

CHAPTER 59 - SOIL AND WATER CONSERVATION COMMISSION

SUBCHAPTER 59A - ORGANIZATION AND OPERATION

SECTION .0100 - GENERAL PROVISIONS

02 NCAC 59A .0101 OBJECTIVES

History Note: Authority G.S. 106-840;
Eff. February 1, 1976;
Amended Eff. August 1, 1982;
Transferred from 15A NCAC 06A .0101 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Repealed Eff. March 1, 2022.

02 NCAC 59A .0102 ADDRESS

The Division of Soil and Water Conservation, Department of Agriculture & Consumer Services is located at 216 West Jones Street, Raleigh, North Carolina 27603. The mailing address is 1614 Mail Service Center, Raleigh, North Carolina 27699-1614.

History Note: Authority G.S. 139-4; 106-840; 106-841;
Eff. February 1, 1976;
Amended Eff. June 1, 1990; September 1, 1982; December 5, 1980; November 1, 1978;
Transferred from 15A NCAC 06A .0107 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. March 1, 2022.

02 NCAC 59A .0103 DEFINITIONS

As used in this Chapter:

- (1) "Association" means the North Carolina Association of Soil and Water Conservation Districts;
- (2) "Commission" means the Soil and Water Conservation Commission created by G.S. 106-840;
- (3) "Department" means the Department of Agriculture & Consumer Services;
- (4) "District" or "soil and water conservation district" means as defined in G.S. 139-3(5);
- (5) "Division" means the Division of Soil and Water Conservation;
- (6) "Public Law 83-566" means the Watershed Protection and Flood Prevention Act of 1954, P.L. 83-566, 68 Stat. 666 [codified at 16 U.S.C. 1001-07 (1976)];
- (7) "Supervisor" means one of the members of the governing body of a district.

History Note: Authority G.S. 139-4; 106-840;
Eff. September 1, 1982;
Amended Eff. June 1, 1990;
Transferred from 15A NCAC 06A .0108 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. March 1, 2022.

02 NCAC 59A .0104 SUPERVISOR VACANCIES

History Note: Authority, G.S. 106-840;
Eff. September 1, 1986;
Amended Eff. July 1, 1988;
Transferred from 15A NCAC 06A .0109 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Repealed Eff. March 1, 2022.

SECTION - .0200 SUPERVISOR TRAINING PROGRAM

02 NCAC 59A .0201 GENERAL

- (a) Supervisors shall receive training as set forth in this Section regarding soil, water, natural resources conservation, and the duties and responsibilities of Supervisors as set forth in Chapter 139, Article I, of the North Carolina General Statute.
- (b) The Commission shall provide oversight for the Supervisor Training Program, including both required and continuing training requirements. The Division shall approve specific training courses and related credits as outlined in the rules of this Section. The Commission shall retain authority to consider appeals of decisions to deny or limit credit for courses or events.

*History Note: Authority G.S. 106-840(a)(2); 106-841(g); 139-4(d)(13); 139-7.2;
Eff. March 1, 2022.*

02 NCAC 59A .0202 REQUIRED BASIC TRAINING

- (a) All Supervisors shall complete Basic Training for Soil and Water Conservation District Supervisors.
- (b) Participation in this required basic training course shall be completed within the first year of service as an elected or appointed Supervisor.
- (c) For Supervisors serving prior to December 2022, documentation of previous participation in this required basic training course shall meet the requirement as set forth in this Rule.
- (d) For Supervisors that are re-elected in December 2022 that have not previously participated in this required basic training course, participation shall be required in 2023 or at the next available offering.
- (e) The Commission shall review and approve the Basic Training curriculum annually and publish the approved curriculum on its website. The training shall include those topics set forth in G.S. 139-7.2.
- (f) Basic Training curriculum shall include the duties and responsibilities of district Supervisors.
- (g) Basic Training may be provided by the School of Government at the University of North Carolina at Chapel Hill or other qualified sources as outlined in Rule .0204(c)(3) of this Section.

