

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0101

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

What is the purpose of this Rule? Does it address the internal management of the Department?

For Paragraph (a), if this Rule is necessary to implement or interpret administration of state forests, please clarify how the program negotiates and what "many services" may be provided.

For Paragraph (b), clarify what is meant by the "tax valuation scale jointly developed." Where is this information located? How is it known?

Line 15, please review the statutory authority for this Rule. G.S. 106-898 appears to be duties of the "forest rangers" and G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-906 and G.S. 106-925 be added to support the authority to "cooperate"? Also, consider adding G.S. 106-877 for the rulemaking efforts

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0101 is readopted as published in 32:08 NCR 727 as follows:

SUBCHAPTER 60B - DIVISION PROGRAMS

SECTION .0100 - ADMINISTRATION

02 NCAC 60B .0101 COUNTY COOPERATION: FISCAL ASPECTS

(a) The County Cooperative Forestry Program negotiated ~~annually~~ between the ~~county board of commissioners~~ North Carolina Association of County Commissioners and the ~~department~~, Department, provides many services to private landowners.

(b) The funding provided by each county is negotiated based on available state funds and a percentage rate determined from a tax valuation scale jointly developed by the ~~department~~ Department and the ~~N.C.~~ North Carolina Association of County Commissioners.

*History Note: Authority G.S. 106-22; 106-898; 143B-10(j);
Eff. February 1, 1976;
Amended Eff. October 2, 1978;
Readopted Eff. November 6, 1980;
Amended Eff. October 1, 1984;
Transferred from 15A NCAC 09C .0101 Eff. May 1, ~~2012~~, 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0201

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 7, delete "all or"

Line 7, if "state" means "North Carolina," then please capitalize

Line 8, replace "will" with "shall"

Lines 10 thru 12, please consider deleting this language as it is statement that does not appear to be necessary to implement or interpret administration of forest fire control.

Line 14, clarify "where permits are required at all times." Is it any North Carolina county not identified in G.S. 106-942(a)? If so, that exclusion should be clarified

Line 14, what is meant by the term "authorized"? It does not appear necessary as the statutory term is simply "forest ranger"

Line 16, replace "He" with "The forest ranger"

Line 16, delete "also"

Line 18, if "department" means "Department of Agriculture and Consumer Services," then please capitalize

Line 18, add "or she" after "he"

Line 19, replace "such" with "the"

Lines 21 thru 28, what is the purpose of this language? Would G.S. 106-946 not control? Please review and consider deleting this language.

For lines 21 thru 28, if the language remains, please make the following changes:

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Line 22, this Rule should specify and incorporate the authority about “episodes.”
Line 22, if capitalize “Division” and “Air Quality” if referring to that division within the Department of Environmental Quality
Line 22, delete “all or”
Line 22, if “state” means “North Carolina,” then please capitalize
Lines 25 thru 26, replace “are” with “shall be.”
Lines 27 thru 28, the clause should specify and incorporate the authority about “episodes is declared by one of the local air quality boards”

Line 30, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-946 be added to support the authority to “cancel permits”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0201 is readopted as published in 32:08 NCR 727 as follows:

SECTION .0200 - FOREST FIRE CONTROL

02 NCAC 60B .0201 BURNING PERMITS FOR FOREST FIRE PREVENTION: CANCELLATION

(a) Burning permits may be cancelled when it is determined that hazardous forest fire conditions exist or when an air pollution episode exists. The cancellation may be for all or any part of the state. The boundaries of the area affected by the cancellation will be county lines or other ~~well-known~~ well-known geographic features such as major highways.

(b) During certain times of the year, weather and man's activity combine to create generalized hazardous forest fire conditions. Land clearing during these times creates an additional and specific fire hazard resulting from the long duration of land clearing burning during rapidly drying and changing weather conditions. When the ~~director~~ Commissioner determines that these conditions exist, a partial ban on special permits may be declared on the counties where permits are required at all times. During the period of a partial ban on special permits, an authorized forest ranger may cancel or refuse to issue a special permit for individual land clearing burning that constitutes a specific fire hazard. He also may extinguish fires already burning that constitute a danger to adjoining woodlands.

(c) When the ~~director~~ Commissioner determines that hazardous forest fire conditions exist in any area under the protection of the department, he may cancel all burning permits and prohibit the starting of fires capable of spreading to protected woodlands regardless of the distance to such woodland. This prohibition of burning applies for all hours of the day while the permit cancellation is in effect.

(d) An air pollution episode may be declared by competent authority designated by the Environmental Management Commission. An episode may be declared by the division of air quality in Raleigh for all or any part of the state or by one of the regional air quality control boards for the area under the control of that local board. Conditions governing the two classes of declarations are as follows:

- (1) When an air pollution episode is declared from Raleigh, all burning permits are cancelled by the ~~Director of Forest Resources~~ Commissioner for the area affected by the episode.
- (2) When an air pollution episode is declared by one of the local air quality boards, the burning permits are cancelled by the local county forest rangers for the counties affected.

*History Note: Authority G.S. 106-22; 106-944; 143B-10;
Eff. February 1, 1976;
Amended Eff. October 2, 1978;
Readopted Eff. November 6, 1980;
Amended Eff. August 1, 1982;
Transferred from 15A NCAC 09C .0203 Eff. May 1, ~~2012~~ 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0202

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, what is meant by "emergencies"? G.S. 106-899 specifies "extinguishing of forest fires" Please use the statutory term

Lines 5 thru 7 appears to restate G.S. 106-899 and is not necessary for this Rule. Please delete

What is the authority for Paragraph (b)? G.S. 106-899(b) specifies that G.S. 15A-302 controls and that "[t]his subsection may not be interpreted to confer the power of arrest on forest rangers, and does not make them criminal justice officers within the meaning of G.S. 17C-2." And what is a "verbal summons"?

For Paragraph (b), if the language remains, please make the following changes:

Line 8, add "forest" before "ranger"

Lines 8 and 9, define or delete "verbal summons" That is not a term used or defined in Article 17 of G.S. 15A

Line 9, what is meant by "legal basis"? Providing notice of G.S. 106-899? Please specify

Line 10, add a comma after "residence"

Lines 10 thru 11, what is meant by "physical condition"? The statutory term is "physically able" Please use statutory terms for consistency

Line 12, replace "can" with "may"

Lines 13 thru 17, is Paragraph (c) merely internal management of agency staff? Is it a directive for agency staff to provide this additional information when implementing G.S. 106-899? Is it necessary in this Rule? Please review

For Paragraph (c), if the language remains, please make the following changes:

Line 13, replace "Should an" with "An"

Line 13, add "and" between "summons refuse"

Abigail M. Hammond
Commission Counsel

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Line 13, replace both uses of “refuse” with “refuses”

Line 14, add “forest” before “ranger”

Line 15, replace the comma after “summons” with a semicolon

Line 16, if “department” means “Department of Agriculture and Consumer Services,” then please capitalize

Line 16, add “G.S. 106-899(a)” after “action”

Line 18, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-900 be added to support the authority to “appoint...law enforcement officers”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0202 is readopted as published in 32:08 NCR 727 as follows:

02 NCAC 60B .0202 SUMMONING FIRE FIGHTERS

(a) In emergencies forest rangers and forest law enforcement officers may summon any resident in good health between 18 and 45 years of age inclusive to help control a forest fire. Forest rangers and forest law enforcement officers may also require the use of crawler tractors and other property needed for fire control.

(b) The ranger or law enforcement officer making a verbal summons shall:

(1) explain the legal basis for the verbal summons;

(2) determine that the person being summoned satisfies the requirements of age, residence and physical condition; and

(3) determine that the required property can be used to assist in controlling a forest fire.

(c) Should an individual who meets the legal requirements for summons refuse to serve or refuse the use of property, the ranger or law enforcement officer shall:

(1) explain the legal basis for the verbal summons, and

(2) warn the individual that the department will pursue law enforcement action.

History Note: Authority G.S. 106-22; 106-899; 143B-10(j);

Eff. February 1, 1976;

Readopted Eff. November 6, 1980;

Amended Eff. October 1, 1984;

Transferred from 15A NCAC 09C .0204 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0205

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, replace "has statutory authority to" with "shall"

Line 4, what is meant by "all personal"? Would this not be restrained by Article III of the Southeastern Interstate Forest Fire Protection Compact in Article 77 of G.S. 106? Please review

Lines 6 thru 7, what is meant by this sentence? Is it all "forest rangers" are all "incident commanders"? Please review with the Southeastern Interstate Forest Fire Protection Compact in Article 77 of G.S. 106? Please review. If the language remains, capitalize "state" if the intent is "North Carolina" and replace "normally does" with "shall"

Lines 8 thru 10, what is meant by this clause? For some instance, would this not be controlled by Article V of the Southeastern Interstate Forest Fire Protection Compact in Article 77 of G.S. 106?

Lines 11, 12, and 23, if "state" means "North Carolina," then please capitalize

Lines 11 thru 27, what is the specific authority to establish liability by this Rule? Paragraph (b) appears to clarify that this is a determination within the authority of Article 31 of G.S. 143. If this determination is within the Department's authority, please update the history note accordingly. Alternatively, is the agency trying to implement G.S. 166A-19.60? If so, that language controls and a mere cross-reference to that statute would replace this language. Please review. If the language remains, clarify "should assist" on line 18, clarify when the "Department may assume" on line 20, and add "or her" after "his" on line 27

Line 32, add "as provided in Article 31 of G.S. 143" after "Commission" to clarify

Lines 31 thru 33, please delete this language as G.S. 150B-2 defines "policy" and "rule" as distinct concepts and this language is not necessary to implement or interpret liability standards

Abigail M. Hammond
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Date submitted to agency: Monday, January 29, 2018

Line 35, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-955 be added to clarify the authority to regulate "fire suppression"? Add G.S. 166A-19.77

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0205 is readopted as published in 32:08 NCR as follows:

02 NCAC 60B .0205 PERSONAL INJURY LIABILITY DURING FOREST FIRE CONTROL

(a) The ~~department~~ Department has statutory authority to direct fire control tactics employed by all personnel engaged in fire suppression, and to prevent others from exercising independent action that could cause conflicts. Therefore, forest rangers shall, as ~~fire boss~~, Incident Commander, assume tactical direction of all forest fire suppression activities.

(1) The state normally does not assume responsibility for individuals employed by or committed to the fire suppression effort by a cooperating agency, corporation, or person having a mutual interest in the fire suppression effort:

(A) Several of the large corporate landowners in the state have voluntarily developed forest fire control organizations that supplement state forces in protecting their ~~deconomie~~ economic interest in forest resources. When corporate landowners voluntarily commit their employees and resources to a specific forest fire suppression effort, placing them under the tactical control of ~~a fire boss~~, an Incident Commander, these employees and resources remain the responsibility of the employing corporate landowner.

(B) Forest landowners should assist in the protection of their own property, and persons responsible for the escape of fires that damage or threaten the property of others should assist with suppression efforts. The ~~department~~ Department does not assume responsibility for these individuals; however, the ~~department~~ Department may assume responsibility when these individuals work under the sole direction of a forest ranger.

(2) The ~~department~~ Department assumes responsibility for individuals committed to forest fire suppression by summons, as regular state employees, or as ~~individuals~~ individual state volunteers. However, the ~~department~~ Department does not assume responsibility for individual volunteers who begin suppression efforts on their own, without the knowledge or tactical direction of a forest ranger, until after the ~~fire boss~~ Incident Commander has accepted them as part of the fire suppression organization and has committed them to work on the fire under his tactical direction.

(3) When special cooperative fire suppression agreements between the ~~division~~ Division and individual forest landowners exist, that agreement shall define the assumption of liabilities.

(b) Final determination of responsibility in disputed compensation and liability claims is made by the Industrial Commission or the courts. It is the purpose of this policy to set forth the intent of the ~~division~~ Division with regard to voluntary assumption of responsibility. Nothing in this policy is construed to be in conflict with governing statutes of the state.

