

1 19A NCAC 02D .0408 is readopted as published in 33:07 NCR 642-643 with changes:

2  
3 **19A NCAC 02D .0408 TEMPORARY BRIDGE WEIGHT LIMITS AND CLOSINGS**

4 ~~After an inspection of any bridge on the State Highway System, Any any~~ Department of Transportation bridge safety  
5 ~~inspector-inspector,~~ or any bridge maintenance supervisory ~~personnel after an inspection of any bridge on the State~~  
6 ~~Highway System, personnel,~~ **is authorized to may** temporarily lower the authorized weight limits on a ~~bridge~~ bridge,  
7 or ~~to~~ close the bridge as the circumstances may warrant, ~~if if,~~ in his ~~or her judgment judgment,~~ the bridge will **[shall]**  
8 ~~not carry~~ **is not capable of carrying** the authorized weight. Such limitation or bridge closing shall remain in ~~effect~~  
9 ~~effect, not to exceed 60 days, [and] until a complete- an~~ analysis of the bridge ~~can [may] be is~~ made and action taken  
10 based upon the bridge ~~analysis, analysis, not to exceed 60 days.~~

11  
12 *History Note: Authority G.S. 136-72; 143B-350;*

13 *Eff. July 1, 1978;*

14 *Readopted Eff. March 1, 2019.*

1 19A NCAC 02E .0412 is readopted as published in 33:07 NCR 642-643 with changes:

2  
3 **19A NCAC 02E .0412 AIRCRAFT LANDING AND TAKING OFF ON HIGHWAYS**

4 (a) ~~It shall be unlawful for aircraft to take off take-off or land on any road or highway of the state highway system.~~  
5 State Highway System, unless authorized by the Chief Engineer, in writing. The Chief Engineer may authorize take-  
6 off or landing on any road or highway of the State Highway System based upon the following:

7 1. a showing of good cause, which may include issues of national security, safety of the general public,  
8 or natural disasters; and

9 2. arrangements have been made for law enforcement officials to redirect or administer  
10 Vehicular traffic on the highway during the landing or take-off.

11 (b) Nothing in this rule shall prohibit an aircraft from landing on any roads or highways in an emergency situation if  
12 the landing is necessary to prevent injury or death to the occupants of the aircraft, provided that the emergency landing  
13 can be made without danger to persons and vehicles on or near the highway. After an emergency landing, take-off by  
14 the aircraft may be permitted under the direction of a law enforcement officer if it is determined by the law enforcement  
15 officer that the take-off will not endanger persons or vehicles on the highway and there are no other practical nor  
16 feasible means of removing the aircraft.

17 ~~[System.] However, nothing herein shall prohibit an aircraft from landing on said [any] roads or highways in an~~  
18 ~~emergency [situation] when [if] such landing is necessary to prevent injury or death to the occupants of the aircraft,~~  
19 ~~[and] provided such [that an emergency-] landing can [may] be made without danger to persons and vehicles on [or~~  
20 ~~near] the highway. After such [an] emergency landing, take off [take off] by the aircraft may be permitted under the~~  
21 ~~direction of a law enforcement officer when [if] it will [is determined by the law enforcement officer that the take off~~  
22 ~~will] not endanger persons or vehicles on the highway [highway,] and there are no other practical or [nor] feasible~~  
23 ~~means of removing the aircraft.~~

24 ~~[(b) Aircraft landing and take off on any road or highway of the State Highway System shall be] There is excepted~~  
25 ~~from the foregoing prohibition on landing and taking off by aircraft on state highways, the landing and taking off of~~  
26 ~~aircraft pursuant to written authorization granted [if authorized, in writing,] by the Chief Engineer. The administrator~~  
27 ~~[Chief Engineer] may grant such [an] authorization upon [a showing of] good cause being shown [cause,] and upon~~  
28 ~~[a] showing that arrangements have been made with [for] law enforcement officials to handle [redirect or administer]~~  
29 ~~vehicular traffic on the highway highway, during such operation [the landing or take off.]~~

30  
31 *History Note: Authority G.S. 136-18(5);*

32 *Temporary Amendment Eff. March 15, 1982, for a Period of 47 Days to Expire on May 1, 1982;*

33 *Eff. July 1, 1978;*

34 *Temporary Amendment Expired Eff. May 1, 1982;*

35 *Amended Eff. December 1, 2012; October 1, 1982;*

36 *Readopted Eff. March 1, 2019.*

1 19A NCAC 02E .0418 readopted as published in 33:07 NCR 642-643 with changes:

2  
3 **19A NCAC 02E .0418 FENCING WITHIN ~~RIGHT-OF-WAY~~ RIGHT-OF-WAY**

4 It shall be unlawful for any person to erect a ~~fence fence~~, of any ~~kind kind~~, within the ~~right-of-way~~ right-of-way limits  
5 of any ~~highway highway~~, except ~~by~~ upon the written permission of ~~the Chief Engineer or his~~ the Chief Engineer's  
6 Office upon a showing that the change in fencing is beneficial to the public. authorized agent.

7  
8 *History Note: Authority G.S. 136-18(10); 136-93;*

9 *Eff. July 1, 1978;*

10 *Amended Eff. December 1, 2012;*

11 *Readopted Eff. March 1, 2019.*

1 19A NCAC 02E .0419 is readopted as published in 33:07 NCR 642-643 with changes:

2  
3 **19A NCAC 02E .0419 CULTIVATING CROPS AND MAINTAINING PASTURES WITHIN—ROW**  
4 **RIGHT-OF-WAY**

5 It shall be unlawful for any person to plant, ~~cultivate~~ cultivate, or grow any ~~crop~~ crop, or to maintain any ~~pasture~~  
6 ~~[pasture,] pasture~~ or pasture ~~grass~~ grass, within the ~~right of way~~ right-of-way limits of any ~~highway~~ except by written  
7 ~~permission of highway, unless the Chief Engineer or his~~ written permission from the Chief Engineer's Office has been  
8 obtained upon a showing that the change in cultivating, growing or maintenance of crops is beneficial to the public.  
9 ~~authorized agent. [agent provides written authorization.]~~

10  
11 *History Note: Authority G.S. 136-18(10); 136-93; 143B-350(f);*

12 *Eff. July 1, 1978;*

13 *Amended Eff. December 1, 2012;*

14 *Readopted Eff. March 1, 2019.*

19A NCAC 02E .0420 is readopted as published in 33:07 NCR 642-643 with changes:

