

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

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

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

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

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

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

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

02 NCAC 59E .0101 PURPOSE

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

*History Note: Authority G.S. 106-840; 139-2; 139-4;
Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;
Eff. March 1, 1994;
Transferred from 15A NCAC 06F .0101 Eff. May 1, ~~2012~~ 2012;
Readopted Eff. November 1, 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; 106-850; 15A NCAC 02H .0203; 143-15.10B; 15A NCAC [04]02T .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 an animal waste management plan in 15A NCAC 02T Section .1300 and G.S. 143-215.10C; a statement from a technical specialist that an animal waste management plan complies with 15A NCAC 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).
- (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] meet the standards and specifications of the Commission or NRCS.

History Note: Authority G.S. 106-840; 106-850; 139-4;

1 *Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule*
2 *Becomes Effective, Whichever is Sooner;*
3 *Eff. March 1, 1994;*
4 *Transferred from 15A NCAC 06F .0102 Eff. May 1, ~~2012~~ 2012;*
5 *Readoption Eff. November 1, 2017.*
6

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

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

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

- ~~(1) — obtain certification that the system will properly collect, treat, store, or apply animal waste to the land such that no discharge of pollutants occurs to surface waters of the state by any means except as a result of a storm event more severe than the 25-year, 24-hour storm as required in 15A NCAC 02H .0203(3); or~~
- ~~(2) — receive an individual nondischarge permit from the Division of Environmental Management in accordance with 15A NCAC 02H .0217(d).~~

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

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

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

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

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

~~(g) If the District does not concur that the certification was signed by a Technical Specialist, or that the waste management plan is acceptable, and if either the owner or the DEM requests that the District reconsider its decision, the~~

District shall review its decision and within 45 days of the request, notify the owner, the certifying Technical Specialist, DEM, and the Division of the District's final decision. The District is encouraged to utilize other technical specialists, local agricultural agencies and disinterested agricultural producers in reconsidering its initial decision. If the District fails to act within 45 days on a request for reconsideration, the District's initial decision shall become final.

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

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

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

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

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

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

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;

Eff. March 1, 1994;

Transferred from 15A NCAC 06F .0103 Eff. May 1, 2012; 2012;

Readopted Eff. November 1, 2017.

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

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

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

(b) As required by DEM in 15A NCAC 02H .0217, [15A NCAC 02T Section .1300,] Pursuant to 15A NCAC 02T Section .1300, incorporated by reference with subsequent amendments and additions, a BMP or system of BMPs designed and installed for an animal waste management plan at the time of certification ~~must~~ shall either:

- (1) meet the minimum standards and specifications of the US Department of Agriculture ~~Soil Conservation Service~~ Natural Resources Conservation Service (NRCS) Technical Guide, Section IV IV, Raleigh, North Carolina, incorporated by reference with subsequent amendments and additions, or minimum standards and specifications as otherwise determined by the Commission; or
- (2) ~~the owner must receive an approved individual nondischarge permit as required for the animal waste management system.~~ meet the Swine Waste System Performance Standards pursuant to 15A NCAC 02T .1307 and follow the approval process [as] described in 15A NCAC 02T .1308.

A copy of the NRCS Technical Guide can be found at no cost at https://efotg.sc.egov.usda.gov/efotg_locator.aspx?map=US.

(c) BMPs approved for use in the Agriculture Cost Share Program for Nonpoint Source Pollution Control ~~are hereby~~ shall be deemed approved for these purposes, the purpose of this Rule.

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

(e) Exemptions from the minimum buffer requirements for animal waste storage and treatment facilities and animal concentration areas ~~are acceptable~~ shall be approved if no ~~practical alternative exists~~ other siting options are available and the BMP installed as an equivalent control ~~meets the requirements for Nondischarge except as a result of a storm~~

1 ~~event more severe than the 25-year, 24-hour storm~~ is designed to prevent the discharge of pollutants except during a
2 storm event more severe than a 25-year, 24-hour storm event.