*History Note: Authority G.S. 106-22; 106-899; 143B-10(j);
Eff. February 1, 1976;
Amended Eff. October 2, 1978;*

1 *Readopted Eff. November 6, 1980;*
2 *Amended Eff. October 1, 1984; August 1, 1982;*
3 *Transferred from 15A NCAC 09C .0207 Eff. May 1, ~~2012~~; 2012;*
4 *Readopted Eff. March 1, 2018.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0302

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 4 thru 5, in light of the statutory language in G.S. 106-923, what is the purpose of this language? Please review

Line 4, replace "serious pest problem" with "insect infestation" to track the statutory language

Line 4, if "state" means "North Carolina," then please capitalize

Lines 4, 5, 6 thru 7, and 8, replace "control projects" and "projects" with "control zones" Please use statutory terms for consistency

Line 5, replace "are" with "shall be"

Line 5, define or delete "generally"

Lines 6 thru 8, does this sentence not contradict G.S. 106-922(3) that specifically includes "shade trees of any species around houses, along highways, and within cities and towns"? Please review

Lines 8 and 9 uses the term "Division" but G.S. 106-921 specifies "are hereby delegated to the Department." Please review and consider replacing "Division" with "Department"

Lines 9 thru 10, is Paragraph (b) merely internal management of agency staff? Is it necessary in this Rule? Please review

Line 14, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0302 is readopted as published in 32:08 NCR 727 as follows:

02 NCAC 60B .0302 CONTROL ACTIONS AND LIMITATIONS

(a) When a serious pest problem exists and subject to available funding, control projects are initiated on state and private land to reduce timber losses and control the pest. Control projects are generally designed to halt the spread of a pest that poses a threat to forests in the aggregate as distinguished from threats to individual trees. Control projects are not carried out in urban or suburban situations to protect individual trees unless economic and biologic evaluations by the ~~division~~ Division reveal that such projects are necessary to protect contiguous forest communities.

(b) The Division may set priorities for specific forest health threat control actions and limitations based on funding and resource availability. ~~White pine blister is a disease of white pine trees. Infection is usually localized and spread confined to single land ownerships. For this reason, control work by the division is limited to two man days per year per landowner and the landowner is required to furnish additional labor.~~

*History Note: Authority G.S. 106-22; 106-920; 143B-10;
Eff. February 1, 1976;
Readopted Eff. November 6, 1980;
Transferred from 15A NCAC 09C .0304 Eff. May 1, ~~2012~~ 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0401

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, clarify what is meant by "strives to"

Line 6, is the intent to "bring more forest land under active management"? That does not appear to be set forth in Article 82 of G.S. 106. Please review

Line 9, is the use of "North Carolina Forest Service Division" necessary when G.S. 106-1001 specifies Department"? Please review. If the term should be the statutory term of "Department," then please replace "Division" on lines 14, 17, and 19 with "Department"

For Item (1), how does a consulting forester request to be on the referral list? Is this provided by another rule that could be cross-referenced. Please clarify

Lines 17 and 18, what is meant by "five man-days" mean? Please clarify

Line 22, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0401 is readopted as published in 32:08 NCR 727 as follows:

SECTION .0400 – FOREST MANAGEMENT

02 NCAC 60B .0401 REFERRALS AND LIMITATIONS

The forest management program strives to provide forestry services to the largest number of landowners and forest product operators possible in order to bring more forest land under active management. Accomplishment of this objective requires that all sources of assistance be used including those of private consulting foresters and other natural resource professionals. The referrals to consulting foresters and the limitations of the ~~Division of Forest Resources' (Division)~~ North Carolina Forest Service Division services are as follows:

- (1) Whenever economic considerations and the landowner's objectives reveal that assistance by a private forester is ~~practical~~ more beneficial, the landowner shall be referred to a consulting forester or other natural resource professionals. The determination to refer shall be based upon a discussion with the landowner and examination of ~~his~~ their forest land. If services needed or desired are not offered by the Division, it shall be recommended to the landowner that a consulting forester be employed. When any referral is made, a list of ~~practicing~~ consulting foresters shall be furnished to the landowner.
- (2) When forest management services are provided by the Division, a limit of five man-days per landowner during any ~~12-month~~ 12-month period is imposed. This five-day limit does not include ~~custom~~ forestry work performed by the Division for a fee or ~~cost-share~~ required compliance checks.

*History Note: Authority G.S. 106-22; 106-1002; 143B-10;
Eff. February 1, 1976;
Readopted Eff. November 6, 1980;
Amended Eff. August 1, 2002; October 1, 1984;
Transferred from 15A NCAC 09C .0401 Eff. May 1, ~~2012~~, 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

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RULE CITATION: 02 NCAC 60B .0402

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In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, add a comma after "operators"

Lines 9 and 23, delete "best"

Lines 10 and 24, add a comma after "practices"

Lines 11 thru 12, this additional language seems disconnected. Should it just be a new "(C)"? Please review

Line 20, replace "etc. (see" with "as set forth in"

Line 21, this Rule citation needs to be updated, as it was transferred in 2012

Line 21, when the citation is updated, do not use a parentheses after the citation, as the opening parenthesis was replaced on line 20

Line 25, replace "these" with "the following"

Line 25, delete "usually"

Line 26, replace the period after "foresters" with a colon

Line 26, delete "These are:"

Line 33, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Line 36, the transfer information for this Rule is missing from the history note. Please update.

Abigail M. Hammond
Commission Counsel

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Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0402 is readopted as published in 32:08 NCR 727-728 as follows:

02 NCAC 60B .0402 TECHNICAL SERVICES

(a) Technical forestry services shall be provided to forest landowners, forest products operators and processors upon request. These services consist of the following:

(1) Services provided without charge:

(A) examination of a forest tract (accompanied by the owner or ~~agent~~; agent) where general information is provided;

(B) recommendation of forest management systems that best meet the desires and objectives of the owner, that are compatible with good forestry practices and that protect the environment; practice plan preparation that includes specific recommendations to promote active forest management;

(C) assistance in locating markets for timber and other forest products (pine straw, chips);

(D) assistance to operators and processors in locating raw material supplies and markets for their products; and

(E) ~~assistance to processors to help increase their conversion efficiency from logs to manufactured products.~~ quality control checks and inspections of forestry operations.

(2) Services provided for a fee:

(A) marking and estimating timber for partial harvest or for other silvicultural purposes; ~~and~~

(B) custom forestry services such as site preparation, prescribed burning, tree planting, etc. (see 15A NCAC 09C .0600); and

(C) forest management and stewardship plan preparation and recommendation of forest management systems that best meet the desires and objectives of the owner, that are compatible with good forestry practices and that protect the environment.

(b) Services not furnished by the Division. Requests for these services usually shall be referred to consulting foresters. These are:

(1) timber cruises and estimation of timber volume or value made for timber sale or inventory purposes;

(2) damage appraisals, except by court order;

(3) trespass investigations, except by court order;

(4) quotation or establishment of prices on stumpage or cut timber; and

(5) property line location and marking.

History Note: Authority G.S. 106-22; 106-1001; 143B-10;

Eff. February 1, 1976;

Readopted Eff. November 6, 1980;

Amended Eff. August 1, 2002; October 1, ~~1984~~; 1984;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0603

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In reviewing this Rule, the staff recommends the following technical changes be made:

What is occurring in this Rule? Is it indicating that the Department enters contracts related to services provided? Is this Rule necessary for the contract? This Rule may not satisfy the requirements of G.S. 106-1004. Please review

Line 4, if there is not a specific list of fees, then please delete this clause as it violates G.S. 150B-19(5)

Line 6, add a comma after "cost"

Line 7, specify what is meant by "when applicable"

Line 11, is Paragraph (c) merely internal management of agency staff? Is it a directive for agency staff? Is it necessary in this Rule? Please review

Line 13, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0603 is readopted as published in 32:08 NCR 728 as follows:

02 NCAC 60B .0603 FEES FOR SERVICES

(a) The Division charges a fee to cover costs.

(b) These contract fees are determined by applying fixed hourly rates to the time required to perform the service and by including material costs. Fixed hourly rates are the sum of the purchase price, maintenance cost and operating cost divided by expected lifespan plus the operator's ~~salary~~ salary when applicable. Most contracted service fees are converted to per acre rates. Fixed hourly rates are converted to per acre rates by multiplying the fixed hourly rate by the production rate. Some services require a fee on a per unit basis such as per mile or per tree. These fees are established by applying the same fixed hourly rates, time required, and material costs.

(c) Designated Division employees, trained in such services, shall establish contract fees prior to beginning work.

*History Note: Authority G.S. 106-22; 106-1001; 143B-10;
Eff. February 1, 1976;
Readopted Eff. November 6, 1980;
Amended Eff. August 1, 2002; October 1, 1984;
Transferred from 15A NCAC 09C .0604 Eff. May 1, ~~2012~~ 2012;
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DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 4, 6, 8, and 10, replace "Division" with "Department" as G.S. 106-1001 specifically defines "Department"

Lines 6, 8, and 10, these items appear to be clauses as part of a list. Please consider beginning each clause with a lowercase letter; replacing the periods at the end of the clauses with semicolons; and adding an "or" at the end of line 9

Line 13, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. However, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0604 is readopted as published in 32:08 NCR 728 as follows:

02 NCAC 60B .0604 CONTRACTS FOR SERVICES

The Division shall provide services under contracts stipulating fees, performance standards, liability, and cancellation terms. Three types of contractual services exist:

- (1) Landowner contracts executed when the Division performs services for individual landowners or agencies.
- (2) Rental contracts executed when the Division rents specialized forestry equipment to contracting firms, companies, or individuals.
- (3) Sub-contracting contracts shall be executed when the Division sub-contracts custom services to sub-contractors.

*History Note: Authority G.S. 106-22; 106-1001; 143B-10;
Eff. February 1, 1976;
Readopted Eff. November 6, 1980;
Amended Eff. August 1, 2002; October 1, 1984;
Transferred from 15A NCAC 09C .0605 Eff. May 1, ~~2012~~ 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0605

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, clarify the factors considered by the Director when making this determination

Line 4, replace "such" with "the"

Line 6, add a comma after "accomplishment"

Line 9, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0605 is readopted as published in 32:08 NCR 728 as follows:

02 NCAC 60B .0605 AUTHORITY TO SUB-CONTRACT CUSTOM SERVICES

Custom services shall be sub-contracted to a third person when the ~~director~~ Director deems such action in the best interest of the state. Sub-contracting shall be undertaken to promote participation of private enterprise in custom forestry services, to expedite work accomplishment and to expand the custom forestry services capability of the Division.

History Note: Authority G.S. 106-22; 106-1001; 143B-10;

Eff. February 1, 1976;

Readopted Eff. November 6, 1980;

Amended Eff. August 1, 2002;

Transferred from 15A NCAC 09C .0606 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0701

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 9 references an application. G.S. 150B-2(8a)d does not require an application to be a rule if "the contents or substantive requirements of which are prescribed by rule or statute." Is there a rule or statute that provides the information required in the application? Could it be cross-referenced? Please clarify

Line 11, delete "which"

Line 11 thru 12, delete "assures forest productivity and provides...of the State's woodland" as it restates G.S. 106-1012(1)

Line 12, replace "must" with "shall"

Lines 12 and 17, delete "North Carolina"

Lines 14 thru 15, delete "of the...North Carolina Department ...Services"

Line 15 states "shall approve" Are the completed applications ever disapproved? Would G.S. 106-1014 be the standard of review and if an application does not satisfy G.S. 106-1014, it would not be approved? Please review and consider clarifying the language that "an application shall satisfy the requirements of G.S. 106-1014"

Paragraph (c) discusses the Commissioner's designation based upon fiscal years. There is no mention of an "applicant" in this Paragraph. Is that correct? Please review and clarify if necessary

Line 29, replace "Such" with "The"

Line 31, delete "annually"

Page 2, line 2, who is making the determination about "negligence by the landowner"? Please clarify

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

Page 2, line 2, how are the requests made? Please clarify

Page 2, Paragraph (e), is this merely internal management of agency staff? Is it necessary in this Rule? Please review

Page 2, Paragraph (f), what is meant by the second sentence? Sentence one says no cost-sharing agreements for more than 100 acres of land, but then the next sentence says “[t]his limitation does not apply...on acreage approved in a previous fiscal year.” What is the fact pattern that occurs for the second sentence to be applicable? As written, the second sentence appears to contradict the first sentence. And doesn’t G.S. 106-1016(b) provide the 100 acres of land limitation? Please review and clarify

Page 2, Paragraph (g), is this sentence necessary in light of the statutory directive in G.S. 106-1014(3)? Please review

Page 2, line 10, if this language remains, please define or delete “periodically”

Page 2, Paragraph (h), is this sentence necessary in light of the statutory directive in G.S. 106-1016(a)? Please review

Page 2, line 16, delete the semicolon after “include”

Page 2, lines 18 thru 19, what is meant by “all known environmental rules and regulations”? Please clarify

Page 2, line 19, should the “may” be a “shall”? If it remains a “may,” please clarify the factors considered when the payment is made or not made. Please clarify

Page 2, lines 24 and 28, delete “full”

Page 2, line 26, replace “must” with “shall”

Page 2, line 29 add a comma after “complete”

Page 2, line 29, please clarify how this extension is requested and what factors are considered when granting or denying the extension. Is it Subparagraph (j)(4)? Consider combining these two Subparagraphs to help clarify.