**19A NCAC 02E .0420 CONSTRUCTION WITHIN ~~RIGHT OF WAY~~ RIGHT-OF-WAY**

(a) Unless authorized in writing by the Chief Engineer's Office upon a showing that the change in construction within the right-of-way is beneficial to the public,~~[or the Chief Engineer's authorized agent,] it~~ it shall be unlawful for any person or firm to construct, ~~place~~ place, or erect any of the following, or any combination thereof, over any road, highway, or right-of-way of the State Highway System: ~~System, [without the written authorization of the Chief Engineer or the Chief Engineer's authorized agent]~~ any power, telephone or other poles, signboards, fences, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage, irrigation or other pipelines, wires or cables or other obstructions ~~in, over, or upon any road, highway or right of way of the State Highway System without the written permission of the Chief Engineer or his authorized agent.~~

(1) [Power,]power, broadband, telephone, or other [poles.]poles:

(2) [Signboards]signboards or [fences.]fences:

(3) [Water,]water, gas, oil, petroleum products, steam chemicals, sewage, drainage, irrigation, or other [pipelines.]pipelines; or

(4) [Wires,] wires, cables, or other obstructions.

(b) Note: Rules for the preparation and submission of applications for utility encroachments ~~can~~ shall be found ~~in~~ at 19A NCAC 02B .0500.

*History Note: Authority G.S. 136-18(10); 136-93;  
Eff. July 1, 1978;  
Amended Eff. December 1, 2012;  
Readopted Eff. March 1, 2019.*

1 19A NCAC 02E .0421 is readopted as published in 33:07 NCR 642-643 with changes:

2  
3 **19A NCAC 02E .0421 UTILITY WIRES OR CABLES OVER HIGHWAYS**

4 (a) For purposes of this Rule, the American National Standards Institute's National Electrical Safety Code (ANSI  
5 Code) is incorporated by reference and includes any subsequent amendments and editions. The ANSI Code may be  
6 obtained from the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, P.O. Box 1331, Piscataway,  
7 New Jersey 08855-1331, telephone number 1-800-678-IEEE, website <https://webstore.ansi.org>, at a cost of ~~forty three~~  
8 forty-three dollars and fifty cents (\$43.50).

9 (b) It shall be unlawful to construct any power, telephone, television, telegraph, or any other utility wires or cables  
10 over highways or roads on the State Highway System unless such wires have the minimum vertical clearance above  
11 the highest elevation of the road or highway crossed by ~~them as~~ them. ~~The minimum vertical clearance shall be~~  
12 ~~prescribed [according to] as set forth in in the ANSI Code American National Standards Institute's National Electrical~~  
13 ~~Safety Code~~ for the installation and maintenance of electric supply and communication lines, except as set forth in  
14 paragraph (c) of this Rule. ~~as amended and as may be amended by the National Electrical Safety Code; except [Code.]~~  
15 ~~[—However,]—a~~ (c) A minimum vertical clearance of 18 feet shall be maintained for overhead power and  
16 communication lines crossing all highways. The lateral and vertical clearance from bridges shall conform with the  
17 ~~National Electrical Safety~~ ANSI Code; however, greater clearances at bridges may be required by the Department of  
18 Transportation to provide for bridge construction and maintenance. Parallel utility lines occupying highway right of  
19 way right-of-way shall maintain a minimum vertical clearance as required of 15.5 feet as stated in the National  
20 Electrical Safety Code.

21 ~~(e)(d)~~ Note: ~~Rules~~ Rules for the preparation and submission of applications for utility encroachments can be  
22 found in 19A NCAC 2B .0500.

23  
24 *History Note:* Authority G.S. 136-18(10); 136-89.50; 136-93;  
25 Eff. July 1, 1978;  
26 Amended Eff. November 1, 1993; November 1, 1991;  
27 Readopted Eff. March 1, 2019.

1 19A NCAC 02E .1006 is readopted as published in 33:07 NCR 642-643 with changes:

2  
3 **19A NCAC 02E .1006 APPLICATION FOR DESIGNATION**

4 (a) The following items shall be included for a Scenic Byway ~~application, but is not limited to such items,~~ application:  
5 to be considered:

- 6 (1) ~~The the~~ proponent's name, address, telephone number, and email address, and ~~the name, address,~~  
7 ~~email address,~~ and telephone number of the ~~organization~~ organization, if applicable;
- 8 (2) ~~A a~~ written description of the section of highway to be ~~designated~~ designated, including a  
9 description of the section's unusual, exceptional, or distinctive scenic, recreational, historical,  
10 educational, scientific, geological, natural, wildlife, cultural or ethnic features; intrinsic qualities of  
11 significance;
- 12 (3) ~~Photographic~~ photographic files slides of the area ~~indicating that~~ demonstrate the section's intrinsic  
13 qualities of significance;
- 14 (4) ~~County~~ county maps with the proposed route [clearly] ~~marked;~~ marked clearly;
- 15 (5) ~~Copies~~ copies of zoning ordinances applicable to the route or a written list of existing land-use areas  
16 for unzoned areas;
- 17 (6) ~~Documentation~~ documentation of notice given to local governments adjacent to proposed route;
- 18 (7) ~~For~~ for unzoned areas, a written list of commercial or industrial activities adjacent to or within 800  
19 feet of the pavement of the proposed route; and
- 20 (8) ~~An an~~ optional Scenic Byway Management Plan may be submitted with an application.

21 (b) ~~All Completed~~ applications shall be received by sent to the Roadside Environmental Unit, ~~N.C. DOT, PO Box~~  
22 25201, 1557 Mail Service Center, Raleigh, NC-27611 27699-1557, no later than August 31 of each year. Incomplete  
23 applications shall not be accepted and will be returned to the proponent.

24 (c) The Application-application and all application materials shall become the property of the North Carolina  
25 Department of Transportation, are public records pursuant to Chapter 132 of the North Carolina General Statutes.

