

## **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. These criteria and procedures are intended for use by the Commission if technical specialists or BMPs are needed in conjunction with actions by the Environmental Management 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;  
Readopted Eff. November 1, 2017.*

### **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 15A NCAC 02T .1300 Animal Waste Management Systems.
- (3) "Commission" means the Soil and Water Conservation Commission.
- (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 Natural Resources Conservation Service of the United States Department of Agriculture.
- (8) "Nutrient management" means 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, including all or part of an animal waste management plan, meet the standards and specifications of the Commission or NRCS.
- (10) "Technical specialist designation category" means a category specified in 02 NCAC 59G .0104(a).
- (11) "Water management" means control of water levels in the soil profile, including the use of flashboard risers or other similar structures to 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;  
Readopted Eff. November 1, 2017.*

### **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 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](https://efotg.sc.egov.usda.gov/efotg_locator.aspx?map=US).
- (c) The Commission shall approve alternative BMPs Practices, Technical or Performance Specifications, and Operation and Maintenance requirements if any of the following criteria are met:

- (1) If no existing USDA technical standard exists for water quality protection benefits equivalent to the benefits achieved by an approved BMP as established in Paragraph (a) of this Rule;
  - (2) If an existing USDA technical standard includes design or installation requirements for purposes other than those necessary for water quality protection; or
  - (3) If there is a need for additional operator flexibility to reduce the initial cost of installing or implementing the BMP while providing water quality protection 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;  
Readopted Eff. November 1, 2017.*

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

- (a) Technical specialists shall be designated in one or more of the following categories:
- (1) The Structural Animal Waste category provides for the approval of the design and installation of lagoons, storage ponds, dry 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/Nutrient Management category provides for:
    - (A) Development of land application 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;
    - (B) Confirmation of storage volumes, exterior lots, and cropping systems;
    - (C) Development and establishment of buffers and verification of land application setbacks;
    - (D) Certification of the land application component of a USDA Comprehensive Nutrient Management Plan;
    - (E) Authority to approve nutrient management plans to comply with Rule .0105 of this 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 installation of erosion control 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 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 Inorganic Fertilizer/Nutrient Management category provides for approval of river basin nutrient management plans 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.
- (b) The Commission shall designate the following individuals who meet the criteria and training requirements of this Rule as technical specialists:
- (1) Individuals to whom the NRCS has assigned approval authority to conduct the activities specified in a technical specialist category 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, Waste Utilization Plan/Nutrient Management, Runoff Control, Irrigation Equipment and Water Management; or
  - (3) Individuals not included in Subparagraph (b)(1) and (b)(2) who meet the criteria in Paragraph (c) of this Rule.

(c) 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) Criteria for each technical specialist designation category shall be the following:
  - (A) Irrigation Equipment 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) Wettable Acres category requires holding either the Waste Utilization Plan/Nutrient Management or Irrigation Equipment designation.
  - (C) Waste Utilization Plan/Nutrient Management and the Inorganic Fertilizer/Nutrient Management categories require either three years experience in nutrient management, a four year degree in agronomy or related field, or a combination of this education and experience totaling four years.
  - (D) Structural Animal Waste, Runoff Control, and Water Management categories are reserved only for those individuals who meet the requirements of Subparagraphs (b)(1) or (b)(2) of this Rule.
- (2) Training requirements 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 and advertised through the Division website.
  - (B) For the category of Waste Utilization Plan/Nutrient Management and Inorganic Fertilizer/Nutrient Management, North Carolina Nutrient Management Course taught by the Division, NCCES, or the NRCS and the North Carolina Nutrient Management Software Course taught by the Division or the NCCES, and advertised through the Division website.
  - (C) For the category of Wettable Acres, the North Carolina Wettable Acres Course taught by the NCCES and advertised through the Division website.

(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 shall accompany the application.

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

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

(g) A technical specialist shall perform services only in areas of the technical specialist's designated category and technical competence.

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

(i) Technical Specialists shall complete six hours of training approved by the Commission during each three-year period following initial designation or each three-year period following the effective date of this Rule.

(j) Upon a 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 .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, taking into consideration the severity of non-compliance, the extent and significance of any false data submitted, and the specialist's history of non-compliance. 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.

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

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

**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 designations by the Commission under this Subchapter 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, that include agricultural BMP development or implementation 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;  
Readopted Eff. November 1, 2017.