Page 2, lines 32 thru 33, is this the only factor considered for an extension? How is it determined that it is “through no fault of the applicant”? Please clarify

Page 2, line 35, please review the cross-referenced rules, as they were repealed in 2012

Page 2, line 36, please define or delete “periodically”

Page 2, line 37, what is meant by “maintenance requirement”? Is this merely meaning that there are checks to ensure compliance with G.S. 106-1012(10)? Please review and clarify if necessary

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

*Page 2, line 37 thru page 3, line 1, is this sentence necessary in light of G.S. 106-1015(b)?
Please review*

Page 3, line 3, please review the statute, as it has been repealed

Page 3, line 5, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. Consider adding G.S. 106-1011 to the statutory authority. Also, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the “use by the public of State forests under its charge”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0701 is readopted as published in 32:08 NCR 728-729 as follows:

SECTION .0700 – FOREST DEVELOPMENT PROGRAM

02 NCAC 60B .0701 ADMINISTRATION OF PROGRAM

(a) The manner and requirements of making application for cost sharing funds pursuant to the Forest Development Act are as follows:

(1) Any eligible landowner may apply for program cost sharing ~~payment~~ funds.

(2) Application may be made by completing ~~an~~ application forms furnished by the ~~department~~ Division and returning it to one of the field offices of the ~~Division of Forest Resources~~ Division. An approved forest management plan relating to the application which assures forest productivity and provides environmental protection of the State's woodland must be on file with the North Carolina Forest Service Division ~~of Forest Resources~~ before the application may be accepted.

(b) The ~~Secretary~~ Commissioner of the ~~Department of Environment and Natural Resources~~ North Carolina Department of Agriculture and Consumer Services or his or her designee shall approve completed applications. Funds shall be allocated from the Forest Development Fund to the landowner for cost sharing on a "first come, first served" basis, determined by the date of receipt of the application in the North Carolina Forest Service Division ~~of Forest Resources~~' office in Raleigh, and until all available funds are encumbered. ~~An exception shall be made at the beginning of each fiscal year. At that time, all applications shall be held for a 10 day period to allow for inequities in the mail system. Should the applications received during the 10 day period exceed the funds available, allocation shall be made by proration and lottery. A prorata share of monies shall be made to the Division's three regions in accordance with the percent of total funds requested from each respective region. Applications from each region to receive these funds shall be chosen through a public drawing. The drawing shall be held the second working day after the 10th of July at 10:00 a.m. in Raleigh in the conference room of the Division of Forest Resources. Should funds be exhausted during a fiscal year, applications shall be held in priority as received until the next fiscal year at which time they will be given priority above new applications.~~ Applicants who start or complete their project without prior approval shall not be eligible to receive funding.

(c) At the beginning of each fiscal year, the ~~Secretary~~ Commissioner may designate a portion of funds for practices designed to encourage reforestation at reduced costs or for other special purposes in designated areas. Such designations shall be for the current fiscal year only. Funds may be designated for a "Plant-Only" allocation and for a "Mountain Area" allocation annually. The amount of these allocations shall be based on the prior year's demand for these allocations, however, any increase of these allocations shall not exceed 50% of the previous year's allocation. ~~Funding so designated must be committed by March 31 for "Plant-Only" practices and December 31 for "Mountain Area" practices. Funds remaining uncommitted after the specified date shall be reallocated on the "first come, first served" basis.~~ The determination to designate funds by the ~~Secretary~~ Commissioner shall be made in writing not less than three months prior to beginning of the fiscal year for which funds are designated.

(d) Funds shall be allocated for replanting previously approved projects, when planting failure is not the result of negligence by the landowner. Requests shall be approved in the order received.

(e) The Division shall periodically review the actual costs of carrying out approved practices. Prior to the beginning of each fiscal year, the ~~Secretary~~ Commissioner shall establish either prevailing costs or flat rates for carrying out each approved practice on a regional basis throughout the state.

(f) No approval shall be given for carrying out practices on more than 100 acres by a landowner in any one fiscal year. This limitation does not apply where cost sharing has been approved and funds allotted on acreages approved in a previous fiscal year.

(g) The Division shall set the Cost-Sharing Reimbursement Rate for practices, sub-practices, and species. The Division shall periodically review the reimbursement rates and accomplishments of practices and sub-practices.

~~(g)(h) Maximum Cost-Sharing Cost-Sharing Rate. The maximum cost-sharing cost-sharing rates shall not exceed 60%. Planting of Longleaf Pine, Shortleaf pine, Hardwoods, and wetland conifer species shall be cost shared at 60 percent. All other practices shall be cost shared at 40 percent.~~

~~(h)(i) Cost-Sharing Cost-Sharing Payment to Landowner. Cost-sharing Cost-sharing payments shall be made upon certification by the Division of satisfactory completion of the practice(s) as prescribed in the management plan. Determination of satisfactory completion shall include; an assessment of the proper use of approved practices in relation to the silvicultural need of land, installation of appropriate best management practices to insure soil protection and water quality, and assurance that the installed practice is in compliance with all known environmental rules and regulations. Payments may be made following satisfactory completion of all approved practices or,~~
practices. A partial payment may be made at the discretion request of the landowner, landowner following satisfactory completion of a sub-practice (s). However, no more than two payments shall be made for sub-practices covered by any one application.

~~(i)(j)~~ (j) Withdrawal of Allotted Funds

(1) Funds allocated to an eligible landowner may be withdrawn at the end of the first full fiscal year following the year in which the funds were allotted if no work has been ~~started, unless an extension is granted by the Division.~~ started. The landowner must provide sufficient documentation to the Division for funds availability to extend into a second year.

(2) Funds allocated may be withdrawn at the end of the second full fiscal year following the year of allocation if the practice has not been completed unless an extension is granted.

(3) Funds paid as "partial payment" must be repaid to the Forest Development Fund if the project is started but not completed within the allotted time.

(4) Extensions. A ~~12-month~~ 12-month extension may be granted by the Division when a project cannot be completed on schedule, through no fault of the applicant.

~~(j)(k)~~ (k) Eligible landowners may appeal disagreements, disapproval of applications, or decisions on unsatisfactory completion of silvicultural or environmental practices in the manner established in 15A NCAC 01B .0200.

~~(k)(l)~~ (l) Cost-shared project maintenance. The Division shall periodically check projects funded by the program to insure compliance with the 10-year maintenance requirement. Landowners with projects discovered to be destroyed

1 or otherwise not maintained as specified in the approved plan shall be required to reimburse the program. The
2 Division's Raleigh office shall be notified of all such projects and shall be responsible for seeking and collecting
3 reimbursement as allowed in 113A-180.1.

4
5 *History Note: Authority G.S. 106-22; 106-1010; 106-1018; 143B-10(j);*
6 *Eff. August 8, 1978;*
7 *Amended Eff. August 1, 2002; July 1, 1986; October 1, 1984; August 1, 1982; January 15, 1981;*
8 *Transferred from 15A NCAC 09C .0902 Eff. May 1, ~~2012~~, 2012;*
9 *Readopted Eff. March 1, 208.*
10
11

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0702

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, add a comma after "seeding"

Line 5, replace the semicolon after "species" with a "period"

Line 5, replace "this may" with "Site preparation may"

Lines 9 and 11, add a comma after "brush"

Line 10 says "(c)" and line 12 has been changed from "(d)" to "(c)" This creates two Subparagraphs (1)(c). Please review and correct

Line 33, the term "Ground" is both underlined and struck through. However, the term was not published in the 32:08 Register. Please review and correct

Line 34, as this Paragraph appears to be a list, please consider replacing the period after "preparation" with a semicolon and adding an "and" or "or" at the end of the clause

Page 2, lines 19 thru 20, consider the following re-write:

~~"stand. This~~ stand includes ~~includes:~~ the following:

Page 2, line 22, as this appears to be a list, consider adding an "and" or "or" at the end of the clause

Page 2, line 36, please consider replacing "This may" with "Release of seedlings"

Page 3, line 4, as this appears to be a list, consider adding an "and" or "or" at the end of the clause

Page 3, line 12, replace "below" with "in this Subparagraph"

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

Page 3, line 30, add a comma after “deadening”

Page 3, line 31, replace “which” with “that”

Page 3, line 31, define or delete “significantly”

Page 3, line 37, should the “and” be an “or” as it appears that all of these items are not required in the list? Please review

Page 4, line 5, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0702 is readopted as published in 32:08 NCR 729-731 as follows:

02 NCAC 60B .0702 APPROVED PRACTICES AND SUB-PRACTICES

The following practices and sub-practices are eligible for ~~cost-share~~ cost-share payments:

- (1) Site Preparation. Preparation of a site for planting, seeding or natural regeneration of a commercial forest tree species; this may be accomplished by the following sub-practices used singularly or in combinations:
 - (a) Burning. The use of prescribed fire for the purpose of site preparation;
 - (b) Chopping. The use of a machine-pulled chopper to crush and chop non-merchantable trees, brush and other debris for the purpose of site preparation;
 - (c) Discing. The use of a machine-pulled disc to crush and destroy non-merchantable trees, brush and other debris for the purpose of site preparation;
 - ~~(d)~~(c) KG/V-Blade Shear. The use of a sharp-edged, angled blade (KG or ~~V-blade~~)V-Blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation;
 - ~~(e)~~(d) KG and Pile. The use of a sharp-edged, angled blade (called ~~KG-blade~~ KG-Blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation; this sheared material and other debris are pushed into piles or windrows;
 - ~~(f)~~(e) Rake & Pile. The use of a toothed, rake-type blade mounted on a tractor to push logging debris, but not roots or soil, into piles or windrows;
 - ~~(g)~~(f) Bedding (Single or Double). The use of a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation;
 - ~~(h)~~(g) V-Blade Bedding. The use of a sharp angled blade (not a ~~KG-blade~~Blade) mounted on a tractor to shear non-merchantable trees and brush and a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation in a single pass operation;
 - ~~(i)~~(h) Furrowing. The use of a plow pulled by a tractor to prepare a shallow trench or furrow to reduce competing vegetation for the purpose of site preparation;
 - ~~(j)~~ ~~Bulldozing and Piling. The use of a bulldozer to push over non-merchantable trees and brush for the purpose of site preparation; the material is pushed into piles or windrows;~~
 - ~~(k)~~ ~~Other. The use of hand tools or other machines to destroy or reduce competing vegetation for the purpose of site preparation;~~
 - ~~(l)~~ ~~Chemical Control; Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of site preparation;~~
 - ~~(m)~~(i) Chemical Control-Site Preparation. Ground. The use of aerial or ground chemical applications to reduce competing vegetation for the purpose of site preparation.
 - ~~(n)~~(j) Other. The use of hand tools or other machines to destroy or reduce competing vegetation for the purpose of site preparation.