26  
27 *History Note: Authority G.S. 136-18(5); 136-18(31); 136-122 through 136-125; 136-129.2; 143B-348;*  
28 *Eff. March 1, 1995;*  
29 *Readopted Eff. March 1, 2019.*



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6700

Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

January 17, 2019

Helen Landi  
Department of Transportation  
**Sent via email only to: rulemaking@ncdot.gov**

Re: Extension of the Period of Review for Rules 19A NCAC 02D .0408, 02E .0412, .0418, .0419, .0420, .0421, and .1006

Dear Ms. Landi:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the Department of Transportation to extend the period in order to allow the agency to address the requested technical changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amber C. May  
Commission Counsel

cc: Hannah Jernigan

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103



## Burgos, Alexander N

---

**Subject:** FW: Extension Request

---

**From:** Jernigan, Hannah <[hjernigan@ncdot.gov](mailto:hjernigan@ncdot.gov)>  
**Sent:** Friday, January 11, 2019 10:40 AM  
**To:** May, Amber Cronk <[amber.may@oah.nc.gov](mailto:amber.may@oah.nc.gov)>  
**Cc:** Landi, Helen E <[hlandi@ncdot.gov](mailto:hlandi@ncdot.gov)>  
**Subject:** Extension Request

Good morning, Amber. As we discussed, we have had a subject matter expert recently retire that was our main contact for several rules.

We would like to request the period of review be extended for the following: 02D .0408, 02E .0412, 02E .0418-.0421 and 02E .1006. Please let me know if anything additional is needed from DOT regarding these.

Thank you again for all of your help.

---

Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

1 19A NCAC 02B .0143 is repealed through readoption as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0143 THE SALE OF SURPLUS LANDS**

4  
5 *History Note: Authority G.S. 136-18(2); 136-19; 143B-350(f),(g); 150B-21.3A;*

6 *Eff. July 1, 1978;*

7 *Amended Eff. November 1, 1993; October 1, 1991; February 1, 1988; November 1, ~~1982~~, 1982;*

8 *Repealed Eff: February 1, 2019*

1 19A NCAC 02B .0145 is repealed through readoption as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0145 COPIES OF FORMS**

4  
5 *History Note: Authority G.S. 136-18(2); 136-19; 143B-350(f),(g); 150B-21.3A;*  
6 *Eff. July 1, 1978;*  
7 *Amended Eff. November 1, ~~1991~~, 1991;*  
8 *Repealed Eff. February 1, 2019.*

1 19A NCAC 02B .0202 is repealed through readoption as published in 33:07 NCR 642-642 as follows:

2  
3 **19A NCAC 02B .0202 DEFINITIONS**

4  
5 *History Note: Authority G.S. 136-18; 136-20; 136-45; 136-66.1; 150B-21.3A;*

6 *Eff. July 1, 1978;*

7 *Amended Eff. November 1, ~~1991~~, 1992;*

8 *Repealed Eff. February 1, 2019.*

1 19A NCAC 02B .0208 is repealed through readoption as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0208 UNIFORM TRAFFIC CONTROL DEVICES**

4  
5 *History Note: Authority G.S. 20-158; 20-169; 136-18(5); 136-30; 150B-21.3A;*

6 *Eff. July 1, 1978;*

7 *Amended Eff. October 1, 1993; October 1, 1991; January 1, 1986; April 3, ~~1981~~, 1981;*

8 *Repealed Eff. February 1, 2019.*

1 19A NCAC 02B .0240 is repealed through readoption as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0240 CHANNELIZATION FOR ENTRANCES AND EXITS TO PROPERTY**

4  
5 *History Note: Authority G.S. 136-18(5);*

6 *Eff. July 1, ~~1978~~ 1978;*

7 *Repealed Eff: February 1, 2019.*

1 19A NCAC 02B .0316 is repealed through readoption as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0316 PERSONAL PROPERTY NOT TO BE ACQUIRED**

4  
5 *History Note: Authority G.S. 136-18(2); 136-19; 143B-350(f),(g); 150B-21.3A;*

6 *Eff. July 1, 1978;*

7 *Transferred and Recodified from 19A NCAC 2B .0124 Eff. October 1, ~~1993~~ 1993;*

8 *Repealed Eff: February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02B .0432

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*Rather than using "et seq" and Statute symbol in this Rule, please consider revising your incorporated CFRs as "23 CFR Parts 200 and 230 and 49 CFR Part 24" (assuming that's what you mean)*

*Also, please consider including the web address to [ecfr.gov](http://ecfr.gov).*

*Please remove 150B-21.6 from your History Note as this does not provide the agency authority regarding these rules.*

*Please change the period to a semi-colon after "Eff. October 1, 1993."*

*Please change the colon after "Readopted Eff:" to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018



1 19A NCAC 02B .0432 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0432 RELOCATION ASSISTANCE**

4 The Department of Transportation incorporates by reference ~~49-CFR Subpart 24~~ C.F.R. § 24 et seq. and ~~23-CFR~~  
5 ~~Subpart C, C.F.R. § 200 et seq., 230 et seq.,~~ including subsequent amendments and editions. Copies are available for  
6 inspection at no cost, and ~~free copies~~ may be obtained from the Right of Way ~~Branch~~ Unit of the Department of  
7 Transportation, 1 S. Wilmington Street, Raleigh, NC 27601.

8  
9 *History Note: Authority G.S. 133-6; 133-14; 143B-350; 150B-21.6;*

10 *Eff. October 1, 1993.*

11 *Readopted Eff: February 1, 2019.*

1 19A NCAC 02B .0433 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0433 APPLICABILITY**

4 The rules in this Section shall apply to all federal and ~~state highway~~ State Highway projects, except ~~state~~ State  
5 secondary road projects.

6  
7 *History Note: Authority G.S. 133-6; 133-14; 143B-350;*

8 *Eff. October 1, 1993.*

9 *Readopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02B .0507

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*Since titles of rules can be changed without going through the rule-making process, please make it clear within the body of the text of the Rule as to what this rule is doing and when it will apply. It may be helpful to add a Paragraph at the beginning of the Rule explaining when this Rule would be applicable (and this would address my concern below)*

*Also, is this a true application? Is additional information set forth elsewhere in rule or statute (if so, would it be helpful to provide some cross-reference in the new Paragraph, should you all choose to do that.)*

*In (a) and (b), an applicant for what?*

*In (b), please delete "then" in "then the signature"*

*Also, in (b), is the witness information and/or signature required in the agreement?*

*Please change the period to a semi-colon after "Eff. October 1, 1993."*

*Please change the colon after "Readopted Eff." to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02B .0507 is readopted with changes as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02B .0507 EXECUTION OF UTILITY AGREEMENT**

4 (a) ~~When~~ If the applicant is a corporation or a municipality, the agreement ~~must~~ shall have the corporate seal and be  
5 attested by the corporate ~~secretary~~ secretary, or by the empowered city official, unless a waiver of corporate seal and  
6 attestation by the ~~corporate secretary~~ secretary, or by the empowered city ~~official~~ official, is on file in the ~~Raleigh~~  
7 office of the ~~Manager of Right of Way~~ State Utilities Manager, located at 1000 Birch Ridge Drive, Raleigh, NC 27610.  
8 Within each agreement, in ~~in~~ the space provided ~~in each agreement~~ for execution, the name of the corporation or  
9 municipality shall be typed above the signature, and the name and title of all persons signing the agreement shall be  
10 typed directly below their signature.

