

**§ 106-968. Certified prescribed burning.**

(a) Prior to conducting a prescribed burning, a certified prescribed burner shall prepare and provide to the landowner a prescription for the prescribed burning. The certified prescribed burner shall also file the prescription with the North Carolina Forest Service of the Department of Agriculture and Consumer Services. Both the landowner and the certified prescribed burner on site shall retain a copy of this prescription throughout the duration of the prescribed burning. The prescription shall include:

- (1) The landowner's name and address.
- (2) A description of the area to be burned.
- (3) A map of the area to be burned.
- (4) An estimate of tons of the fuel located on the area.
- (5) The objectives of the prescribed burning.
- (6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.
- (7) The name of the certified prescribed burner responsible for conducting the prescribed burning.
- (8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed burning, including firebreaks and sufficient personnel and firefighting equipment to contain the fire within the burn area. [The following applies:]
  - a. Fire spreading outside the authorized burn area on the day of the prescribed burn ignition shall not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment.
  - b. If the prescribed burn is contained within the authorized burn area during the authorized period, there shall be a rebuttable presumption that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present.
  - c. Continued smoldering of a prescribed burn resulting in a subsequent wildfire does not in itself constitute evidence of gross negligence under G.S. 106-967.
- (9) Provision for reasonable notice of the prescribed burning to be provided to homes and businesses located adjacent to the burn site to avoid effects on health and property.

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed burner shall be present on the site and shall be in charge of the burning throughout the period of the burning. A landowner may conduct a prescribed burning and be in compliance with this Article without being a certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less owned by that landowner and is following all conditions established in a prescription prepared by a certified prescribed burner.

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 78 of this Chapter from the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

- (1) The terms and conditions of the open-burning permit under Article 78 of this Chapter.

- (2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.
  - (3) Any applicable local ordinances relating to open burning.
  - (4) The smoke management guidelines adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
  - (5) Any rules adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, to implement this Article.
- (d) The North Carolina Forest Service may accept prescribed burner certification from another State or other entity for the purpose of prescribed burning under this Article. (1999-121, s. 1; 2011-145, s. 13.25(aa), (bb), (xx); 2013-155, s. 16; 2015-263, s. 26; 2023-63, s. 9(c).)