- ~~(n)~~ Preharvest Treatment. Use of chemical or mechanical means, including hand methods, to control vegetation to develop a stand of trees from advanced hardwood regeneration, natural pine regeneration, or artificial regeneration. When using this practice the following criteria apply:
- ~~(i)~~ The landowner must agree to harvest overstory stand once regeneration of at least 300 seedlings of a commercial timber species is established;
 - ~~(ii)~~ This practice cannot be used to prepare an area for pine straw production; and
 - ~~(iii)~~ The only other site preparation technique that may be cost shared at a later date is prescribed burning, if needed.
- ~~(2)~~ Silvicultural Clearcut. The felling of trees in unmerchantable stands for the purpose of removing all stems in the overstory to allow regeneration of desirable species by exposing the site to direct sunlight:
- ~~(a)~~ Fell and Leave. Felling all trees on an area with no removal of merchantable material, for the purpose of accomplishing a silvicultural clearcut;
 - ~~(b)~~ Fell and Remove. Felling all trees on an area, both merchantable and unmerchantable, for the purpose of accomplishing a silvicultural clearcut; the stumpage value of all merchantable trees removed from the area, as determined by the Director, shall be deducted from the allowable cost of completing the practice.
- ~~(3)~~(2) Tree Planting or Seeding. Planting seedlings or applying seed to establish a commercial forest stand. This includes:
- ~~(a)~~ Hand Planting. The use of planting bars or other hand tools to plant forest tree seedlings;
 - ~~(b)~~ Machine Planting. The use of a planting machine to plant forest tree seedlings;
 - ~~(c)~~ Machine Plant – Chemical. The combined use of a planting machine to plant forest tree seedlings and application equipment to apply herbicides to reduce competing vegetation in a single pass operation.
 - ~~(d)~~ V Blade Planting. The use of a tractor with attached V shaped blade and planting machine to plant forest tree seedlings;
 - ~~(e)~~ Direct Seeding. The use of any type applicator to apply desirable forest tree seed directly to the soil.
- ~~(4)~~(3) Tree Planting Followed by Site Preparation. Tree planting followed by the use of a herbicide treatment; within one year after planting.
- ~~(5)~~ Mixed Stand Plantings. Tree planting to establish a mixed pine hardwood stand, or a mixed stand of hardwood species.
- ~~(6)~~(4) Release of Seedlings. Reducing or eliminating unwanted vegetation that is competing with the established reproduction of desired tree species to ensure adequate regeneration (at least 300 seedlings) of a commercial timber species. This may be accomplished by one of the following treatments:

- (a) ~~Chemical Control: Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of releasing desirable reproduction;~~ Chemical Control-Release. The use of herbicides, applied from the air or ground, to reduce competing vegetation for the purpose of releasing desirable reproduction.
- (b) ~~Chemical Control; Ground. The use of hand tools or ground chemical applicators to reduce competing vegetation for the purpose of releasing desirable reproduction;~~
- (e)(b) Mechanical Control. The use of hand tools or machines to reduce competing vegetation for the purpose of releasing desirable reproduction.
- (7) ~~Uneven Aged Management. A planned sequence of silvicultural treatments designed to maintain and regenerate a stand with three or more age classes.~~
- (8)(5) Forest Stand Improvement. Practices that improve tree growth and overall forest health to insure maximum growth potential of forest stands to commercial production levels. The practices listed below and approved for reimbursement will improve immature forest stands for silvicultural purposes:
- (a) ~~Understory Release— Release.~~ Complete removal or deadening of older trees or saplings that have no merchantable value, to improve growing conditions for desirable tree species;
- (b) ~~Release of Seedling— Seedlings.~~ A mechanical or chemical treatment designed to free young trees from undesirable, usually over-topping, competing vegetation;
- (c) ~~Cull-tree Removal— Removal.~~ Complete removal or deadening of trees having no merchantable value because of defects or inferior species. Differs from understory release in that removal is to favor growth on remaining established poles and small sawtimber of better quality and species. This treatment is used only in stands beyond the sapling size class;
- (d) ~~Crop Tree Crown Release— Release.~~ Removal or deadening of cull trees and other undesirable trees to release the crowns of crop trees with commercial value. Crop trees are high value species, which are dominant or co-dominant in position and are well-formed and free of major forest insects and diseases. Cull trees are trees that have little or no economic value due to poor form or presence of insects or disease. Less desirable trees have poorer growth characteristics or are in poorer condition than the crop trees;
- (e) ~~Non-Commercial Thinning— Thinning.~~ A felling, deadening or removal of immature trees in a stand (predominately seedlings and saplings) which significantly reduces the stem density to accelerate growth and improve the health and form of the remaining trees;
- (f) ~~Prescribed Burning— Burning.~~ The use of fire in a ~~planned and controlled manner to that provide provides~~ silvicultural ~~benefits~~ or forest health ~~benefits, from forest fuel reduction or a reduced understory competition.~~ Prescribed burning must be conducted under the supervision of a "certified prescribed burner" (as defined by G.S. 113-60.41 of the North Carolina Prescribed Burning Act), using a burning plan; benefits; and

(g) Forest ~~Fertilization~~— Fertilization. The addition of nutrient elements to the soil at establishment or mid-rotation to overcome nutrient deficiencies ~~or~~ to increase tree growth rates. rates on appropriate sites.

*History Note: Authority G.S. 106-22; 106-966; 106-1011; 106-1013; 106-1018; 143B-10(j);
Eff. August 8, 1978;
Amended Eff. November 1, 2006; August 1, 2002; October 1, 1984;
Transferred from 15A NCAC 09C .0903 Eff. May 1, ~~2012~~, 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0804

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, replace "can" with "may"

Line 4, add a comma after "year"

Lines 6 thru 8, please clarify how this discretionary determination is reached by the Commissioner, such as what factors are considered.

Line 8, delete the sentence "The Commissioner...authority." as it is not necessary for this Rule

Line 9, replace "will" with "shall"

Lines 10 thru 13, replace the commas at the end of the clauses with semicolons

Line 13, add an "or" at the end of the clause

Line 16, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. Consider adding G.S. 106-1011 to the statutory authority. Also, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0804 is readopted as published in 32:08 NCR 731 as follows:

02 NCAC 60B .0804 LIMITATION OF SERVICES

(a) Services to all categories of recipients ~~will~~ can be limited to a designated number of person days per ~~year~~. year depending on the type of request. ~~Specific limits will be determined after the program has been operational for a period of one to two years. During that period of time the~~ The Commissioner ~~secretary will have~~ has discretionary authority to limit the number of days services to all categories of recipients in order to develop and improve ~~the~~ program ~~and~~ services. The ~~secretary~~ Commissioner may delegate totally or in part the discretionary authority.

(b) Certain services will not be furnished. These are:

- (1) acting as legal agent for recipients of program technical services,
- (2) providing land or boundary surveys or title search assistance,
- (3) performing appraisals involving the sale or exchange of real property,
- (4) assistance that exceeds limits established in (a) of this Rule,
- (5) enforcing state or local laws and regulations.

*History Note: Authority G.S. 106-22; 106-1001; 143B-10(j);
Eff. August 8, 1978;
Transferred from 15A NCAC 09C .1004 Eff. May 1, ~~2012~~. 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0805

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, delete "North Carolina"

Line 4, replace "will" with "shall"

Line 5, define or delete "immediately"

Line 6, define or delete "accordingly"

Lines 7 thru 8, delete the sentence "The Commissioner...responsibility." as it is not necessary for this Rule

Line 8, consider the following re-write:

~~Examples of extraordinary situations are~~ "Extraordinary situations" means

Line 9, define or delete "unique opportunities"

Line 10, replace "will" with "shall"

Line 12, delete "North Carolina"

Line 13, add a comma after "areas"

Lines 14 thru 16, what is the statutory authority to place this burden on "qualifying communities, urban areas, and private recipients"? Please review and update the history note accordingly.

Line 15, replace the comma after "ordinance" with a semicolon

Line 18, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. Consider adding G.S. 106-1011 to the statutory authority.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

Also, should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the “use by the public of State forests under its charge”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .0805 is readopted as published in 32:08 NCR 731 as follows:

02 NCAC 60B .0805 PROCEDURES

(a) All normal requests for North Carolina Forest Service technical services will be honored on a "first-come first-serve basis" within the limits of manpower available. Recipients that cannot be assisted immediately will be notified accordingly and placed in priority on a waiting list. The ~~secretary~~ Commissioner may elect to provide services on other than a "first-come first-serve" basis in extraordinary situations. The ~~secretary~~ Commissioner may delegate this responsibility. Examples of extraordinary situations are natural disasters or situations that present unique opportunities for use of grants to communities.

(b) Services will be provided directly to community and urban area recipients and public recipients only:

- (1) Following the request for assistance, the program will be explained to the prospective recipients by staff personnel of the ~~division of forest resources~~. North Carolina Forest Service Division.
- (2) Technical assistance will be provided to qualifying communities, urban areas and private recipients only after the governing body:
 - (A) establishes a local tree ordinance, and
 - (B) appoints a tree board.

*History Note: Authority G.S. 106-22; 106-1001; 143B-10(j);
Eff. August 8, 1978;
Transferred from 15A NCAC 09C .1005 Eff. May 1, ~~2012~~, 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .0901

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 6, 9, 15, 17, and 18, delete "North Carolina"

Lines 6 thru 7, delete "hereafter referred to as "NCFS" as that is not used in any other rule. Please note that "DFR" is used in Rule .0903

Line 8, replace "Each" with "A"

Lines 8, 13, and 21, define or delete "successfully"

Lines 11, 14, 17, and 22, replace "NCFS" with "Forest Service Division"

Lines 11 thru 12, is this sentence merely internal management of agency staff? Is it necessary in this Rule? Please review

Lines 13 thru 14, what does this sentence mean? How are these "alternative abbreviated schools" known to the regulated public? Please clarify

Line 15, what is meant by "all topics"? Please clarify

Line 18, what is meant by "Smoke Management System"? Is that the guidelines required by G.S. 106-968(c)(4)? Where are those guidelines found? Please clarify

Lines 18 thru 19, what does this sentence mean? Who is offering this course and how does the agency know of the requests? What is considered a "sufficient number of requests"? Please review and clarify

Line 20, replace "each" with "a"

Line 20, replace "they" with "he or she is"

Line 20, replace "train" with "trained"

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

Line 21, add a comma after "Rule"

Line 22, replace "must" with "shall"

Line 22 references a "checkoff sheet." Please note that G.S. 150B-2(8a)d does not require a form to be a rule if "the contents or substantive requirements of which are prescribed by rule or statute." Is there a rule or statute that provides the information required in the checkoff sheet? Could it be cross-referenced? Please clarify

Line 23, add a comma after "Burner"

Line 23 references a "documentation package." Please note that G.S. 150B-2(8a)d does not require a form to be a rule if "the contents or substantive requirements of which are prescribed by rule or statute." Is there a rule or statute that provides the information required in the documentation package? Could it be cross-referenced? Please clarify

Line 26, please review the statutory authority for this Rule. G.S. 143B-10(j) may not be necessary for this rulemaking. Should G.S. 106-877 be added to support the rulemaking authority for this Article as it regulates the "use by the public of State forests under its charge"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 60B .0901 is readopted as published in 32:08 NCR 731 as follows:

SECTION .0900 – N.C. PRESCRIBED BURNING ACT

02 NCAC 60B .0901 BURNER CERTIFICATION

The ~~N. C. Division of Forest Resources~~, North Carolina Forest Service Division, hereafter referred to as ~~DFR~~, NCFS, shall conduct a ~~burner Certification~~ Certified Burner program composed of the following:

- (1) Each candidate shall attend and successfully complete a prescribed burn school consisting of instruction on: The ~~N. C.~~ North Carolina Prescribed Burning Act, weather, fuels, smoke management, firing techniques and planning, executing and mopping up the burn; a field trip to examine burn sites before and after burning; and a written test. ~~DFR NCFS~~ shall offer a minimum of one of these schools ~~annually at a charge of twenty-five dollars (\$25.00) per participant.~~ annually.
- (2) An alternative abbreviated school may be provided candidates who have successfully completed an approved prescribed burn school other than the ~~DFR NCFS~~ school. Other prescribed burn schools shall be approved by ~~DFR NCFS~~ if all topics contained in the ~~N. C.~~ North Carolina Prescribed Burn School were included. Candidates shall provide documentation of topics covered and successful completion to ~~DFR NCFS~~. This abbreviated school shall include the ~~N. C.~~ North Carolina Prescribed Burn Act and the ~~N. C.~~ North Carolina Smoke Management System. A minimum of one of these schools shall be offered annually if there are a sufficient number of requests.
- (3) In order to be certified, each ~~candidate~~ candidate, whether they train under Paragraph (a) or (b) of this Rule shall successfully conduct a prescribed burn under the observation of a certified burner. The candidate must submit to ~~DFR NCFS~~ a completed ~~DFR NCFS~~ Certified Burner checkoff sheet, signed by a ~~certified burner.~~ Certified Burner and the associated burn prescription documentation package.
- (4) Successful candidates shall receive both a numbered certificate and pocket card.

