

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 61 .0112

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☒ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff is recommending objection to this Rule as being unnecessary and beyond the statutory authority of the agency. This Rule appears to address a legal conclusion that is appropriately addressed by the Courts.

02 NCAC 61 .0112 is readopted as published in 35:05 NCR 561 as follows:

02 NCAC 61 .0112 SEVERABILITY

If any provision of these Rules or the application thereof to any person or circumstance is held invalid, the remainder of the rules, or the application of the provision to other persons or circumstances, shall not be affected thereby.

History Note: Authority G.S. 106-65.107;

Eff. April 1, 1984;

Transferred from 15A NCAC 18B .0212 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. January 1, 2021.