11 (b) ~~When~~ If the applicant is not a corporation, then the signature ~~must~~ shall be witnessed by one other person. The  
12 address of the applicant shall be included in the agreement and the names of all persons signing the agreement shall  
13 be typed directly below their signature.

14  
15 *History Note: Authority G.S. 136-18(5); 136-18(10); 136-93;*  
16 *Eff. April 3, 1981;*  
17 *Amended Eff. October 1, 1993.*  
18 *Readopted Eff. February 1, 2019.*

1 19A NCAC 02D .0102 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02D .0102 MINIMUM SIZE OF SURFACE DRAINAGE PIPELINE**

4 All installation of pipe ~~for surface drainage purposes on the state highway system~~ State Highway System right of way  
5 ~~for surface drainage purposes will~~ shall be a minimum diameter of 12" ~~and conform to Department of Transportation~~  
6 ~~standards.~~

7  
8 *History Note: Authority G.S. 136-18(1); 136-92; 136-93; 156-88;*

9 *Eff. July 1, 1978;*

10 *Amended Eff. January 1, 1984; April 3, 1981.*

11 *Redopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0104

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*What is the intent of this Rule over G.S. 136-44.14? I note that (a) appears to differ from 136-44.14(d)*

*In (b), what is your authority to tell another "city, county, or State" what they must do? I'm not sure that this is the actual intent, but that's how I read this Rule.*

*Please consider revising (c) to say something like "The party or parties cutting an existing curb or constructing a new curb shall ensure that all work is in compliance with applicable laws."*

*Please confirm that you have consulted as required by G.S. 136-44.14(c).*

*Please move the cited authority to the top of your History Note.*

*Please change the period to a semi-colon after "April 11, 1980."*

*Please change the colon after "Readopted Eff:" to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02D .0104 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02D .0104 GUIDELINES - CURB CUTS AND RAMPS**

4 (a) Guidelines for the design and construction of curb cuts and ramps are available from the Highway Design Branch,  
5 Contracts, Standards, and Development Unit, Division of Highways, 1020 Birch Ridge Drive, Door # 16, Raleigh,  
6 North Carolina 27611-27610.

7 ~~(b) The guidelines are shall not be intended as precise specifications for the design and construction of curb cuts and~~  
8 ~~ramps. Sound engineering judgment shall be used to preserve the primary features of the guidelines.~~

9 ~~(c)(b)~~ The city, ~~county~~ county, or State having jurisdiction shall require conformance with the statutes ~~(G.S.~~  
10 ~~136-44.14)~~ G.S. 136-44.14 prior to permitting the encroachment for the ~~construction~~ construction, or prior to  
11 acceptance of the street onto its system.

12 ~~(d)(c)~~ The responsibility for providing the curb cut and ramp ramp, and all work necessary to comply with the  
13 applicable laws and ~~rules~~ rules, shall lie with the party or parties which that ~~either~~ causes an existing curb to be cut,  
14 or causes a new curb to be constructed.

15  
16 *History Note: Legislative Objection (a) Lodged Eff. August 19, 1980;*

17 *Legislative Objection (a) Removed Eff. April 23, 1981;*

18 *Authority G.S. 136-44.14(c);*

19 *Eff. July 1, 1978;*

20 *Amended Eff. December 1, 1993; April 3, 1981; April 11, 1980.*

21 *Readopted Eff: February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0408

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*On line 6, please change "is authorized to" to "may"*

*On line 7, please change "shall not carry" to something like "is not capable of carrying"*

*On line 9, please delete or define "complete" in "complete analysis"*

*On line 9, please change "may be made" to "is made"*

*Incorporating the above suggestions, is the intent of this Rule something like the following:*

A Department bridge safety inspector or bridge maintenance supervisory personnel may either close or lower the authorized weight limits of a bridge for no more than 60 days if he or she determines that the bridge is unable to carry the authorized weight following an inspection. The limitations shall remain in effect until an analysis is made and corrective action taken to ensure the safety of the bridge.

*Just out of curiosity, what happens if the bridge can't be fixed within 60 days? The way that I read the rule as currently written, the bridge will have to be opened, regardless of whether it's safe.*

*Please change the period to a semi-colon after "Eff. July 1, 1978."*

*Please change the colon after "Readopted Eff." to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018



1 19A NCAC 02D .0408 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02D .0408 TEMPORARY BRIDGE WEIGHT LIMITS AND CLOSINGS**

4 ~~After an inspection of any bridge on the State Highway System, Any any~~ Department of Transportation bridge safety  
5 ~~inspector-inspector,~~ or any bridge maintenance supervisory ~~personnel after an inspection of any bridge on the State~~  
6 ~~Highway System, personnel,~~ is authorized to temporarily lower the authorized weight limits on a ~~bridge bridge,~~ or to  
7 close the bridge as the circumstances may warrant, ~~if if,~~ in his ~~or her judgment judgment,~~ the bridge ~~will shall~~ not  
8 carry the authorized weight. Such limitation or bridge closing shall remain in ~~effect effect,~~ not to exceed 60 days, and  
9 until a complete analysis of the bridge ~~can may~~ be made and action taken based upon the bridge ~~analysis-analysis,~~ not  
10 ~~to exceed 60 days.~~

11  
12 *History Note: Authority G.S. 136-72; 143B-350;*

13 *Eff. July 1, 1978.*

14 *Readopted Eff: February 1, 2019.*

1 19A NCAC 02D .0415 is repealed through readoption as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02D .0415 GENERAL REGULATIONS FOR DRAWBRIDGES**

4  
5 *History Note: Authority G.S. 136-18(5); 150B-21.3A;*

6 *Eff. July 1, 1978;*

7 *Amended Eff. August 1, 2000; April 1, 1999; August 1, 1998; January 1, 1996; November 1, ~~1993~~.*

8 *1993;*

9 *Repealed Eff: February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0412

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*Just as a suggestion, for purposes of clarity, would it make sense to rearrange this Rule as follows:*

### **19A NCAC 02E .0412 AIRCRAFT LANDING AND TAKING OFF ON HIGHWAYS**

(a) It shall be unlawful for aircraft to ~~take off~~ take-off or land on any road or highway of the ~~state highway system~~ State Highway System, unless authorized by the Chief Engineer, in writing. The Chief Engineer may authorize take-off or landing on any road or highway of the State Highway System based upon the following:

1. a showing of good cause; and
2. arrangements have been made for law enforcement officials to redirect or administer vehicular traffic on the highway during the landing or take-off.