*History Note: Authority G.S. 106-22; 106-969; 106-1001; 143B-10;
Temporary Adoption Eff. January 12, 2000;
Eff. April 1, 2001;
Transferred from 15A NCAC 09C .1102 Eff. May 1, ~~2012~~, 2012;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1003

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

For this Section of rules, the title is "Dupont State Forest" This set of rules exceeds regulation of only on Dupont State Forest. The agency may wish to update the title for the Section by contacting the Codifier of Rules

Paragraph (a), what is the purpose of this language in light of the term "permit" being defined in Rule 02 NCAC 60B .1002(12)? Please review

Paragraph (b), what is the authority for this Paragraph? Article 74 of G.S. 106 does not address revocation of permits or distribution of liability.

Lines 11 and 12, please use the statutory phrase of "State recreational forest"

Line 12, what is the content of the "applications for permits"? G.S. 150B-2(8a)d does not require an application to be a rule if "the contents or substantive requirements of which are prescribed by rule or statute." Is there a rule or statute that provides the information required in the application? Could it be cross-referenced? Please clarify

Line 13, what is meant by "business hours"? How are these known to the regulated public? Is there a contact rule for the Department that could be cross-referenced?

Line 16, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1003 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1003 PERMITS

(a) A permit authorizes an act only when that act conforms with the terms contained in the permit or in applicable rules, and conforms to existing state laws.

(b) Any violation of the permit constitutes grounds for its revocation by the Department. In case of revocation the permit holder shall forfeit to the Department all money for the permit. Furthermore, the department shall consider the permit holder, together with his agents and employees who violated such terms, jointly and severally liable to the Department for all damages suffered in excess of money so forfeited. However, neither the forfeiture of such money, nor the recovery of such damages, nor both, relieves such person from statutory punishment for any violation of a provision of any ~~State Forest~~ State Forest, Recreational State Forest, or Educational State Forest rule.

(c) Applications for permits shall be made through the ~~State Forest~~ State Forest, Recreational State Forest, or Educational State Forest office during business hours and approved by the Forest Supervisor or his or her designee in advance of the act permitted.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1230 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1004

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, add a comma after "climbing"

Line 5, please use the statutory phrase of "State recreational forest"

Line 7, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1004 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1004 ROCK OR CLIFF CLIMBING AND REPELLING

A person shall not engage in rock climbing, cliff climbing or rappelling within the boundaries of a state forest, recreational state forest, or educational state forest, except at designated areas and only after obtaining a permit.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1231 Eff. May 1, 2012.

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1005

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 5 and 7, add a comma after "bathe"

Lines 5, 7, and 11, please use the statutory phrase of "State recreational forest"

Paragraph (c), if the swimming areas are designated in Paragraph (b), how does one "swim at his or her own risk"? Does this Paragraph contradict Paragraph (b)? Please review

Line 13, add a comma after "tents"

Line 16, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1005 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1005 BATHING OR SWIMMING

(a) A person shall not dive or jump from any waterfalls or rocks or overhangs into any body of water.

(b) A person shall not wade, bathe or swim in any body of water in an Educational State Forest, except in designated swimming areas.

(c) A person may wade, bathe or swim at his or her own risk in any body of water in any State Forest, except within 300 feet upstream of the top of a waterfall, and in other designated non-swimming areas.

(d) Public Nudity:

(1) Public nudity is prohibited in all ~~State Forest~~ State Forest, Recreational State Forest, and Educational State Forest lands or waters. This Rule does not apply to the enclosed portions of bathhouses, restrooms, tents and recreational vehicles.

(2) Children under the age of five are exempt from this restriction.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1232 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1006

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 4 and 7, please use the statutory phrase of "State recreational forest"

Line 5, what is meant by "from the Forest Supervisor's office"? Doesn't Paragraph (c) of Rule .1003 of this Section explain how to obtain a permit?

Lines 5 and 9, if "state" means "North Carolina," then please capitalize

Lines 5 and 9, what is meant by "all state hunting laws and rules"? Is the intent to cite to laws in G.S. 113 and incorporate the rules of the Wildlife Resources Commission?

Lines 5 and 9, define or delete "currently"

Line 11, is this language necessary if 15A NCAC 10D .0102 is incorporated in accordance with G.S. 150B-21.6? Please review.

Line 11, if this language remains, add a comma after "into"

Lines 12 thru 13, is this language necessary if 15A NCAC 10D .0103 is incorporated in accordance with G.S. 150B-21.6? Please review.

Line 15, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1006 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1006 HUNTING

(a) A person shall not hunt on any Educational State Forest lands without obtaining a permit from the Forest Supervisor's office and must obey all state hunting laws and rules currently in effect.

(b) A person may hunt on a State Forest or Recreational State Forest that is in the Game Land program if the person obtains a Game Land permit from a NC Wildlife Resources Commission designated licensing agent and obeys all state hunting laws and rules currently in effect for the applicable Game Land.

(c) Hunters shall not discharge a firearm or bow and arrow within, into or across a posted safety zone.

(d) Hunters shall not erect or occupy any tree stand attached to any tree, unless it is a portable stand that leaves no metal in the tree.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1233 Eff. May 1, ~~2012~~; 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1007

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, use the statutory phrase of "State recreational forest"

Lines 4 and 7, what is meant by "all state fishing laws and rules"? Is the intent to cite to laws in G.S. 113 and incorporate the rules of the Marine Fisheries Commission and the Wildlife Resources Commission?

Line 9, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1007 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1007 FISHING

(a) A person may fish in any waters in State Forests or Recreational State Forests if the person obeys all state fishing laws and rules.

(b) A person may fish in any waters of any Educational State Forest if the person first obtains a permit from the Forest Supervisor's office and obeys all state fishing laws and rules.

History Note Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1234 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1008

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 4 and 8, add a comma after "cat"

Line 5, use the statutory phrase of "State recreational forest"

Line 6, specify the rules in 15A NCAC 10D for Game Lands and then incorporate in accordance with G.S. 150B-21.6

Line 7, replace "are" with "shall be"

Lines 8 thru 9, consider adding a cross-reference to G.S. 14-163.1 to clarify what is meant by "assistance animals for persons with disabilities"

Line 11, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1008 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1008 ANIMALS AT LARGE

(a) Except in designated areas, no person shall have any dog, cat or other pet upon a ~~State Forest~~ State Forest, Recreational State Forest, or Educational State Forest unless the animal is on a leash and under the control of the owner or some other person. Hunting dogs used in accordance with NC Wildlife Commission Game Land Rules pertaining to State Forests are exempt from this Rule.

(b) No dog, cat or other pet shall be allowed to enter any public building on State Forests, except assistance animals for persons with disabilities.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1235 Eff. May 1, ~~2012~~; 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1009

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 4 and 6, add a comma after "kayak"

Line 5, what is meant by "from the Forest Supervisor's office"? Doesn't Paragraph (c) of Rule .1003 of this Section explain how to obtain a permit?

Line 7, please use the statutory phrase of "State recreational forest"

Line 7, define or delete "manually"

Line 7, add a comma after "paddles"

Lines 8 thru 10, is the intent for this sentence to only apply to "State Forests"? Please review and clarify if necessary

Line 9, add a comma after "operations"

Line 12, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1009 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1009 BOATING

(a) A person shall not operate a boat, canoe, kayak or other watercraft in any waters on Educational State Forests without obtaining a permit from the Forest Supervisor.

(b) Boats, canoes, kayaks or other watercraft may be operated on the waters of State Forests, State Forests or Recreational State Forests, provided they are manually operated or propelled by means of oars, paddles or electric trolling motors. Boats with gas motors attached are prohibited on any waters of State Forests, except for use by rescue squads, diving teams, or similar organizations conducting training or emergency operations or forest staff conducting maintenance operations.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1236 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1010

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, please use the statutory phrase of "State recreational forest"

Line 5, how is this permit obtained? Is that under Rule .1003 of this Section?

Lines 5 thru 6, what is meant by "such places and for such periods as may be designated"? How is this determined? Who determines it? How is it known to the regulated public? Please clarify

Line 7, where else is it "otherwise provided in this Section"? If there is not a specific "otherwise provided" location, is the language necessary for this Rule? Please review and consider deleting

Paragraph (b) appears to be a discretionary decision of the forest supervisor. First, what is the forest supervisor reviewing at the time of permitting to decide whether to grant the permit and if that standard is being waived, please review G.S. 150B-19(6) that requires guidance in the rule when modifying requirements.

Line 8, add a comma after "group"

Line 10, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1010 is readopted with changes as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1010 CAMPING

(a) No person shall spend the night or maintain a camp in ~~an Educational State Forests or State Forest~~ a State Forest, Recreational State Forest, or Educational State Forest, except under permit, and at such places and for such periods as may be designated.

(b) Unless otherwise provided in this Section, the number of persons camping at a particular site may be limited by the forest supervisor depending upon the size of the group and the size and nature of the campsite.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1237 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1011

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Should this Rule contain the clause "a State Forest, State recreational forest, or Educational State Forest"? Please review and clarify if necessary

Line 4, how is this permit obtained? Is that under Rule .1003 of this Section?

Line 5, what is meant by "for such periods as may be designated"? How is this determined? Who determines it? How is it known to the regulated public? Please clarify

Line 7, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1011 is readopted as published in 32:08 NCR 731 as follows:

02 NCAC 60B .1011 SPORTS AND GAMES

No games or athletic contests shall be allowed except in places as may be designated or under permit, and at such places and for such periods as may be designated.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1238 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1012

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Should this Rule contain the clause "a State Forest, State recreational forest, or Educational State Forest"? Please review and clarify if necessary

Line 4, add a comma after "ride"

Line 4, add a comma after "from"

Line 11, add "Equestrian" before "Users" and uncapitalize "Users"

Line 13, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1012 is readopted as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1012 HORSES

(a) No person shall use, ride or drive a horse except to, from or along a designated bridle path, multi-use trail designated for horses or designated watering point.

(b) Each equestrian user shall remove from designated parking areas all residues (including manure) generated by his or her horse.

(c) When dismounted, horses shall be tied in such a manner as to prevent damage to trees and other plants.

(d) Horses shall cross rivers and streams using bridges or culverts if available.

(e) Horses shall not wade in lakes.

(f) Users shall possess valid Coggins papers for each horse and make them available for inspection upon request.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1239 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1013

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Should this Rule contain the clause "a State Forest, State recreational forest, or Educational State Forest"? Please review and clarify if necessary

Line 4, define or delete "specifically"

Line 8, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1013 is readopted as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1013 BICYCLES

(a) No person shall use or ride a bicycle except on a road or trail authorized for use by motor vehicles or specifically designated as a bicycle or multi-use trail.

(b) When crossing rivers or streams, bicycle use shall be confined to bridges or culverts if available.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1240 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1014

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, please use the statutory phrase of "State recreational forest"

Line 6, add a comma after "trail"

Line 6, what is meant by "maintained"? What other type of "surface" is there? 02 NCAC 60B .1002 defines four types of "trails" and states what they are "maintained for" but what other surfaces would this language apply to? Is it necessary? Or should a period be placed after "trail"? Please review

Line 8, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1014 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1014 SKATES, BLADES AND BOARDS

No person shall use or ride roller skates, in-line skates, roller blades, skate boards, or any similar device on any ~~Educational State Forest or State Forest~~ State Forest, Recreational State Forest, or Educational State Forest road, trail or other maintained surface.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1241 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1015

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, replace "substance" with "substances"

Line 5, please use the statutory phrase of "State recreational forest"

Line 8, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1015 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1015 EXPLOSIVES

No person shall carry or possess any explosives or explosive substance including fireworks upon ~~Educational State Forests or State Forests.~~ State Forests, Recreational State Forests, or Educational State Forests. This does not apply to employees of the department when they engage in construction or maintenance activities.

