

G.S. 150B-21.3A Report for 02 NCAC Subchapter 60C, FOREST PRACTICES GUIDELINES RELATED TO WATER QUALITY

Agency - Department of Agriculture and Consumer Services

Comment Period - January 30, 2015 - March 31, 2015

Date Submitted to APO - July 20, 2015

Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SECTION .0100 - GENERAL PROVISIONS	02 NCAC 60C .0101	INTRODUCTION AND PURPOSE	Transferred from 15A NCAC 011 .0101 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0102	DEFINITIONS	Transferred from 15A NCAC 011 .0102 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0200 - PERFORMANCE STANDARDS	02 NCAC 60C .0201	STREAMSIDE MANAGEMENT ZONE	Transferred from 15A NCAC 011 .0201 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0202	PROHIBITION OF DEBRIS ENTERING STREAMS AND WATERBODIES	Transferred from 15A NCAC 011 .0202 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0203	ACCESS ROAD AND SKID TRAIL STREAM CROSSINGS	Transferred from 15A NCAC 011 .0203 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0204	ACCESS ROAD ENTRANCES	Transferred from 15A NCAC 011 .0204 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0205	PROHIBITION/WASTE ENTERING STREAMS/WATERBODIES/GROUNDWATER	Transferred from 15A NCAC 011 .0205 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0206	PESTICIDE APPLICATION	Transferred from 15A NCAC 011 .0206 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0207	FERTILIZER APPLICATION	Transferred from 15A NCAC 011 .0207 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0208	STREAM TEMPERATURE	Transferred from 15A NCAC 011 .0208 Eff. April 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	02 NCAC 60C .0209	REHABILITATION OF PROJECT SITE	Transferred from 15A NCAC 011 .0209 Eff. April 1, 2014	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt

Waggett, Christina

From: Waggett, Christina
Sent: Monday, April 20, 2015 12:27 PM
To: 'Mark Megalos'
Subject: RE: Suggestion for 02 NCAC 60C .0209
Attachments: NCFS Response to Comment on 02 NCAC 60C 0209.pdf

Mr. Megalos,

Thank you for your comment on 02 NCAC 60C .0209. Please find attached a letter from the NC Forest Service in response to your comment. Please also note that the rule has been classified as "necessary with substantive public interest." This means that we will be going through the rulemaking process on this rule. At that time, there will be another 60 day comment period.

If you have any questions, please let me know.

Thanks,
Chrissy Waggett
Rulemaking Coordinator

Chrissy Waggett | Federal Liaison | NC Department of Agriculture and Consumer Services | 1001 MSC,
Raleigh, NC 27699 | 919-707-3008 (direct) |

[NC Department of Agriculture](#); [NC Friends of Agriculture Foundation](#); [Commissioner's Food Safety Forum](#); [NC Ag Development Forum](#)

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From: Mark Megalos [mailto:mamegalo@ncsu.edu]
Sent: Monday, February 02, 2015 10:57 AM
To: Rules Review
Subject: Suggestion for 02 NCAC 60C .0209

Chrissy:

Thanks for the opportunity to provide input on the FPG rules.

Per my rereading of them they are still current and, useful and needed to protect public water resources and public faith in the oversight of forestry operations within NC. Maintaining that trust and the flexibility is essential to having public support behind the Forest Sectors ability to expand and benefit rural and urban communities.

I do have one suggestion for beefing up the 02 NCAC 60C .0209 section:

and that would be to improve the educational outreach and perhaps revisiting the BMP manual as to improvements to the BMP guide to handle the seeming increase in duration, intensity and interval for precipitation events. To that end I am attaching results from a recent SE climate report that was used in the recent National climate assessment for your consideration.