(b) ~~Nothing in this Rule shall prohibit an aircraft from landing on any roads or highways in an emergency situation if the landing is necessary to prevent injury or death to the occupants of the aircraft, provided that the emergency landing can be made without danger to persons and vehicles on or near the highway. After an emergency landing, take-off by the aircraft may be permitted under the direction of a law enforcement officer if it is determined by the law enforcement officer that the take-off will not endanger persons or vehicles on the highway and there are no other practical nor feasible means of removing the aircraft.~~

~~[System.] However, nothing herein shall prohibit an aircraft from landing on said [any] roads or highways in an emergency [situation] when [if] such landing is necessary to prevent injury or death to the occupants of the aircraft, [and] provided such [that an emergency ]landing can [may] be made without danger to persons and vehicles on [or near] the highway. After such [an] emergency landing, take off [take off] by the aircraft may be permitted under the direction of a law enforcement officer when [if] it will [is determined by the law enforcement officer that the take-off will] not endanger persons or vehicles on the highway [highway,] and there are no other practical or [nor] feasible means of removing the aircraft.~~

~~(b) [Aircraft landing and take off on any road or highway of the State Highway System shall be] There is excepted from the foregoing prohibition on landing and taking off by aircraft on state highways, the landing and taking off of aircraft pursuant to written authorization granted [if authorized, in writing,] by the Chief Engineer. The administrator [Chief Engineer] may grant such [an] authorization upon [a showing of] good cause being shown [cause,] and upon [a showing that arrangements have been made with [for] law enforcement officials to handle [redirect or administer vehicular traffic on the highway highway, during such operation [the landing or take off.]~~

*Please note that this is only a suggestion and you are in no way required to use it.*

Amber May  
Commission Counsel

Date submitted to agency: Wednesday, January 2, 2018

*In (b), line 15, how is “good cause” determined? What will this be based upon? Please give some kind of idea what this may be.*

*In (b), line 17, please remove the comma after “highway”*

*Please change the period to a semi-colon after “October 1, 1982.”*

*Please change the colon after “Readopted Eff:” to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0412 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0412 AIRCRAFT LANDING AND TAKING OFF ON HIGHWAYS**

4 ~~(a) It shall be unlawful for aircraft to take-off take-off or land on any road or highway of the state highway system.~~  
5 State Highway System. However, nothing herein shall prohibit an aircraft from landing on ~~said~~ any roads or highways  
6 in an emergency ~~situation~~ when if such landing is necessary to prevent injury or death to the occupants of the aircraft,  
7 ~~and provided such that an emergency landing can may~~ be made without danger to persons and vehicles on or near the  
8 highway. After ~~such an~~ emergency landing, ~~take-off take-off~~ by the aircraft may be permitted under the direction of  
9 a law enforcement officer ~~when if it will~~ is determined by the law enforcement officer that the take-off will not  
10 endanger persons or vehicles on the ~~highway highway~~, and there are no other practical ~~or~~ nor feasible means of  
11 removing the aircraft.

12 ~~(b) Aircraft landing and take-off on any road or highway of the State Highway System shall be~~ There is excepted  
13 ~~from the foregoing prohibition on landing and taking off by aircraft on state highways, the landing and taking off of~~  
14 ~~aircraft pursuant to written authorization granted~~ if authorized, in writing, by the Chief Engineer. The administrator  
15 Chief Engineer may grant such an authorization upon a showing of good cause being shown cause, and upon a showing  
16 that arrangements have been made ~~with~~ for law enforcement officials to ~~handle~~ redirect or administer vehicular traffic  
17 on the ~~highway highway~~, during ~~such operation~~ the landing or take-off.

18  
19 *History Note: Authority G.S. 136-18(5);*

20 *Temporary Amendment Eff. March 15, 1982, for a Period of 47 Days to Expire on May 1, 1982;*

21 *Eff. July 1, 1978;*

22 *Temporary Amendment Expired Eff. May 1, 1982;*

23 *Amended Eff. December 1, 2012; October 1, 1982.*

24 *Readopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0413

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*On line 5, what are the "main-traveled lanes"? I'm not exactly sure where I can't hold a parade based upon this language.*

*Please change the period to a semi-colon after "Eff. July 1, 1978."*

*Please change the colon after "Readopted Eff:" to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0413 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0413 PARADES ON HIGHWAY SYSTEM ROADS**

4 It shall be unlawful for any person, firm, organization, ~~school, school,~~ or other group of persons to conduct or  
5 participate in a parade on the main-traveled lanes of any street or highway of the ~~state highway system~~ State Highway  
6 System located outside the limits of a municipality.

7  
8 *History Note:* Authority G.S. 136-18(5);

9 *Eff. July 1, 1978.*

10 *Readopted Eff: February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0414

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*The last sentence of this Rule seems to be saying the same thing as the first two, but in a different way. Do you need anything other than the last sentence? For purposes of clarity and simplification (and to reduce duplication), would it make sense to simply say "It shall be unlawful to sell any fruits, vegetables, goods, wares, or merchandise of any character from a vehicle, stand, or structure, or from any place on the right-of-way of any primary or secondary highway or road of the State Highway System."*

*Please change the period to a semi-colon after "Eff. July 1, 1978."*

*Please change the colon after "Readopted Eff." to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018



1 19A NCAC 02E .0414 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0414 PARKING VEHICLE FOR SALE OR DISTRIBUTION OF GOODS**

4 It shall be unlawful for any person to park any vehicle on the ~~right-of-way~~ right-of-way of any primary or secondary  
5 ~~highway~~ highway, or road of the State Highway System for the purpose of ~~using said vehicle for the sale~~ selling or  
6 ~~distribution of~~ distributing fruits, vegetables, goods, wares, or merchandise of any ~~character and it~~ character. It shall  
7 be unlawful for any person to erect any stand or structure on the ~~right-of-way~~ right-of-way of any primary or secondary  
8 ~~highway~~ highway, or road of the State Highway ~~System or System~~. It shall be unlawful to sell any fruits, vegetables,  
9 goods, wares, or merchandise of any character from ~~said a~~ a vehicle, stand, or ~~structure~~ structure, or from any place on  
10 the ~~right-of-way~~ right-of-way of any primary or secondary ~~highway~~ highway, or road of the State Highway ~~System~~  
11 ~~any fruits, vegetables, goods, wares or merchandise of any character.~~ System.