*History Note: Authority G.S.139-4(d)(13); 139-7.2;
Eff. March 1, 2022.*

02 NCAC 59A .0203 CONTINUING TRAINING REQUIREMENTS

- (a) All Supervisors shall obtain six Supervisor Training Credits per term of service as set forth in Rule .0204 of this Section.
- (b) Supervisor Training Credits earned for required training in Rule .0202 of this Subchapter shall be credited toward the requirements of this Rule.

*History Note: Authority G.S. 139-4(d)(13); 139-7.2;
Eff. March 1, 2022.*

02 NCAC 59A .0204 SUPERVISOR TRAINING CREDITS

- (a) Supervisor Training Credits shall be assigned as one credit being equal to one hour of instruction that deals with content relevant to the topics included in Paragraph (b) of this Rule. Credits are approved in 15-minute increments.
- (b) Credits shall be awarded for training that covers topics as outlined in G.S. 139-7.2(b).
- (c) Credits may be attained:
 - (1) At local board meetings when a presentation that meets the requirements set forth in Paragraph (b) of this Rule is delivered;
 - (2) At local board meetings using resource material that meets the requirements set forth in Paragraph (b) of this Rule;
 - (3) Through classroom training, field days, or events sponsored by the District, the Association, the Commission, the Division, the Natural Resources Conservation Service, or the School of Government at the University of North Carolina at Chapel Hill.
- (d) Other events or activities may be individually approved by the Commission when they meet the requirements of this Rule. Requests shall be submitted in writing to the Commission through the Division at the address provided in

Rule .0102 of this Section. Supervisors may submit a request for Supervisor Training Credit hours for training achieved beyond Subparagraphs (c)(1) – (3) of this Rule. Supervisor requests shall provide documentation for how the other events or activities meet requirements outlined in Paragraph (b) of this Rule.

(e) Credit shall not be given for the same course or resource materials more than two times in a given term.

(f) The record of credits earned shall be maintained by the Division. Awarded credits shall be posted on the Division website. Supervisors shall be responsible for verifying recorded credits for accuracy.

*History Note: Authority G.S. 139-4(d)(13); 139-7.2;
Eff. March 1, 2022.*

SECTION .0300 - SUPERVISOR REMOVAL

02 NCAC 59A .0301 SUPERVISOR REMOVAL PROCEDURES AND REPORTING

(a) District Supervisors may be removed by the Commission for neglect of duty, incompetence, or malfeasance pursuant to G.S. 139-7. Evidence of neglect of duty shall include the failure to attend three consecutive regularly scheduled district meetings, except when prevented by illness. Evidence of neglect of duty shall also include the failure of sitting Supervisors to meet training requirements set forth in Section .0200 of this Subchapter.

(b) District boards shall submit a Supervisor attendance report, annually, for all members. This report shall be delivered by January 31 of each year. Reports shall cover the time period beginning December 1 and ending November 30 of the previous year.

(c) Each District board shall notify the Commission in writing of any member that has failed to attend three consecutive regularly scheduled meetings, except when prevented by illness of the Supervisor. Notification from the District shall include explanation for non-attendance and the actions that the District board has taken to address the Supervisor's attendance.

(d) The Division shall provide to the Commission the following information:

- (1) training documentation of participants in Basic Training for Soil and Water Conservation District Supervisors by April 1 of each year; and
- (2) a summary of Supervisor Training Credits outlined in Rule .0204 of this Subchapter by February 1 of odd years.

(e) The Inquiry Committee outlined in Rule .0302 of this Section shall review documentation submitted to the Commission by the Districts and the Division, and shall take action as outlined in Rule .0302 of this Section.

(f) When the Inquiry Committee determines that neglect of duty, incompetence, or malfeasance has occurred in accordance with G.S. 139-7 and Rule .0302 of this Section, and refers the Supervisor to the Commission for a hearing, the Commission shall take hardship; including illness, financial and familial obligations, and circumstances beyond the control of the Supervisor, into consideration prior to removal from office for neglect of duty.