*History Note: Authority G.S. 106-22; 106-870; 106-877;
 Eff. November 1, 2009;
 Transferred from 15A NCAC .1242 Eff. May 1, ~~2012.~~ 2012;
 Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1016

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, add a comma after "person"

Line 4, replace "authorized forest" with "Department" to track statutory language and then delete "of the department," after "officers"

Line 4, delete "any"

Line 5, replace "officer" with "officers" and add a comma after the term

Lines 6 and 9, please use the statutory phrase of "State recreational forest"

Line 6, define or delete "Properly"

Line 7, the cross-referenced rule citation is no longer correct. Could it be 02 NCAC 60B .1006? Please verify. If it is to a specific Wildlife Resources Commission rule, please incorporate in accordance with G.S. 150B-21.6

Line 8, please clarify what is meant by "Wildlife Resources Commission Rules applicable to" Should something be incorporated in accordance with G.S. 150B-21.6? Please review.

Line 11, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1016 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1016 FIREARMS

No person except authorized forest law enforcement officers of the department, or any other sworn law enforcement officer shall carry or possess firearms of any description or air guns or pellet guns, on or upon ~~Educational State Forest or State Forests, State Forests, Recreational State Forests, or Educational State Forests.~~ Properly licensed hunters that meet the requirements of Rule .1233 of this Section, or persons meeting the requirements of the NC Wildlife Resources Commission Rules applicable to ~~Educational State Forests or State Forests, State Forests, Recreational State Forests, or Educational State Forests.~~ are exempt from this Rule.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1243 Eff. May 1, 2012; 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1017

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, please use the statutory phrase of "State recreational forest"

Line 5, add a comma after "Forest"

Line 6, how is this permit obtained? Is that under Rule .1003 of this Section?

Line 7, define or delete "temporarily"

Line 8, what is meant by "prescribed burning plan"? Is that defined in another statute, such as G.S. 106-966, or rule that could be cross-referenced? Please review and clarify

Line 11, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1017 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1017 FIRES

(a) No person shall build or start a fire in any area of ~~an Educational State Forest or State Forest a State Forest,~~
~~Recreational State Forest, or Educational State Forest~~ unless that area is designated for such purpose.

(b) Tree planters and logging crews may build warming fires if they obtain a permit and confine the fire to an area temporarily designated for such purpose.

(c) Fires ignited for forest management purposes under the provisions of a prescribed burning plan, approved by the Forest Supervisor or his designee, are exempt from this Rule.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1244 Eff. May 1, ~~2012~~ 2012:

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1018

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, please use the statutory phrase of "State recreational forest"

Line 5, add a comma after "officer"

Line 5, what is meant by "disrupt others"? Please clarify

Line 7, add a comma after "walk"

Line 8, add a comma after "Enter"

Line 10, what is meant by "such places and for such periods as may be designated"? How is this determined? Who determines it? How is it known to the regulated public? Please clarify

Line 12, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1018 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1018 DISORDERLY CONDUCT

(a) No person visiting on ~~an Educational State Forest or State Forest~~ a State Forest, Recreational State Forest, or Educational State Forest shall disobey a lawful order of a Division employee, law enforcement officer or any other Department official or endanger him or herself or endanger or disrupt others.

(b) No person shall use, walk or run on or along a road or trail that is designated closed for maintenance, tree removal or any other purpose, or enter an area that is designated "No Entry," "Do Not Enter" or "Authorized Personnel Only," except for Division employees or contractors working under the direction of a Division employee, volunteers or individuals or groups under permit, and at such places and for such periods as may be designated.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1245 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1019

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, please complete box 2 with the full rule name.

Line 4, what is meant by "intoxicants"?

Line 4, what is meant by "under the influence of intoxicants"? This is not merely consumption of alcohol beverages as defined in G.S. 18B-101(4)? How is this determined? Please note that line 6 specifies "alcoholic beverages." Please clarify. In light of this inquiry, if the term "intoxicants" is removed from the Rule text, the agency may wish to update the Rule name

Lines 4 and 6, what is meant by "non-prescribed narcotic drugs"? What if it is a prescription that is not being taken by the person to whom it was prescribed? How is this determined? Please clarify

Line 5, please use the statutory phrase of "State recreational forest"

Line 9, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1019 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1019 INTOXICATING BEVERAGES AND DRUGS

No person shall use, or be under the influences of intoxicants, marijuana, or non-prescribed narcotic drugs as defined in G.S. 90-87, while on ~~an Educational State Forest or State Forest.~~ a State Forest, Recreational State Forest, or Educational State Forest. The public display or use of alcoholic beverages, marijuana or non-prescribed narcotic drugs is prohibited.

*History Note: Authority G.S. 106-22; 106-870; 106-877;
 Eff. November 1, 2009;
 Transferred from 15A NCAC 09C .1246 Eff. May 1, ~~2012.~~ 2012.
 Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1020

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, please complete box 2 with the full rule name.

Line 4, add a comma after "destroy"

Line 5, please use the statutory phrase of "State recreational forest"

Line 5, add a comma after "machine"

Line 8, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1020 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1020 DAMAGE TO BUILDINGS, STRUCTURES AND SIGNS

No person shall injure, deface, disturb, destroy or disfigure any ~~Educational State Forest or State Forest~~ Recreational State Forest, or Educational State Forest building, structure, sign, fence, vehicle, machine or any equipment.

History Note: Authority G.S 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1247 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1021

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, please use the statutory phrase of "State recreational forest"

Line 6, how is this permit obtained? Is that under Rule .1003 of this Section?

Lines 6 thru 7, what is meant by "such places and for such periods as may be designated"? How is this determined? Who determines it? How is it known to the regulated public? Please clarify

Line 10, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1021 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1021 COMMERCIAL ENTERPRISES

No person shall, while in or on ~~an Educational State Forest or State Forest, a State Forest, Recreational State Forest,~~
~~or Educational State Forest,~~ sell or offer for sale, hire or lease, any object or merchandise, property, privilege,
service or any other thing, or engage in any business except under permit and at such places and for such periods as
may be designated. Sales from which proceeds are used in support of the forest or sales conducted or contracted by
the Department are exempt from this Rule.

History Note: *Authority G.S. 106-22; 106-870; 106-877;*

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1248 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1022

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, please use the statutory phrase of "State recreational forest"

Line 7, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1022 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1022 NOISE REGULATIONS

The production or emission of noises over the level of 85 decibels, at a distance of 10 feet, on ~~an Educational State Forest or State Forest~~ a State Forest, Recreational State Forest, or Educational State Forest is prohibited.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. December 1, 2009;

Transferred from 15A NCAC 09C .1249 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1023

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, delete the comma after "speech"

Line 6, please use the statutory phrase of "State recreational forest"

Line 6, how is this permit obtained? Is that under Rule .1003 of this Section?

Line 8, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1023 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1023 MEETINGS AND EXHIBITIONS

A person, except for Department employees in performance of official duties, shall not hold any meetings or exhibitions, perform any ceremony, or make any speech, on an Educational State Forest or State Forest a State Forest, Recreational State Forest, or Educational State Forest without a permit.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1250 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1024

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, please use the statutory phrase of "State recreational forest"

Line 5, how is this approval obtained? Is this different than a permit or is that also under Rule .1003 of this Section?

Line 6, should "State recreational forest" also be included on this line? Please review

Line 6, the punctuation change is incorrect, as [26 NCAC 02C .0108\(7\)](#) requires the change to the entire word.

Line 8, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 60B .1024 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1024 ALMS AND CONTRIBUTIONS

A person shall not solicit contributions for any purpose within an Educational State Forest or State Forest, a State Forest, Recreational State Forest, or Educational State Forest, unless approved by the Division and such contributions are used to benefit the State Forest or Educational State Forest.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1251 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1025

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, replace "noted" with "provided"

Line 4, add a comma after "land"

Line 5, add a comma after "ascend"

Line 6, please use the statutory phrase of "State recreational forest"

Line 6, delete the comma after "area"

Line 7, replace "in this connection shall mean" with "for this Rule means"

Line 9, add a comma after "enforcement"

Line 10, how is this permit obtained? Is that under Rule .1003 of this Section?

Line 14, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1025 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1025 AVIATION

(a) Except as noted in Paragraphs (b) and (c) of this Rule, a person shall not voluntarily bring, land or cause to descend or alight, ascend or take off within or upon any Educational State Forest or State Forest State Forest, Recreational State Forest, or Educational State Forest area, any airplane, flying machine, balloon, parachute, glider, hang glider, or other apparatus for aviation. "Voluntarily" in this connection shall mean anything other than a forced landing.

(b) In forest areas where aviation activities are part of the planned forest activities or military, law enforcement or rescue training, a permit shall be required.

(c) Emergency aircraft such as air ambulances and aerial search helicopters, and Division aircraft are exempt from this Rule.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1252 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1026

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

What is the authority for this Rule? Article 74 of G.S. 106 does not reference removing a person from the property, but specifies the relief in G.S. 106-877 that "[a] violation of these rules is punishable as a Class 3 misdemeanor." Please clarify

Line 5, please use the statutory phrase of "State recreational forest"

Line 7, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1026 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1026 EXPULSION

For violation of any rule in this Section, the Division shall withdraw the right of a person or persons to remain on ~~an~~
~~Educational State Forest or State Forest.~~ a State Forest, Recreational State Forest, or Educational State Forest.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. December 1, 2009;

Transferred from 15A NCAC 09C .1253 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1027

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, please use the statutory phrase of "State recreational forest"

Lines 6 and 8, how is this permit obtained? Is that under Rule .1003 of this Section?

Line 13, what is meant by "dependent"? Please clarify

Line 15, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1027 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1027 MOTORIZED VEHICLES

(a) A person shall not drive a motorized vehicle in ~~an Educational State Forest or State Forest~~ a State Forest, Recreational State Forest, or Educational State Forest within or, upon a safety zone, hiking trail, bridle trail, multi-

use trail, fire trail, service road, or any part of the forest not designated for such purposes, except by permit.

(b) Motor bikes, mini-bikes, all terrain vehicles, and any other unlicensed motor vehicle are prohibited within the forest except by permit.

(c) A person shall not park a motorized vehicle in a manner that blocks forest roads or gates.

(d) Unless otherwise posted, the speed limit on graveled forest roads is 20 miles per hour, and on dirt roads is 10 miles per hour.

(e) Vehicles exempt from this Rule are: Department vehicles, authorized vendors, vehicles used in conjunction with forest and emergency operations, and vehicles of ~~dependant~~ dependent employees and resident family members.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1254 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1028

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, add a comma after "gather"

Line 5, add a comma after "rock"

Line 5, please use the statutory phrase of "State recreational forest"

Line 8, add a comma after "minerals"

Line 8, should "State recreational forest" also be included on this line? Please review

Line 9, how is this permit obtained? Is that under Rule .1003 of this Section?

Line 11, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1028 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1028 FLOWERS, PLANTS, MINERALS, ETC.

(a) A person shall not remove, destroy, cut down, scar, mutilate, take, gather or injure any tree, flower, artifact, fern, shrub, rock or other plant or mineral in any ~~Educational State Forest or State Forest~~ State Forest, Recreational State Forest, or Educational State Forest area. Silvicultural activities performed in accordance with an approved State Forest Management Plan are exempt from this Rule.

(b) A person shall not collect plants, animals, minerals or other artifacts from any Educational State Forest or State Forest area without first having obtained a permit.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1255 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1029

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, add a comma after "cans"

Line 5, please use the statutory phrase of "State recreational forest"

Line 6, replace "such" with "the"

Line 7, what is meant by "lawful"? How is this known? Is the term, or the clause "dispose of it in a lawful manner" necessary for this Rule? Please review

Line 9, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1029 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1029 TRASH AND DEBRIS

A person shall not deposit paper products, bottles, cans or any other trash or debris in ~~an Educational State Forest or State Forest, a State Forest, Recreational State Forest, or Educational State Forest,~~ except in receptacles designated for such materials. Where trash receptacles are not ~~provided~~ provided, persons shall pack their trash out of the forest and dispose of it in a lawful manner.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1256 Eff. May 1, ~~2012~~, 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1030

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 4 and 5, so this Rule is only applicable to two state forests? Please review and clarify if necessary

Line 35, as this Rule applies to Dupont State Recreational Forest, add G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1030 is readopted as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1030 FEES AND CHARGES

(a) The following fee schedule shall apply at DuPont State Recreational Forests and the Community Building at Jordan Lake Educational State Forest:

(1) CAMPING.