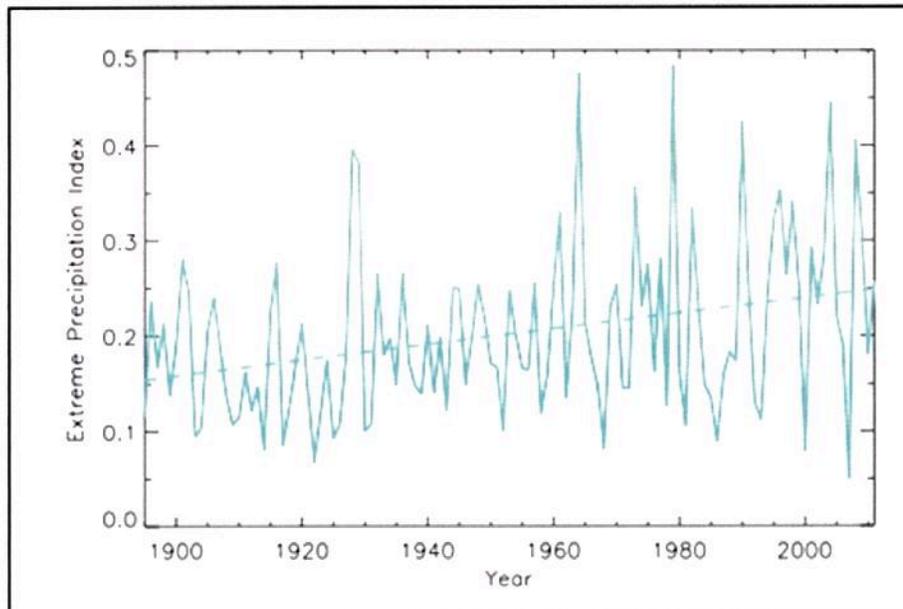


Figure 21. Time series of the extreme precipitation index for the Southeast region for the occurrence of 1-day, 1 in 5-year extreme precipitation events. The dashed line indicates the best fit by minimizing the chi-square error statistic. The dashed line is a linear fit. Based daily COOP data from long-term stations in the National Climatic Data Center's Global Historical Climate Network data set. Only stations with less than 10% missing daily precipitation data for the period 1895-2011 are used in this analysis. Events are first identified for each individual station by ranking all daily precipitation values and choosing the top $N/5$ events, where N is the number of years of data for that particular station. Then, event numbers for each year are averaged for all stations in each $1 \times 1^\circ$ grid box. Finally, a regional average is determined by averaging the values for the individual grid boxes. This regional average is the extreme precipitation index. There is a statistically significant upward trend.

it can be found on page 36

of http://www.sercc.com/NOAA_NESDIS_Tech_Report_Climate_of_the_Southeast_U.S.pdf

there are some other interesting trends worthy of note, especially increase in fall precipitation and those references begin on page 28-29 of the same report.

My position then is that what used to or currently suffices for rehabilitation of project sites might not hold for future events.

Thanks for your consideration,

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Mark Megalos

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North Carolina Department of Agriculture & Consumer Services
N.C. Forest Service



Steven W. Troxler
Commissioner



Scott Bissette
Assistant Commissioner

100 Years of Protecting, Managing & Promoting North Carolina's Forests

NC Forest Service
2411 Old US 70 West
Clayton, NC 27520
April 17, 2015

Dr. Mark Megalos
Extension Forestry Specialist
North Carolina State University
Campus Box 8008
Raleigh, NC 27695

Dear Dr. Megalos:

We appreciate your support of the FPG rules and the importance of the role of these rules in forestry operations within NC. We have reviewed the suggestion that you presented for consideration for FPG standard 02 NCAC 60C .0209. However, the performance-based standards within FPG .0209 describe a desired end-result and outcome to permanently stabilize areas on the project site, regardless of the rainfall intensity, frequency, or duration. It is the responsibility of the parties involved to choose the appropriate Best Management Practices given their specific site conditions and the weather events that are occurring or will be occurring in the very near future, so that they remain in compliance with the FPGs.

The information you contributed from Figure 21 of the NOAA Technical Report NESDIS 142-2 is certainly pertinent and useful information that we would like to include for consideration, along with other appropriate research work, during the next revision process of the NC Forestry Best Management Practices Manual to Protect Water Quality. At that time, research can be reviewed to identify if and how BMPs may need to be changed, added, or developed to address high rainfall intensity and/or frequency. With any revision to BMPs comes a continuing educational outreach effort and we expect that outreach to continue, moving forward.

We appreciate the collaboration with NC State University in developing Forestry BMPs in the past, and we look forward to continuing to work together in these and other future endeavors. Thank you for your time and interest.

Sincerely,
Gail Bledsoe
NCFS Water Quality & Wetlands Staff Forester
Registered Forester #1377