Article 80.

§ 106-965. Legislative findings.
The General Assembly finds that prescribed burning of forestlands is a management tool that
is beneficial to North Carolina's public safety, forest and wildlife resources, environment, and
economy. The General Assembly finds that the following are benefits that result from prescribed
burning of forestlands:

(1) Prescribed burning reduces the naturally occurring buildup of vegetative fuels
on forestlands, thereby reducing the risk and severity of wildfires and lessening
the loss of life and property.

(2) The State's ever-increasing population is resulting in urban development
directly adjacent to fire-prone forestlands, referred to as a woodland-urban
interface area. The use of prescribed burning in these woodland-urban interface
areas substantially reduces the risk of wildfires that cause damage.

(3) Many of North Carolina's natural ecosystems require periodic fire for their
survival. Prescribed burning is essential to the perpetuation, restoration, and
management of many plant and animal communities. Prescribed burning
benefits game, nongame, and endangered wildlife species by increasing the
growth and yield of plants that provide forage and an area for escape and
brooding and that satisfy other habitat needs.

(4) Forestlands are economic, biological, and aesthetic resources of statewide
significance. In addition to reducing the frequency and severity of wildfires,
prescribed burning of forestlands helps to prepare sites for replanting and
natural seeding, to control insects and diseases, and to increase productivity.

(5) Prescribed burning enhances the resources on public use lands, such as State
and national forests, wildlife refuges, nature preserves, and game lands.
Prescribed burning enhances private lands that are managed for wildlife
refuges, nature preserves, and game lands. Prescribed burning enhances private
lands that are managed for wildlife, recreation, and other purposes.

As North Carolina's population grows, pressures resulting from liability issues and smoke
complaints discourage or limit prescribed burning so that these numerous benefits to forestlands
often are not attainable. By recognizing the benefits of prescribed burning and by adopting
requirements governing prescribed burning, the General Assembly helps to educate the public,
avoid misunderstandings, and reduce complaints about this valuable management tool. (1999-121,
s. 1; 2011-145, s. 13.25(aa).)

§ 106-966. Definitions.
As used in this Article:

(1) "Certified prescribed burner" means an individual who has successfully
completed a certification program approved by the North Carolina Forest
Service of the Department of Agriculture and Consumer Services.

(2) "Prescribed burning" means the planned and controlled application of fire to
naturally occurring vegetative fuels under safe weather and safe environmental
and other conditions, while following appropriate precautionary measures that
will confine the fire to a predetermined area and accomplish the intended management objectives.

(3) "Prescription" means a written plan prepared by a certified prescribed burner for starting, controlling, and extinguishing a prescribed burning. (1999-121, s. 1; 2011-145, s. 13.25(aa), (bb); 2013-155, s. 15.)

§ 106-967. Immunity from liability.
(a) Any prescribed burning conducted in compliance with G.S. 106-968 is in the public interest and does not constitute a public or private nuisance.
(b) A landowner or the landowner's agent who conducts a prescribed burning in compliance with G.S. 106-968 shall not be liable in any civil action for any damage or injury caused by or resulting from smoke.
(c) Notwithstanding subsections (a) and (b), this section does not apply when a nuisance or damage results from a negligently or improperly conducted prescribed burning. (1999-121, s. 1; 2011-145, s. 13.25(aa), (bb).)

§ 106-968. Prescribed burning.
(a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription for the prescribed burning prepared by a certified prescribed burner and filed with the North Carolina Forest Service of the Department of Agriculture and Consumer Services. A copy of the prescription shall be provided to the landowner. A copy of this prescription shall be in the possession of the responsible burner on site 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.
   (9) Provision for reasonable notice of the prescribed burning to be provided to nearby homes and businesses 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.
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.

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, ss. 13.25(aa), (bb), (xx); 2013-155, s. 16; 2015-263, s. 26.)

§ 106-969. Adoption of rules.

The North Carolina Forest Service of the Department of Agriculture and Consumer Services may adopt rules that govern prescribed burning under this Article. (1999-121, s. 1; 2011-145, s. 13.25(aa), (bb); 2013-155, s. 17.)

§ 106-970. Exemption.

This Article does not apply when the Commissioner of Agriculture has cancelled burning permits pursuant to G.S. 106-946 or prohibited all open burning pursuant to G.S. 106-944. (1999-121, s. 1; 2011-145, s. 13.25(aa), (bb).)

§ 106-971: Reserved for future codification purposes.

§ 106-972: Reserved for future codification purposes.

§ 106-973: Reserved for future codification purposes.

§ 106-974: Reserved for future codification purposes.

§ 106-975: Reserved for future codification purposes.

§ 106-976: Reserved for future codification purposes.
§ 106-977: Reserved for future codification purposes.

§ 106-978: Reserved for future codification purposes.

§ 106-979: Reserved for future codification purposes.