(A) Primitive, unimproved campsite with portable toilets and fresh water available, \$9.00 per campsite, daily.

(B) Primitive group tent camping, unimproved campsite with portable toilets, \$1.00 per person, daily, with \$9.00 minimum.

(C) Improved group camping with water, restrooms and shower facilities available, \$40.00 per day, and maximum capacity of 35 people.

(2) PICNIC SHELTER RENTALS.

(A) Are by reservations only.

(B) Rate: 1-2 tables, \$25.00; 3-4 tables, \$40.00; 5-8 tables, \$60.00.

(3) CLASSROOM OR COMMUNITY BUILDING (DuPont State Recreational Forest and Jordan Lake Educational State Forest).

(A) Fee may be waived for government agencies and natural resource related non-profit groups.

(B) Rates: One half day, \$75.00; Full day, \$150.00.

(4) EQUESTRIAN FACILITIES.

(A) Barn or paddocks (fee may be waived for volunteer work groups), \$10.00 per horse, daily.

(B) Use is limited to non-profit groups and area summer camps.

(5) PERMITS FOR SPECIAL EVENTS. Permits for use of the forest for events involving large groups or special privileges and requiring staff assistance: Rate: \$1.00 per person plus the cost of staff time and equipment use involved in monitoring the permit.

(6) PERMITS FOR THE REMOVAL OF FIREWOOD, VEGETATIVE MATERIAL, ROCKS, ETC.

Fees for these items are based on the value of the material as determined by local market conditions.

(b) Payment of the appropriate fee shall be a prerequisite for the use of the public service facility or convenience provided.

(c) Unless otherwise provided in this Rule, the number of persons camping at a particular site may be limited by the forest supervisor depending upon the size of the group and the size and nature of the campsite.

(d) Reservations must be canceled 30 days prior to the event in order to receive a refund. Permit fees are non-refundable.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. June 14, 2010;

Transferred from 15A NCAC 09C .1257 Eff. May 1, ~~2012~~ 2912;

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1031

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, please use the statutory phrase of "State recreational forest"

Line 5, replace "will" with "shall"

Line 8, how is this permit obtained? Is that under Rule .1003 of this Section?

Line 8, the punctuation change is incorrect, as [26 NCAC 02C .0108\(7\)](#) requires the change to the entire word.

Line 10, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1031 is readopted with changes as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1031 HOURS OF OPERATION

- (a) Hours of operation may vary for individual forests. Hours of operation for each ~~State Forest or Educational State Forest~~ State Forest, Recreational State Forest, or Educational State Forest will be posted at the forest entrance, the forest office, and on the Division's web site.
- (b) No person except forest employees and authorized persons shall be allowed within the forest between closing and opening hours except under permit.

History Note: Authority G.S. 106-22; 106-870; 106-877;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1258 Eff. May 1, ~~2012~~ 2012;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60B .1032

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, should "these Rules" be replaced with "the rules of this Section"? Please review

Line 6, if this Rule also applies to Dupont State Recreational Forest, consider adding G.S. 106-887 to the statutory authority

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60B .1032 is readopted as published in 32:08 NCR 732 as follows:

02 NCAC 60B .1032 ENFORCEMENT

Departmental forest law enforcement officers, Forest Rangers, and sworn law enforcement may enforce these Rules.

History Note: Authority G.S. 106-22; 106-900;

Eff. November 1, 2009;

Transferred from 15A NCAC 09C .1259 Eff. May 1, ~~2012~~ 2012:

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0101

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 8 thru 10 is not a statement necessary to implement or interpret administration of water quality in state forests. Please consider deleting

Line 11, add a comma after "proper"

Lines 13 thru 14, in light of S.L. 2011-145, is this language still applicable? Please review

Paragraph (b), is this merely internal management of agency staff? Is it necessary in this Rule? Please review

Line 15, if the language remains, delete "North Carolina"

Line 19, if the language remains, replace "standards" with "rules"

Line 20, replace "standards" with "rules"

Line 20, replace "can" with "may"

Line 22, replace "standard" with "rule"

Line 23, replace "and/or" with either "and" or "or"

Line 23, what is meant by "more effective measures"? Please clarify

Line 25, replace "which" with "that"

Lines 23, 26, and 30 references a "Best Management Practices" and "manual." What is this document? Please note that G.S. 150B-2(8a)d does not require a form to be a rule if "the contents or substantive requirements of which are prescribed by rule or statute." Is there a rule or statute that provides the information required in the Best Management Practices? Could it be cross-referenced? Please clarify

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

Line 34, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0101 is readopted as published in 32:08 NCR 732-733 as follows:

SUBCHAPTER 60C - FOREST PRACTICES GUIDELINES RELATED TO WATER QUALITY

SECTION .0100 - GENERAL PROVISIONS

02 NCAC 60C .0101 INTRODUCTION AND PURPOSE

(a) Forests are a major contributor to the economy and quality of the environment in North Carolina. Forestry best management practices allow for the production, harvesting, and utilization of forest resources while maintaining satisfactory water quality. The rules in this Subchapter establish performance standards for the protection of water quality. The intent and purpose of these rules is not to cease or obstruct the lawful, proper and responsible use of forest resources. Persons must adhere to the standards related to land disturbing activities in order to retain the forestry exemption provided in North Carolina General Statute Chapter 113A-52.1, the N.C. Sedimentation Pollution Control Act of ~~1973~~ 1973, as amended in 1989.

(b) The North Carolina Forest Service Division of Forest Resources is responsible for the protection and development of forest resources in North Carolina, and has been designated by the Secretary of North Carolina Department of Environment, Health, and Natural Resources as the Division within the Department best able to assist the Secretary in the implementation of these rules; herein designated as the lead agency for administering, monitoring, inspecting, and reporting on the standards in this Subchapter.

(c) Implementation of the standards in this Subchapter shall recognize that extreme and unusual weather can cause reasonable and otherwise adequate application of protective measures to fail. Where such measures fail and the resulting effect is not in compliance with a standard of this Subchapter, the responsible party(ies) shall implement additional and/or more effective measures. The Forestry Best Management Practices Manual, developed and published by the North Carolina Forest Service Division of Forest Resources in September, 1989, and as amended from time to time, contains specifications for a variety of practices which may be used to meet the performance standards set forth in this Subchapter. Best Management Practices (BMPs) ~~shall~~ should be developed and selected to allow for the variation in weather, topography, soil, and vegetation expected for the site and season. ~~Implementation of these rules shall recognize that extreme and unusual weather can cause reasonable and otherwise adequate application of BMPs to fail to control sedimentation. Where installed BMPs fail, additional and more effective BMPs may be required.~~ This manual and the rules in this Subchapter may be obtained by contacting the Director, Assistant Commissioner, North Carolina Forest Service Division, Division of Forest Resources, Raleigh, North Carolina.

*History Note: Authority G.S. ~~113-3; 113-8; 106-895; 113A-52(6); 113A-52.01; 113A-52.1; 113A-61.1; 143-214.1; 143B-10;~~
Eff. January 1, 1990;
Transferred from 15A NCAC 011 .0101 Eff. April 1, ~~2014~~. 2014;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0102

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 10, replace "which" with "that"

Line 11, delete "adopted"

Line 11, replace "standards" with "rules"

Lines 12 thru 14, if the intent of this Rule is to reference rules belonging to another rulemaking agency, please incorporate in accordance with G.S. 150B-21.6.

Lines 15 thru 18, references a "Best Management Practices." What is this document? Please note that G.S. 150B-2(8a)d does not require a form to be a rule if "the contents or substantive requirements of which are prescribed by rule or statute." Is there a rule or statute that provides the information required in the Best Management Practices? Could it be cross-referenced? Please clarify

Line 20, add a comma after "water"

Line 20, delete the "or" between "water" and "a"

Line 20, add a comma after "ditch"

Line 21, define or delete "easily"

Line 24, add a comma after "growth"

Line 24, replace "which" with "that"

Line 34, replace "and/or" with either an "and" or an "or"

Page 2, line 4, define or delete "principally"

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

Page 2, line 16, replace “can” with “may”

Page 2, line 18, define or delete “normally”

Page 2, line 24, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0102 is readopted as published in 32:08 NCR 733-734 as follows:

02 NCAC 60C .0102 DEFINITIONS

In addition to the terms defined in G.S. ~~413-44.4~~ and 113A-52, the following definitions shall apply throughout this Subchapter:

- (1) "Accelerated Erosion" means any increase over the rate of natural erosion, as a result of land-disturbing activities.
- (2) "Access Road" means a temporary or permanent access ~~route~~; route upon which wheeled vehicles are intended to operate with repeated passes.
- (3) "Adverse Impact" as used for pesticides and fertilizers means actions which result in a violation of adopted water quality standards of the Environmental Management Commission Sections 15A NCAC 2B .0200 - Classifications and Water Quality Standards Applicable to Surface Waters of North Carolina, 15A NCAC 2L .0200 - Classifications and Water Quality Standards (related to groundwater) and the N.C. Pesticide Board Rule 2 NCAC 9L .1005 - Restricted Areas.
- (4) "Best Management Practice" (BMP) means a practice, or combination of practices, that is determined to be an effective and practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.
- (5) "Channel" means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
- (6) "Colloidal Particles" means fine grained materials, organic or inorganic, that are easily suspended such as clay particles.
- ~~(7) "Ford" means a submerged stream crossing which will bear intended traffic.~~
- ~~(8)~~(7) "Ground Cover" means any natural vegetative growth or other natural or manmade material which renders the soil surface stable against accelerated erosion.
- ~~(9)~~(8) "Groundwater" means phreatic water or subsurface water in the zone of saturation. "Land-Disturbing Activity" means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.
- ~~(10)~~(9) "Groundwater" means phreatic water or subsurface water in the zone of saturation. "Land-Disturbing Activity" means the same as defined in North Carolina General Statute Chapter 113A-52.
- ~~(11)~~(10) "Log Deck" means a place where logs are gathered in or near the forest for further transport, sometimes called a "landing". harvested trees or logs are gathered or staged in or near the forest for handling, sorting, merchandizing, temporary storage, and/or further transport.
- ~~(12)~~(11) "Mill Site" means any place where forest products are stored, altered, or processed.
- ~~(13)~~(12) "Permanently Stabilized" means the site is protected to the state at which no further accelerated erosion is expected to occur from the ~~forestry~~ forestry-related, land-disturbing activities.

- 1 ~~(14)~~(13) "Pesticides" means a chemical used to kill pests. The term includes insecticides, fungicides,
2 herbicides, and rodenticides.
- 3 ~~(15)~~(14) "Site Preparation" means a forest activity to prepare the site for reforestation.
- 4 ~~(16)~~(15) "Skid Trail" means a temporary pathway principally used to drag or transport felled trees or logs or
5 other woody material to a landing, log deck or portable mill site.
- 6 ~~(17)~~(16) "Stream" means a body of concentrated flowing water in a natural low area of the land surface.
- 7 (a) "Ephemeral stream" means a stream that flows only during and for short periods following
8 precipitation and flows in low areas that may or may not have a well-defined channel.
- 9 (b) "Intermittent stream" means a stream that flows only during wet periods of the year (30-90
10 percent of the time) and flows in a continuous well-defined channel.
- 11 (c) "Perennial stream" means a stream that flows throughout a majority of the year (greater than
12 90 percent of the time) and flows in a well-defined channel.
- 13 ~~(18)~~(17) "Streamside Management Zone (SMZ)" means an area along both sides of intermittent streams and
14 perennial streams and along the margins of perennial waterbodies where extra precaution is used in
15 carrying out ~~forest practices~~ forestry-related, land-disturbing activities in order to protect water quality.
- 16 ~~(19)~~(18) "Visible Sediment" means solid particulate matter, both mineral and organic, which can be seen with
17 the unaided eye that has been or is being transported by water, air, gravity, or ice from its site of
18 origin. This does not normally include colloidal sized particles.
- 19 ~~(20)~~(19) "Waterbody" means a natural or man-made basin that stores water, not including jurisdictional
20 wetlands or beaver ponds.
- 21 ~~(18)~~(20) "Working Days" means days exclusive of Saturdays and Sundays during which weather conditions or
22 soil conditions permit land-disturbing activity to be undertaken.