(g) At least 30 days prior to the consideration of removing a Supervisor from office, the Commission, through the Division, shall provide the Supervisor notice of the grounds for which removal is being considered. The Supervisor may provide a written response to the Commission within 15 days of receipt of the notice. Notice shall be provided as follows:

- (1) The copy of the notice shall be transmitted to the Supervisor by certified United States Mail, return receipt requested, or by any other means by which a delivery receipt can be provided. If the notice is returned undeliverable the Commission, through the Division, shall send notice to the Supervisor's last known address via United States Postal Service, First Class Mail.
- (2) The notice shall include the date, time, and location of the meeting at which removal will be considered, and inform the Supervisor of the opportunity to address the Commission.
- (3) The notice shall notify the Supervisor that the failure to submit a written response and failure to appear before the Commission may be considered evidence that the Supervisor does not object to being removed.
- (4) A copy of the notice shall be forwarded to the District board of which the Supervisor is a member. The copy of the notice may be transmitted to the District board electronically or by United States Postal Service, First Class Mail. The District board may submit information in support of, or opposition to, the Supervisor's removal.

(h) When the matter comes before the Commission, the Supervisor shall be allowed an opportunity to address the Commission and provide information regarding the matter. The time period for addressing the Commission shall be limited to 15 minutes.

(i) If the matter comes before the Commission at the request of a District board, then a member of the District board shall present the request to the Commission and shall provide the Commission with information in support of the request. Any information provided to the Commission to support a District board's request shall also be provided to the Supervisor.

(j) The Commission may hear information from Division staff and from the District board, including the District board's staff. As part of the hearing the Chair may allow other individuals to be heard regarding the matter before the Commission.

(k) If after considering the material before it the Commission acts to remove the Supervisor, the Commission shall notify the Supervisor in writing.

(l) In making its determination whether neglect of duty, incompetence, or malfeasance in accordance with G.S. 139-7 has occurred, the Commission shall consider the information in the record before it, including the information received during the hearing.

*History Note: G.S. 106-840; 139-7;
Eff. March 1, 2022.*

02 NCAC 59A .0302 INQUIRY COMMITTEE

(a) When a Supervisor is considered for removal for neglect of duty, incompetence, or malfeasance as set forth in G.S. 139-7, an Inquiry Committee shall take preliminary actions. Preliminary actions shall include the review of information submitted by the requesting District and the Supervisor whose removal is requested, or review of training documentation submitted by the Division.

(b) The Inquiry Committee shall be appointed by the Commission Chair when a Supervisor is considered for removal. The Inquiry Committee shall include three members. When making appointments to the Inquiry Committee the Commission Chair shall consider whether each member has a conflict of interest or whether other appropriate grounds exist that would prevent the member from serving on the Committee. In the event a member of the Inquiry Committee is unable to serve, the Commission Chair shall replace the member with another member of the Commission.

(c) Upon receipt of written notice from a District requesting removal of a supervisor or supervisor training documentation provided by the Division, the Inquiry Committee shall request a written explanation from the Supervisor. The Inquiry Committee, through the Division, shall request any supplemental information to be provided by the Supervisor in writing within 30 days. The request shall be transmitted to the Supervisor by certified United States Mail, return receipt requested, or by any other means by which a delivery receipt can be provided.

(d) After reviewing written documentation from the District and any written information provided by the Supervisor or training documentation submitted by the Division, the Inquiry Committee may:

- (1) Determine that neglect of duty, incompetence, or malfeasance has occurred, as determined on a case-by-case basis, and refer the Supervisor to a hearing by the Commission as set forth in Rule .0301 of this Section;
- (2) Determine that basic or continuing training requirements be extended by one year; or
- (3) Determine that a hearing is unnecessary and the matter will be closed without further action.

(e) In making the determination outlined in Paragraph (d) of this Rule, the Inquiry Committee shall take hardship, including illness, financial and the familial obligations, and circumstances beyond the control of the Supervisor, into consideration.

*History Note: Authority G.S. 106-840; 139-7.2;
Eff. March 1, 2022.*