

The proposed adoptions, amendments, and repeal in 02 NCAC 59 will be published in the NC Register on **June 15<sup>th</sup>, 2021**. The comment period will end **August 16, 2021**.

**Written comments may be submitted during the open comment period to Vernon Cox, 1614 Mail Service Center, Raleigh, NC 27699-1614, or [Vernon.cox@ncagr.gov](mailto:Vernon.cox@ncagr.gov).**

Two public hearings are planned on these proposals.

- 07/21/2021, 11:00 pm  
NC Farm Bureau – Smithfield Office – Auditorium (Johnston County)  
1809 S. Bright Leaf Boulevard  
Smithfield, NC 27577  
Virtual component:  
**Join on your computer or mobile app**  
[Click here to join the meeting](#)  
**Join with a video conferencing device**  
[ncgov@m.webex.com](mailto:ncgov@m.webex.com)  
Video Conference ID: 113 332 538 1  
[Alternate VTC dialing instructions](#)  
**Or call in (audio only)**  
[+1 984-204-1487,,989733041#](tel:+19842041487989733041) United States, Raleigh  
Phone Conference ID: 989 733 041#
- 08/03/202, 7:00 pm, Virtual Only:  
**Join on your computer or mobile app**  
[Click here to join the meeting](#)  
**Join with a video conferencing device**  
[ncgov@m.webex.com](mailto:ncgov@m.webex.com)  
Video Conference ID: 112 997 621 6  
[Alternate VTC dialing instructions](#)  
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[+1 984-204-1487,,457567489#](tel:+19842041487457567489) United States, Raleigh  
Phone Conference ID: 457 567 489#

The General Assembly recently enacted Session Law 2018-113 which requires training for appointed and elected soil and water conservation district supervisors under General Statute 139-7.2. Under Session Law 2016-113, the General Assembly provided authority for the Soil and Water Conservation Commission to establish a training program for all district supervisors under General Statute 139-4(d). These rules set forth the guide for this supervisor training program and provide a process for supervisor removal. Supervisor removal authority is provided to the Soil and Water Conservation Commission under General Statute 139-7

02 NCAC 59A .0101 is proposed for amendment as follows:

## CHAPTER 59 - SOIL AND WATER CONSERVATION COMMISSION

### SUBCHAPTER 59A - ORGANIZATION AND OPERATION

#### SECTION .0100 GENERAL PROVISIONS

##### 02 NCAC 59A .0101 OBJECTIVES

The ~~commission~~Commission administers a comprehensive statewide soil and water conservation program, giving technical, administrative, and financial assistance to local ~~districts~~; Districts; giving planning assistance to local sponsors of small watershed projects under Public Law 83-566; giving technical and administrative assistance to complete the soils resource inventory for the state; and developing and implementing ~~an agricultural non-point source pollution program~~. State cost share programs for water quality and water quantity.

02 NCAC 59A .0102 is proposed for amendment as follows:

##### 02 NCAC 59A .0102 ADDRESS

Division of Soil and Water Conservation

Department of ~~Environment, Health, and Natural Resources~~ Agriculture and Consumer Services

~~Archdale Building~~

~~512 North Salisbury Street~~ 216 West Jones Street

~~P.O. Box 27687~~ 1614 Mail Service Center

Raleigh, North Carolina ~~27611~~ 27699-1614

*History Note: Authority G.S. 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.*

02 NCAC 59A .0103 is proposed for amendment as follows:

### 02 NCAC 59A .0103 DEFINITIONS

As used in this Chapter:

- (1) "Association" means the North Carolina Association of Soil and Conservation Districts;
- ~~(1)(2)~~ "Commission" means the Soil and Water Conservation Commission;
- ~~(2)(3)~~ "Department" means the Department of ~~Environment, Health, and Natural Resources;~~ Agriculture and Consumer Services;
- ~~(3)(4)~~ "District" means a Soil and Water Conservation District and does not mean a watershed improvement district or a drainage district or a county or municipal service district;
- ~~(4)(5)~~ "Division" means the Division of Soil and Water Conservation;
- ~~(5)(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)];
- ~~(6)(7)~~ "Supervisor" means a member of the district body.

*History Note: Authority G.S. 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.*

02 NCAC 59A .0104 is proposed for repeal as follows:

### 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.*

02 NCAC 59A .0201 is proposed for adoption as follows:

### SECTION .0200 SUPERVISOR TRAINING PROGRAM

#### 02 NCAC 59A .0201 GENERAL

Training is required to ensure Supervisors remain knowledgeable and skilled in soil, water, and natural resources conservation, and the duties and responsibilities of Supervisors. This training shall serve to enhance the overall capacity of local Districts to deliver their programs and services.