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4 *History Note:* Authority G.S. 106-840; 106-850; 139-4;
5 Temporary Adoption Eff. December 9, 1993 for a Period of 180 Days or Until the Permanent Rule
6 Becomes Effective, Whichever is Sooner;
7 Eff. March 1, 1994;
8 Transferred from 15A NCAC 06F .0104 Eff. May 1, ~~2012~~ 2012;
9 Readopted Eff. November 1, 2017.
10

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

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

(a) If noncompliance with any CREP agreement is determined, the landowner ~~must~~ shall return the enrolled area to the condition that meets the guidelines of the CREP upon receiving written notification ~~to do so, of noncompliance from the~~

Division. The notice, from the appropriate CREP agency, [Division,] will contain: The notice shall include:

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

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

(b) From the date of the notice of noncompliance, the landowner ~~will~~ shall be given 30 days to reply in writing to the Division with a plan ~~for repairing the easement area.~~ to correct the noncompliance. The Division ~~will~~ shall work with the landowner to ensure that the plan ~~of repair~~ meets the CREP objectives. ~~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. After a plan is approved in writing by the Division, the landowner shall correct the noncompliance within 90 days after the date of approval. For vegetative practices, applicants are given one calendar year to re-establish the vegetation. For vegetative practices, applicants shall re-establish vegetation within one year after the date of approval.~~ An extension may be granted by the Division if it is determined that compliance cannot be met due to circumstances beyond the landowner's control.

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

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

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

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

02 NCAC 59G .0101 PURPOSE

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

*History Note: Authority G.S. 106-840; 139-4;
Temporary Adoption Eff. October 22, 2001;
Eff. April 1, 2003;
Transferred from 15A NCAC 06H .0101 Eff. May 1, ~~2012.~~ 2012;
Readopted Eff. November 1, 2017.*

02 NCAC 59G .0102 is readopted with changes 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.~~ Service of the United States Department of Agriculture.
- (8) "Nutrient management" means a BMP for managing the amount, source, placement, form 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 meet 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.*

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

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

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

(b) Approved BMPs shall meet the minimum technical standards of the USDA Natural Resources Conservation Service Field Office Technical Guide, Section IV, Raleigh, North Carolina, incorporated by reference with subsequent amendments and additions, except as specified in Paragraph (c) of this Rule. A copy of the NRCS Technical Guide can be found at no cost at https://efotg.sc.egov.usda.gov/efotg_locator.aspx?map=US.

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

- (1) Where If no existing USDA technical standard specifically achieves the desired exists for water quality protection benefits; benefits equivalent to the benefits achieved by an approved BMP as established in Paragraph (a) of this Rule;
- (2) Where If an existing USDA technical standard includes design or installation requirements for purposes other than those necessary to achieve the desired for water quality protection benefits; or protection; or
- (3) Where If there is a need for additional operator flexibility to reduce the initial cost of installing or implementing the BMP, BMP while providing equivalent water quality protection benefits; benefits equivalent to the benefits achieved by an approved BMP as established in Paragraph (a) of this Rule.

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

*History Note: Authority G.S. 106-840; 139-4;
Temporary Adoption Eff. October 22, 2001;
Eff. April 1, 2003;
Transferred from 15A NCAC 06H .0103 Eff. May 1, 2012; 2012;
Readopted Eff. November 1, 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, 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]~~ [and] 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;]~~ Subchapter; and
 - (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;] BMPs.
- (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.~~