12  
13 *History Note:* Authority G.S. 136-18(5);

14 Eff. July 1, 1978.

15 Readopted Eff: February 1, 2019.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0415

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*What is the actual intent of lines 4-8? Is it just to say something like "It shall be unlawful for any person, firm, or corporation to place or allow the placement of any advertising or other sign on any State Highway or right-of-way. Nothing in this Rule shall prohibit the placement of regulation traffic and warning signs approved by the Department."*

*How will regulation traffic and warning signs be approved? What factors will be used in making this determination?*

*On line 6, what is meant by "or so as to overhang"? Is this language necessary if you're saying that they can't be there at all?*

*What do lines 7-8 mean? Is the intent that this not just apply to State highways and right-of-ways, but also to land that is owned, rented, leased, or otherwise claimed to the person, firm, or corporation? What is your authority for this?*

*Are lines 8-13 necessary? If it is unlawful to have the signs at all, why is it necessary to say that it is also unlawful to allow them to stay there?*

*Please change the period to a semi-colon after "Eff. July 1, 1978."*

*Please change the colon after "Readopted Eff:" to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0415 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0415    ADVERTISING SIGNS WITHIN ~~RIGHT-OF-WAY~~ RIGHT-OF-WAY**

4 It shall be unlawful for any person, ~~firm~~ firm, or corporation to erect or place any ~~advertising~~ advertising, or other  
5 sign, except regulation traffic and warning signs approved by the ~~Department of Transportation~~, Department, on any  
6 highway or the ~~right-of-way~~ right-of-way thereof, or so as to overhang the ~~right-of-way~~, right-of-way, or to permit the  
7 erection or placing of any advertising or other sign, as herein prohibited, on any highway ~~right-of-way~~ right-of-way  
8 which is situated over any land owned, rented, ~~leased~~ leased, or claimed by such person, ~~firm~~ firm, or corporation. It  
9 shall be unlawful for any person, ~~firm~~ firm, or other corporation that has erected, or placed, or permitted to be erected  
10 or placed, any advertising or other sign, as herein prohibited, or for any person, ~~firm~~ firm, or corporation owning,  
11 renting, ~~leasing~~ leasing, or claiming any land over which a highway or highway ~~right-of-way~~ right-of-way is situated,  
12 and on which highway or highway ~~right-of-way~~ right-of-way any advertising or other sign has been erected or placed,  
13 to allow such advertising or other signs to remain on ~~state~~ State highway or ~~right-of-way~~ right-of-way thereof.

14  
15 *History Note:*    *Authority G.S. 136-18(10); 136-30;*  
16                      *Eff. July 1, 1978.*  
17                      *Readopted Eff: February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0416

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*Please delete or define "drainage"*

*Please change "shall be provided" to "is provided"*

*What is meant by "in a manner to be approved..."*

*Who is the "authorized agent" of the Chief Engineer?*

*Do you mean something like "It shall be unlawful to intersect the State highways with any private driveway or roadway, unless adequate drainage is provided to prevent the buildup of water on the State highways" (or whatever is correct and accurate)? Alternatively, do you mean something like "It shall be unlawful to intersect the State highways with any private driveway or roadway unless prior approval is obtained from the DOT. DOT shall approve an intersecting private driveway or roadway if adequate drainage is provided to (whatever is correct and accurate.)"*

*Please make line 7 (It shall be unlawful... State highway) into its own Paragraph. Is the obstruction of a drainage ditch subject to the exception set forth in Paragraph (a)? I don't read it as being so, but I want to be sure that I understand the intent of the Rule.*

*Please change the period to a semi-colon after "Eff. July 1, 1978."*

*Please change the colon after "Readopted Eff." to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0416 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0416 PRIVATE DRIVES OR ROADS INTERSECTING HIGHWAYS**

4 It shall be unlawful to intersect the State highways with any private driveway or roadway, unless adequate drainage  
5 shall be provided in a manner to be approved by the Department of ~~Transportation~~, Transportation, Chief Engineer or  
6 the Chief Engineer's authorized agent. ~~or to obstruct any drainage ditch within the right of way of any road or highway.~~  
7 It shall be unlawful to obstruct any drainage ditch within the right-of-way of any road or State highway.

8  
9 *History Note: Authority G.S. 136-18(10); 136-93;*

10 *Eff. July 1, 1978.*

11 *Readopted Eff: February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0417

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*On line 7, who is an authorized agent of "DOT"?*

*How is the determination whether to grant a permit to be made? I'm not seeing that the Rules of this Section provide this information.*

*How will it be determined whether authorization will be granted? What factors will be used in making this determination?*

*Please change the period to a semi-colon after "Eff. October 1, 1991."*

*Please change the colon after "Readopted Eff:" to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0417 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0417 COMMERCIAL ENTRANCES INTERSECTING WITH ~~RIGHT OF WAY~~**  
4 **RIGHT-OF-WAY**

5 It shall be unlawful to revise or construct any commercial entrances to intersect with the ~~right of way~~ right-of-way of  
6 any primary or secondary ~~highway~~ highway, or road of the State Highway ~~System until~~ System, unless a permit has  
7 first been obtained from the Department of ~~Transportation~~ Transportation, or its authorized ~~agent~~ agent, in accordance  
8 with the rules contained in ~~19A NCAC 2B, Section .0600, titled "Driveway Entrances"~~ this Section.

9  
10 *History Note: Authority G.S. 136-18(10); 136-93;*  
11 *Eff. July 1, 1978;*  
12 *Amended Eff. November 1, 1993; October 1, 1991.*  
13 *Readopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0418

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*Who is the authorized agent of the chief engineer? Is this something within DOT?*

*How will it be determined whether authorization will be granted? What factors will be used in making this determination?*

*Please change the period to a semi-colon after "Eff. December 1, 2012."*

*Please change the colon after "Readopted Eff:" to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018



1 19A NCAC 02E .0418 readopted as published in 33:07 NCR 642-643as follows:

2  
3 **19A NCAC 02E .0418 FENCING WITHIN ~~RIGHT-OF-WAY~~ RIGHT-OF-WAY**

4 It shall be unlawful for any person to erect a ~~fence fence~~, of any ~~kind kind~~, within the ~~right-of-way~~ right-of-way limits  
5 of any ~~highway highway~~, except ~~by~~ upon the written permission of the Chief Engineer or ~~his~~ the Chief Engineer's  
6 authorized agent.