23

24 *History Note:* Authority ~~G.S. 443-44.4; 113A-52; 113A-52.01; 113A-52.1;~~
25 *Eff. January 1, 1990;*
26 *Transferred from 15A NCAC 011.0102 Eff. April 1, 2014, 2014;*
27 *Readopted Eff. March 1, 2018.*
28
29

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0201

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, please complete box 2 with the full rule name.

Lines 6 thru 7, and 14, replace "intermittent streams and perennial streams" with "intermittent streams, perennial streams,"

Lines 7 and 9, please define or delete "sufficient"

Line 9, what is meant by "or other means,"? Please clarify or delete the clause

Line 12, add a comma after "SMZs"

Line 13, what is meant by "erosion control and sediment control measures"? Please clarify or delete the clause

Line 17, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0201 is readopted as published in 32:08 NCR 734 as follows:

SECTION .0200 - PERFORMANCE STANDARDS

02 NCAC 60C .0201 STREAMSIDE MANAGEMENT ZONE

(a) A streamside management zone (SMZ) shall be established and maintained along the margins of intermittent streams and perennial streams and perennial waterbodies. The SMZ shall be of sufficient width to confine within the SMZ visible sediment resulting from accelerated erosion.

(b) Ground cover, or other means, within the SMZ shall be sufficient to restrain accelerated erosion.

(c) Access roads, skid trails, except as provided in Rule .0203 of this ~~Section~~, Subchapter, logging decks and mill sites shall be placed outside of SMZs. When barriers such as property lines or limiting land features prohibit the location of any of these outside of SMZs, they can be located within the SMZs. When located within SMZs ~~they~~ there shall ~~have~~ be effective erosion control and sediment control structures or measures installed to restrain accelerated erosion and prevent visible sediment from entering intermittent streams or perennial streams or perennial waterbodies.

History Note: Authority G.S. 113A-52.1;

Eff. January 1, 1990;

Transferred from 15A NCAC 01I .0201 Eff. April 1, ~~2014~~, 2014;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0202

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

What is the purpose of this Rule? Is this Rule necessary to implement or interpret administration of water quality in state forests?

Line 4, replace "and/or" with either "and" or "or"

Line 6, replace "intermittent streams and perennial streams" with "intermittent streams, perennial streams,"

Line 8, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0202 is readopted as published in 32:08 NCR 734 as follows:

02 NCAC 60C .0202 PROHIBITION OF DEBRIS ENTERING STREAMS AND WATERBODIES

Stream obstruction and the impediment of stream flow and/or degradation of water quality shall be prevented by keeping soil and debris from ~~construction, harvesting, mill site residue, and site preparation~~ forestry-related, land-disturbing activities out of intermittent streams and perennial streams and perennial waterbodies.

History Note: Authority G.S. 77-13; 77-14; 113A-52.1;

Eff. January 1, 1990;

Transferred from 15A NCAC 01I .0202 Eff. April 1, ~~2014~~, 2014;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0203

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, what is meant by "avoided when possible"? Please clarify or delete the clause

Line 4, replace "which must" with "that"

Lines 5 and 9, replace "intermittent streams or perennial streams" with "intermittent streams, perennial streams,"

Lines 15, and 17 thru 18, replace "intermittent streams and perennial streams" with "intermittent streams, perennial streams,"

Lines 16 and 18, should the "and" between "perennial streams" and "perennial waterbodies" be an "or"? Please review

Line 17, what is meant by "or other means,"? Please clarify or delete the clause

Line 17, please define or delete "sufficient"

Line 21, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0203 is readopted as published in 32:08 NCR 734 as follows:

02 NCAC 60C .0203 ACCESS ROAD AND SKID TRAIL STREAM CROSSINGS

Stream crossings shall be avoided when possible. Access roads and skid trails which must cross an intermittent stream or a perennial ~~streams~~ stream or a perennial ~~waterbodies~~ waterbody shall be ~~constructed~~ installed so as to minimize the amount of visible sediment that enters ~~the streams because of the construction.~~ that stream or waterbody. These crossings shall be installed so that:

- (1) stream flow will not be obstructed or impeded;
- (2) no intermittent stream channel or perennial stream channel or perennial waterbody shall be used as an access road or skid trail;
- (3) crossings are provided with effective structures or ground cover to protect the stream banks and stream channel from accelerated erosion;
- (4) ~~they~~ crossings shall have sufficient water control devices to collect and divert surface flow from the access road or skid trail into undisturbed areas or other control structures to restrain accelerated erosion and prevent visible sediment from entering intermittent streams and perennial ~~streams;~~ streams and perennial waterbodies; and
- (5) ground cover, or other means, sufficient to prevent visible sediment from entering intermittent streams and perennial streams and perennial waterbodies shall be provided within ten working days of initial disturbance and will be maintained until the site is permanently stabilized.

*History Note: Authority G.S. 77-13; 77-14; 113A-52.1;
Eff. January 1, 1990;
Transferred from 15A NCAC 011 .0203 Eff. April 1, ~~2014.~~ 2014;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0204

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 6, replace "which" with "that"

Line 8, replace "intermittent streams or perennial streams" with "intermittent streams, perennial streams,"

Line 11, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0204 is readopted as published in 32:08 NCR 732 as follows:

02 NCAC 60C .0204 ACCESS ROAD ENTRANCES

~~Access road entrances intersecting public highways shall be constructed and maintained with measures, devices or techniques effective to prevent excessive soil and other debris from being carried to and deposited on the highway to the extent that sedimentation problems will result.~~ A forest access road entrance which intersects a paved road shall be installed and maintained to prevent visible sediment or other debris from being deposited onto the paved road to the extent that the visible sediment or other debris would enter an intermittent stream or a perennial stream or a perennial waterbody.

History Note: Authority G.S. 113A-52.1; 136-92.1

Eff. January 1, 1990;

Transferred from 15A NCAC 011 .0204 Eff. April 1, ~~2014~~; 2014;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0205

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 5, add a comma after "fertilizers"

Line 6, should "streams" have "intermittent" before the term? Please review

Line 6, why is the term "groundwater" used in this Rule? Should it be "waterbody" to be consistent with prior rules? Please review

Line 6, if "groundwater" is replaced with "waterbody," should it include the term "perennial? Please review

Line 6, replace "which" with "that"

Line 6, replace "result" with "results"

Line 6, delete "adopted"

Lines 7 thru 8, if the intent of this Rule is to reference rules belonging to another rulemaking agency, please incorporate in accordance with G.S. 150B-21.6.

Line 11, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0205 is readopted as published in 32:08 NCR 734 as follows:

**02 NCAC 60C .0205 PROHIBITION/WASTE ENTERING
STREAMS/WATERBODIES/GROUNDWATER**

Measures shall be taken to prevent equipment servicing waste, petroleum, fertilizers or other chemical waste from entering streams, perennial waterbodies, and groundwater which result in a violation of an adopted water quality standard of the Environmental Management Commission in Sections 15A NCAC 02B .0200 - Classifications and Water Quality Standards Applicable to Surface Waters of North Carolina, and 15A NCAC 02L .0200 - Classifications and Water Quality Standards (related to groundwater).

*History Note: Authority G.S. 113A-52.1; 143-214.1;
Eff. January 1, 1990;
Transferred from 15A NCAC 01I .0205 Eff. April 1, ~~2014~~ 2014;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0206

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Lines 5 thru 6, if the intent of this Rule is to reference rules belonging to another rulemaking agency, please incorporate in accordance with G.S. 150B-21.6.

Line 8, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0206 is readopted as published in 32:08 NCR 734 as follows:

02 NCAC 60C .0206 PESTICIDE APPLICATION

Application of pesticides shall be limited to those labeled for that intended use, shall be used in accordance with labeling and rules adopted by the N.C. Pesticide Board as set forth in 2 NCAC 9L .1005, Restricted Areas, and applied in a manner to prevent adverse impacts on water quality.

*History Note: Authority G.S. 113A-52.1; 143-214.1; 143-458;
Eff. January 1, 1990;
Transferred from 15A NCAC 01I .0206 Eff. April 1, ~~2014~~ 2014;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0207

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 6, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0207 is readopted as published in 32:08 NCR 734 as follows:

02 NCAC 60C .0207 FERTILIZER APPLICATION

When used, fertilizers shall be applied in a manner to prevent adverse impacts on water quality.

History Note: Authority G.S. 113A-52.1; 143-214.1;

Eff. January 1, 1990;

Transferred from 15A NCAC 01I .0207 Eff. April 1, ~~2014~~, 2014;

Readopted Eff. March 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0208

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, please complete box 2 with the full rule name.

Line 4, define or delete "adequate shade"

Line 5, define or delete "adverse temperature fluctuations"

Line 5, replace "which" with "that"

Line 5, delete "adopted"

Lines 6 thru 7, if the intent of this Rule is to reference rules belonging to another rulemaking agency, please incorporate in accordance with G.S. 150B-21.6.

Line 9, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0208 is readopted as published in 32:08 NCR 734 as follows:

02 NCAC 60C .0208 PERENNIAL STREAM TEMPERATURE

Adequate shade within SMZs associated with natural perennial streams shall be retained to protect those streams from adverse temperature fluctuations which result in a violation of an adopted water quality standard of the Environmental Management Commission as contained in Rule 15A NCAC 02B .0211 - Fresh Surface Water Classifications and Standards.

*History Note: Authority G.S. 113A-52.1; 143-214.1;
Eff. January 1, 1990;
Transferred from 15A NCAC 01I .0208 Eff. April 1, ~~2014~~ 2014;
Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 60C .0209

DEADLINE FOR RECEIPT: Friday, February 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Line 4, what is meant by "potential for accelerated erosion"? Is this clause known to the regulated public? "Accelerated erosion" is defined in 02 NCAC 60C .0102(1), but the clause "potential for" is unclear. How is that known? Please review and clarify if necessary

Line 4, define or delete "directly"

Lines 5 and 8, replace "intermittent streams or perennial streams" with "intermittent streams, perennial streams,"

Line 6, what is meant by "or other means,"? Please clarify or delete the clause

Line 7, delete "In addition,"

Line 7, define or delete "effective"

Line 7, replace "is" with "shall be"

Line 11, replace "intermittent streams and perennial streams" with "intermittent streams, perennial streams,"

Line 11, should the "and" between perennial streams" and "perennial waterbodies" be an "or"? Please review

Line 14, the statutory authority for this Rule needs to be reviewed, as the History Note does not appear to set forth authority for the Board of Agriculture. Should it be G.S. 106-870 and 106-877? Please review and update accordingly.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Monday, January 29, 2018

02 NCAC 60C .0209 is readopted as published in 32:08 NCR 734 as follows:

02 NCAC 60C .0209 REHABILITATION OF PROJECT SITE

Areas on the project site that have the potential for accelerated erosion, resulting in concentrated flow directly entering an intermittent stream or a perennial stream or a perennial waterbody, shall be provided with ground cover or other means of adequate sedimentation control within 30 working days after ceasing any phase of an operation or beginning a period of inactivity. In addition, effective sedimentation control measures or ground cover is required for any area that is contributing or has contributed visible sediment into an intermittent stream or a perennial stream or a perennial waterbody, regardless of when the visible sedimentation occurred as a result of the forestry-related, land-disturbing activity. Treatment and maintenance of those areas shall be sufficient to restrain accelerated erosion and prevent visible sediment from entering intermittent streams and perennial streams and perennial waterbodies until the site is permanently stabilized.

History Note: Authority G.S. 113A-52.1;

Eff. January 1, 1990;

Transferred from 15A NCAC 011 .0209 Eff. April 1, ~~2014~~2014;

Readopted Eff. March 1, 2018.