The Commission shall provide oversight for Supervisor Training Program, including both required and continuing training requirements. The Commission may delegate its authority to approve specific training courses and related credits to the Division. The Commission shall retain authority to consider appeals for decisions to deny or limit credit for courses or events.

*History Note:* Authority G.S. 139-4(d)(13); 139-7.2.

02 NCAC 59A .0202 is proposed for adoption as follows:

**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 outlined in (a) of 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.

*History Note:* Authority G.S. 139-4(d)(13).

02 NCAC 59A .0203 is proposed for adoption as follows:

**02 NCAC 59A .0203 CONTINUING TRAINING REQUIREMENTS**

- (a) All Supervisors shall obtain six Supervisor Training Credits per term; Supervisor Training Credits are outlined in rule .0204 of this Subchapter.
- (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.

02 NCAC 59A .0204 is proposed for adoption as follows:

**02 NCAC 59A .0204 SUPERVISOR TRAINING CREDITS**

- (a) Supervisor Training Credits will 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 the following topics:
  - (1) Soil, water, and natural resources conservation; and/or,
  - (2) Duties and responsibilities of Supervisors.

(c) Credits may be attained:

- (1) At local board meetings when presentation is delivered by a knowledgeable professional; or,
- (2) At local board meetings using resource materials approved by the Commission; or,
- (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 of the University of North Carolina at Chapel Hill; or,
- (4) At another event or activity approved by the Commission that meets the requirements outlined in paragraph (b) of this Rule; or,
- (5) At other events or activities individually approved by the Commission which meet the requirements of this Rule. Requests shall be submitted in writing to the Commission through the Division. Supervisors may submit a request for Supervisor Training Credit hours for training achieved beyond items (1) – (4) of this paragraph. Supervisor requests shall provide documentation for how the other events or activities meet requirements outlined in paragraph (b) of this Rule.

(d) Credits shall not be given for the same course or resource materials more than two times in a given term. Supervisors shall strive to receive training diversity.

(e) The record of credits earned shall be maintained by the Division. Awarded credits shall be posted on the Division website. Supervisors shall be responsible to verify recorded credits.

*History Note: Authority G.S. 139-4(d)(13); 139-7.2.*

02 NCAC 59A .0301 proposed for adoption as follows:

### **SECTION .0300 SUPERVISOR REMOVAL**

#### **02 NCAC 59A .0301 SUPERVISOR REMOVAL PROCEDURES AND REPORTING**

(a) Grounds for removal of District Supervisors are set forth in G.S. 139-7. Evidence of neglect of duty shall include, but is not limited to, 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 02 NCAC 59A Section .0200.

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

(c) Each District board, through its Chair or other appropriate member of the board, shall notify the Commission of any member that has failed to attend three consecutive regularly scheduled meetings, except when prevented by illness. 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 training documentation to the Commission each year following Basic Training for Soil and Water Conservation District Supervisors, and a summary of Supervisor Training Credits outlined in Rule .0204, at the end of each term.

(e) The Inquiry Committee outlined in 02 NCAC 59A .0302 shall review documentation submitted to the Commission by Districts and the Division, and shall take action as outlined in this Rule.

(f) When the Inquiry Committee determines that sufficient cause exists for a Commission 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, as well as the opportunity to provide a written response within 15-days of notice.

(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.

(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 also 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 also 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 Mail, First Class. The District board may, but is not required to, 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 limited to 15 minutes, unless a longer period is allowed by the Commission Chair.

(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 at issue.

(j) The Commission may also hear information from Division staff and from the District board, including the District board's staff. Upon request, the Commission Chair may allow other individuals who have relevant information regarding the matter to be heard.

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

(l) In making its decision, 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.*

02 NCAC 59A .0302 is proposed for adoption as follows:

**02 NCAC 59A .0302 INQUIRY COMMITTEE**

(a) When a Supervisor is considered for removal under paragraph (a) of Rule .0301, an Inquiry Committee will take preliminary actions, prior to any decision needed by the Commission. The Inquiry Committee shall be appointed by the Commission Chair annually. The Inquiry Committee shall include three members; the Commission Chair shall make member replacements when a conflict of interest or need for recusal exists.

(b) Upon receipt of written notice from a District, or supervisor training documentation provided by the Division, the Inquiry Committee will determine if written explanation is required from the Supervisor. When necessary, 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.

(c) After reviewing written documentation from the District and any written information provided by the Supervisor, the Inquiry Committee may:

- \_\_\_\_\_ (1) Determine that sufficient cause exists for a Commission hearing; or,
- \_\_\_\_\_ (2) Determine that basic or continuing training requirements may be extended by one year; or
- \_\_\_\_\_ (3) Determine that a hearing is unnecessary and the matter will be close without further action.

*History Note: Authority G.S. 106-840; 139-7.*