- (6) The Inorganic Fertilizer/Nutrient Management category provides for approval of river basin nutrient management plans [to comply with] in compliance with Rule .0105 of this Subchapter for inorganic fertilizer only.
- (7) The Water Management category provides for the approval of the design and installation of subsurface water management systems.
- ~~(8) The Waste Facility Closure category provides for the design and oversight of decommissioning waste storage ponds, lagoons, and other similar structures.~~
- (b) The Commission ~~designates~~ shall designate the following individuals who meet the criteria and training requirements of this Rule as technical specialists:
- (1) Individuals ~~who to whom the NRCS has have been~~ assigned approval authority ~~for a designation to conduct the activities specified in a technical specialist category by the USDA NRCS, the North Carolina Department of Agriculture and Consumer Services, the Division of Soil and Water Conservation, or the North Carolina Cooperative Extension Service. Soil and Water Conservation District employees are assigned approval authority by the USDA NRCS. Agency employees who do not have a designation at the time this Rule becomes effective must meet the training requirements included in Subparagraph (c)(2) of this Rule in order to receive a designation; described in Paragraph (a) of this Rule;~~
 - (2) Professional engineers subject to the "The NC Engineering and Land Surveying Act" for the categories of ~~structural animal waste, Structural Animal Waste, waste utilization plan, Waste Utilization [Plan,] Plan/Nutrient Management, runoff control, Runoff Control, irrigation equipment Irrigation Equipment~~ and ~~water management designation; Water [Management] and [Waste Facility Closure designation;] Management; or~~
 - (3) Individuals not included in Subparagraph (b)(1) and (b)(2) who meet the criteria in Paragraph (c) of this Rule.
- (c) ~~Those individuals not designated in Subparagraphs (b)(1) or (b)(2) of this Rule must have an existing designation at the time this Rule becomes effective under 02 NCAC 59E .01025 or must [Individuals] Technical Specialists other than those described in Subparagraphs (b)(1) and (b)(2) of this Rule shall~~ meet the following criteria and training requirements:
- (1) ~~Minimum criteria~~ Criteria for each technical specialist designation category ~~are; shall be the following:~~
 - (A) ~~The Irrigation Equipment designation category~~ requires designation as an irrigation designer by the National Irrigation Association or three years experience in the design of irrigation systems for waste application.
 - (B) ~~The Wettable Acres designation category~~ requires holding either the ~~waste utilization plan~~ Waste Utilization Plan/Nutrient Management or ~~irrigation equipment~~ Irrigation Equipment designation.
 - (C) ~~The Waste Utilization Plan/Nutrient Management and the Inorganic Fertilizer Only/Nutrient Fertilizer/Nutrient Management designations categories~~ require either three years experience

in nutrient management, a four year degree in agronomy or related ~~field~~ field, or a combination of this education and experience totaling four years.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (i) [A valid designation as a technical specialist shall be maintained by completion of] Technical Specialists shall
7 complete six hours of training approved by the Commission during each three-year period following initial [designation,
8 designation or each three-year period following the effective date of this rule.

9 ~~(f)(j) Upon the a finding by the Commission that the work of a technical specialist designated under Subparagraph (b)(3)~~
10 ~~of pursuant to this Rule fails to comply with the requirements of 15A NCAC 02H .02017(a), 15A NCAC 06F, 15A~~
11 ~~NCAC 02T Section .1300, [02 NCAC 59E,] this Subchapter, or the NRCS Technical Guide Guide, or any applicable~~
12 ~~state or federal laws, or submits false data or is in any other way dishonest, or that a technical specialist has submitted~~
13 ~~false data in the course of his or her work,~~ the Commission may withdraw its designation of the technical specialist in
14 any or all [categories.]categories, taking into consideration the severity of non-compliance, the extent and significance of
15 any false data [submitted] submitted, and the specialist's history of non-compliance. In addition, technical specialist
16 designation shall be rescinded by the Commission for failure to complete the approved additional training by the end of
17 each three-year period.

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

23
24 *History Note: Authority G.S. 106-840; 139-4;*
25 *Temporary Adoption Eff. October 22, 2001;*
26 *Eff. April 1, 2003;*
27 *Transferred from 15A NCAC 06H .0104 Eff. May 1, 2012; 2012;*
28 *Readopted Eff. November 1, 2017.*
29

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

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

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

- (1) The Neuse Basin Rule in 15A NCAC 02B .0238(8)(b)(x) and (c)(i) and 15A NCAC 02B .0239(2)(a) and (b);
- (2) The Tar-Pamlico Rule in 15A NCAC 02B .0256 and 15A NCAC 02B .0257(f)(2); and
- (3) Other applicable water quality protection rules to address agricultural nonpoint source impacts, as adopted by the EMC or other ~~commissions-commissions~~ that include agricultural BMP development or implementation ~~or of the~~ technical specialist designation by the Commission.

*History Note: Authority G.S. 106-840; 139-4;
Temporary Adoption Eff. October 22, 2001;
Eff. April 1, 2003;
Transferred from 15A NCAC 06H .0105 Eff. May 1, ~~2012~~. 2012;
Readopted Eff. November 1, 2017.*