7  
8 *History Note: Authority G.S. 136-18(10); 136-93;*

9 *Eff. July 1, 1978;*

10 *Amended Eff. December 1, 2012.*

11 *Readopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0419

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*Please remove the comma in between "pasture" and "pasture grass"*

*How will it be determined whether authorization will be granted? What factors will be used in making this determination?*

*Please change the period to a semi-colon after "Eff. December 1, 2012."*

*Please change the colon after "Readopted Eff:" to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0419 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0419 CULTIVATING CROPS AND MAINTAINING PASTURES WITHIN—ROW**  
4 **RIGHT-OF-WAY**

5 It shall be unlawful for any person to plant, ~~cultivate~~ cultivate, or grow any ~~crop~~ crop, or to maintain any ~~pasture~~  
6 ~~pasture~~, or pasture ~~grass~~ grass, within the ~~right of way~~ right-of-way limits of any ~~highway except by written permission~~  
7 ~~of highway, unless the Chief Engineer or his the Chief Engineer's authorized agent, agent provides written~~  
8 authorization.

9  
10 *History Note: Authority G.S. 136-18(10); 136-93; 143B-350(f);*  
11 *Eff. July 1, 1978;*  
12 *Amended Eff. December 1, 2012.*  
13 *Readopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0420

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

***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 that the following technical changes be made:

*Please begin (a)(1) through (4) with lower case letters and end (a)(1) through (3) with semi-colons and add "or" after the semi-colon in (a)(3).*

*How will it be determined whether authorization will be granted? What factors will be used?*

*For purposes of clarity, please consider the following:*

(a) Unless authorized in writing by the Chief Engineer or the Chief Engineer's authorized agent, it is shall be unlawful for any person or firm to construct, ~~place~~ place, or erect any of the following, or any combination thereof, over any road, highway, or right-of-way of the State Highway System. ~~System, [without the written authorization of the Chief Engineer or the Chief Engineer's authorized agent]~~ any power, telephone or other poles, signboards, fences, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage, irrigation or other pipelines, wires or cables or other obstructions in, over, or upon any road, highway or right of way of the State Highway System without the written permission of the Chief Engineer or his authorized agent.

(1) ~~[Power,]~~ power broadband, telephone, or other poles; [poles.]

(2) ~~[Signboards]~~ signboards or fences; [fences.]

(3) ~~[Water,]~~ water, gas, oil, petroleum products, steam chemicals, sewage, drainage, irrigation, or other pipelines; or [pipelines.]

(4) ~~[Wires,]~~ wire, cables, or other obstructions.

(b) Authorization for construction within a right of way may be granted based upon (or upon a showing of) whatever you all will use in making this determination.

~~[(b)]~~ (c) Note: Rules for the preparation and submission of applications for utility encroachments ~~can~~ shall be found ~~in~~ at 19A NCAC 02B .0500.

*Is (b) necessary?*

*Please change the period to a semi-colon after "Eff. December 1, 2012."*

*Please change the colon after "Readopted Eff." to a period.*

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0420 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0420 CONSTRUCTION WITHIN ~~RIGHT OF WAY~~ RIGHT-OF-WAY**

4 (a) It shall be unlawful for any person or firm to construct, ~~place place,~~ or erect any of the following, or any  
5 combination thereof, over any road, highway, or right-of-way of the State Highway System, without the written  
6 authorization of the Chief Engineer or the Chief Engineer's authorized agent ~~any power, telephone or other poles,~~  
7 ~~signboards, fences, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage, irrigation or other~~  
8 ~~pipelines, wires or cables or other obstructions in, over, or upon any road, highway or right of way of the State~~  
9 ~~Highway System without the written permission of the Chief Engineer or his authorized agent.~~

10 (1) Power, broadband, telephone, or other poles.

11 (2) Signboards or fences.

12 (3) Water, gas, oil, petroleum products, steam chemicals, sewage, drainage, irrigation, or other  
13 pipelines.

14 (4) Wires, cables, or other obstructions.

15 (b) ~~Note:~~ Rules for the preparation and submission of applications for utility encroachments ~~can~~ shall be found ~~in~~ at  
16 19A NCAC 02B .0500.

17  
18 *History Note: Authority G.S. 136-18(10); 136-93;*

19 *Eff. July 1, 1978;*

20 *Amended Eff. December 1, 2012.*

21 *Readopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0421

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*Is there a web address for the ANSI Code?*

*On lines 11-12, please consider changing "them. The minimum vertical clearance shall be prescribed according to" to "as set forth in"*

*Is the Code referenced on lines 12-13 the same as was incorporated in Paragraph (a)? If so, delete everything after "communications lines" since you've already incorporated this by reference.*

*In (b), please consider making lines 14-19 (However, a minimum vertical clearance..." it's own paragraph. If you did this, please delete "however"*

*On lines 14 and 16, please say "ANSI Code", since you've spelled this out in paragraph (a), as opposed to "American National Standards Institute's..." and "National Electrical Safety Code"*

*In (b), please consider making lines 14-19 (However, a minimum vertical clearance*

*Are lines 18-19 (Parallel utility lines... as stated in the National Electrical Safety Code") necessary? Since you've already incorporated this by reference, you have included this standard. If it is necessary, what if the ANSI Code no longer determines 15.5 feet to be the minimum vertical clearance?*

*Incorporating all of these changes, it would read*

(b) It shall be unlawful to construct any power, telephone, television, telegraph, or any other utility wires or cables over highways or roads on the State Highway System unless such wires have the minimum vertical clearance above the highest elevation of the road or highway crossed by them as ~~them. The minimum vertical clearance shall be prescribed [according to] set forth in the ANSI Code American National Standards Institute's National Electrical Safety Code~~ for the installation and maintenance of electric

Amber May  
Commission Counsel

Date submitted to agency: Wednesday, January 2, 2018

supply and communication line, except as set forth in paragraph (c) of this Rule, lines, as amended and as may be amended by the National Electrical Safety Code; except [Code.]

(c) ~~A~~ a minimum vertical clearance of 18 feet shall be maintained for overhead power and communication lines crossing all highways. The lateral and vertical clearance from bridges shall conform with the ANSI National Electrical Safety Code; however, greater clearances at bridges may be required by the Department of Transportation to provide for bridge construction and maintenance. Parallel utility lines occupying highway right of way [right of way] shall maintain a minimum vertical clearance of 15.5 feet as stated in the National Electrical Safety Code.

