”*

*Line 12 – replace “or” with “of the”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas  
Commission Counsel  
Date submitted to agency: October 2, 2017

1 02 NCAC 59G .0105 is readopted as published in 31:23 NCR 2273 as follows:

2

3 **02 NCAC 59G .0105 APPLICATION OF BMP APPROVAL AND TECHNICAL SPECIALIST**  
4 **DESIGNATION TO WATER QUALITY PROTECTION PROGRAMS**

5 Approved BMPs or systems of BMPs and technical specialist ~~designation~~ designations by the Commission under this  
6 Subchapter may be used to satisfy the requirements of:

7 (1) The Neuse Basin Rule in 15A NCAC 02B .0238(8)(b)(x) and (c)(i) and 15A NCAC 02B .0239(2)(a)  
8 and (b);

9 (2) The Tar-Pamlico Rule in 15A NCAC 02B .0256 and 15A NCAC 02B .0257(f)(2); and

10 (3) Other applicable water quality protection rules to address agricultural nonpoint source impacts, as  
11 adopted by the EMC or other commissions that include agricultural BMP development or  
12 implementation or technical specialist designation by the Commission.

13

14 *History Note: Authority G.S. 106-840; 139-4;*

15 *Temporary Adoption Eff. October 22, 2001;*

16 *Eff. April 1, 2003;*

17 *Transferred from 15A NCAC 06H .0105 Eff. May 1, ~~2012~~. 2012;*

18 *Readopted Eff. November 1, 2017.*

19