*Is (c) necessary?*

*Please change the period to a semi-colon after "Eff. November 1, 1991."*

*Please change the colon after "Readopted Eff." to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018



1 19A NCAC 02E .0421 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0421 UTILITY WIRES OR CABLES OVER HIGHWAYS**

4 (a) For purposes of this Rule, the American National Standards Institute's National Electrical Safety Code (ANSI  
5 Code) is incorporated by reference and includes any subsequent amendments and editions. The ANSI Code may be  
6 obtained from the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, P.O. Box 1331, Piscataway,  
7 New Jersey 08855-1331, telephone number 1-800-678-IEEE, at a cost of ~~forty three~~ forty-three dollars and fifty cents  
8 (\$43.50).

9 (b) It shall be unlawful to construct any power, telephone, television, telegraph, or any other utility wires or cables  
10 over highways or roads on the State Highway System unless such wires have the minimum vertical clearance above  
11 the highest elevation of the road or highway crossed by ~~them as~~ them. The minimum vertical clearance shall be  
12 prescribed according to in the American National Standards Institute's National Electrical Safety Code for the  
13 installation and maintenance of electric supply and communication lines, as amended and as may be amended by the  
14 National Electrical Safety ~~Code; except~~ Code. However, a minimum vertical clearance of 18 feet shall be maintained  
15 for overhead power and communication lines crossing all highways. The lateral and vertical clearance from bridges  
16 shall conform with the National Electrical Safety Code; however, greater clearances at bridges may be required by the  
17 Department of Transportation to provide for bridge construction and maintenance. Parallel utility lines occupying  
18 highway ~~right-of-way~~ right-of-way shall maintain a minimum vertical clearance of 15.5 feet as stated in the National  
19 Electrical Safety Code.

20 ~~(c) Note: Rules~~ Rules for the preparation and submission of applications for utility encroachments can be found in  
21 19A NCAC 2B .0500.

22  
23 *History Note: Authority G.S. 136-18(10); 136-89.50; 136-93;*  
24 *Eff. July 1, 1978;*  
25 *Amended Eff. November 1, 1993; November 1, 1991.*  
26 *Readopted Eff. February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0422

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*For purposes of clarity and simplification, please consider something like the following:*

~~No runaway truck ramp designated by signs shall be used for any purpose except to bring to a halt an out-of-control vehicle.~~ Runaway truck ramps designated as such by signs shall be used only to bring an out-of-control vehicle to a halt. It shall be unlawful for any operator of a motor vehicle, non-motorized vehicle, moped, bicycle, or any pedestrian or ~~any~~ person having custody or control of any animal or animal powered vehicle to park on, stand upon, ~~obstruct obstruct,~~ or otherwise use any runaway truck ~~ramp. ramp designated by signs or the access thereto except as herein authorized.~~

*Please add a comma after "obstruct" on line 7.*

*Please change the period to a semi-colon after "Eff. August 10, 1981."*

*Please change the colon after "Readopted Eff." to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .0422 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .0422 USE OF RUNAWAY TRUCK RAMPS**

4 No runaway truck ramp designated by signs shall be used for any purpose except to bring to a halt an out-of-control  
5 vehicle. It shall be unlawful for any operator of a motor vehicle, non-motorized vehicle, moped, bicycle, or any  
6 pedestrian or any person having custody or control of any animal or animal powered vehicle to park on, stand upon,  
7 obstruct or otherwise use any runaway truck ramp designated by signs or the access thereto except as herein authorized.

8  
9 *History Note: Authority G.S. 136-18(5);*

10 *Eff. August 10, 1981.*

11 *Readopted Eff: February 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .1006

**DEADLINE FOR RECEIPT: Friday, January 11, 2019**

**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 that the following technical changes be made:

*On line 5, please delete "to be considered" and add a colon after "application"*

*What are "intrinsic qualities of significance"? Is this term defined elsewhere in rule or statute?*

*In (a)(4), please delete "clearly"*

*In (a)(6), are there notice requirements set forth elsewhere in rule or statute? If so, please provide the cross-reference.*

*In (b), by "shall be received by", do you mean "shall be sent to"?*

*What is the intent of (c)? Is this just to say that you aren't going to return it? Is this necessary?*

*Please change the period to a semi-colon after "Eff. March 1, 1995."*

*Please change the colon after "Readopted Eff." to a period.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Wednesday, January 2, 2018

1 19A NCAC 02E .1006 is readopted as published in 33:07 NCR 642-643 as follows:

2  
3 **19A NCAC 02E .1006 APPLICATION FOR DESIGNATION**

4 (a) The following items shall be included for a Scenic Byway application, but is not limited to such items, application  
5 to be considered:

- 6 (1) ~~The~~ the proponent's name, address, telephone number, and email address, and the name, address,  
7 email address, and telephone number of the ~~organization~~ organization, if applicable;  
8 (2) ~~A~~ a written description of the section of highway to be ~~designated~~ designated, including a  
9 description of the section's intrinsic qualities of significance;  
10 (3) ~~Photographic~~ photographic files ~~slides~~ of the area ~~indicating~~ that demonstrate the section's intrinsic  
11 qualities of significance;  
12 (4) ~~County~~ county maps with the proposed route clearly marked; ~~marked clearly~~;  
13 (5) ~~Copies~~ copies of zoning ordinances applicable to the route or a written list of existing land-use areas  
14 for unzoned areas;  
15 (6) ~~Documentation~~ documentation of notice given to local governments adjacent to proposed route;  
16 (7) ~~For~~ for unzoned areas, a written list of commercial or industrial activities adjacent to or within 800  
17 feet of the pavement of the proposed route; and  
18 (8) ~~An~~ an optional Scenic Byway Management Plan may be submitted with an application.

19 (b) ~~All Completed~~ applications shall be received by the Roadside Environmental Unit, ~~N.C. DOT, PO Box 25201,~~  
20 1557 Mail Service Center, Raleigh, NC-27611-27699-1557, no later than August 31 of each year. Incomplete  
21 applications shall not be accepted and will be returned to the proponent.

22 (c) Application and all application materials shall become the property of the North Carolina Department of  
23 Transportation.

24  
25 *History Note: Authority G.S. 136-18(5); 136-18(31); 136-122 through 136-125; 136-129.2; 143B-348;*  
26 *Eff. March 1, 1995.*  
27 *Readopted Eff: February 1, 2019.*